

SENATE BILL NO. 2273
with House Amendments
SENATE BILL NO. 2273

Sixty-sixth
Legislative Assembly
of North Dakota

Introduced by

Senators Poolman, Bakke, D. Larson

Representatives Hanson, Karls

1 A BILL for an Act to create and enact a new section to chapter 12.1-20 of the North Dakota
2 Century Code, relating to sexual extortion; and to amend and reenact section 12.1-32-15 and
3 subsection 3 of section 50-25.1-02 of the North Dakota Century Code, relating to offenders
4 against children, sexual offenders, sexually violent predators, and child abuse and neglect.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 12.1-20 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Sexual extortion.**

9 1. An individual commits the offense of sexual extortion if the individual:

10 a. With an intent to coerce a victim to engage in sexual contact, in sexually explicit
11 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
12 distribute an image, video, or other recording of any individual engaged in
13 sexually explicit conduct or any intimate image of an individual, or a demand for
14 money, communicates in person or by electronic means:

15 (1) A threat to the victim's or another's person, property, or reputation; or

16 (2) A threat to distribute or an enticement to delete an intimate image or video
17 of the victim or another.

18 b. Knowingly causes a victim to engage in sexual contact, in sexually explicit
19 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
20 distribute any image, video, or other recording of any individual engaged in
21 sexually explicit conduct or any intimate image of an individual, or a demand for
22 money, by means of:

23 (1) A threat to the victim's or another's person, property, or reputation; or

1 (2) A threat to distribute or an enticement to delete an intimate image or video
2 of the victim or another.

3 2. The offense is:

4 a. A class B felony if the actor's conduct violates subdivision b of subsection 1 and
5 the victim is a minor or vulnerable adult, otherwise a class A misdemeanor.

6 b. A class A misdemeanor if the actor's conduct violates subdivision a of
7 subsection 1.

8 3. For purposes of this section:

9 a. "Intimate image" has the meaning provided in subsection 1 of section
10 12.1-17-07.2.

11 b. "Sexual contact" has the meaning provided in section 12.1-20-02.

12 c. "Sexually explicit conduct" has the meaning provided in subsection 1 of section
13 12.1-17-07.2.

14 d. "Simulated sexually explicit conduct" has the meaning provided in subsection 1 of
15 section 12.1-17-07.

16 **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**
19 **predators - Registration requirement - Penalty.**

20 1. As used in this section:

21 a. "A crime against a child" means a violation of chapter 12.1-16, section
22 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
23 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
24 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
25 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
26 from another court in the United States, a tribal court, or court of another country,
27 in which the victim is a minor or is otherwise of the age required for the act to be
28 a crime or an attempt or conspiracy to commit these offenses.

29 b. "Department" means the department of corrections and rehabilitation.

30 c. "Homeless" means an individual who is physically present in this state, but is
31 living in a park, under a bridge, on the streets, in a vehicle or camper, or is

1 otherwise without a traditional dwelling, and also one who resides in this state but
2 does not maintain a permanent address. The term does not include individuals
3 who are temporarily domiciled or individuals residing in public or private shelters
4 that provide temporary living accommodations.

5 d. "Mental abnormality" means a congenital or acquired condition of an individual
6 that affects the emotional or volitional capacity of the individual in a manner that
7 predisposes that individual to the commission of criminal sexual acts to a degree
8 that makes the individual a menace to the health and safety of other individuals.

9 e. "Predatory" means an act directed at a stranger or at an individual with whom a
10 relationship has been established or promoted for the primary purpose of
11 victimization.

12 f. "Reside" means to live permanently or be situated for a considerable time in a
13 home or a particular place.

14 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
15 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,
16 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
17 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, or
18 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1,
19 subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04,
20 12.1-41-05, or 12.1-41-06, section 1 of this Act except for subdivision a of
21 subsection 1 and subdivision b of subsection 1 if the offense involves only a
22 demand for money, or an equivalent offense from another court in the United
23 States, a tribal court, or court of another country, or an attempt or conspiracy to
24 commit these offenses.

25 h. "Sexually dangerous individual" means an individual who meets the definition
26 specified in section 25-03.3-01.

27 i. "Temporarily domiciled" means staying or being physically present in this state for
28 more than thirty days in a calendar year or at a location for longer than ten
29 consecutive days, attending school for longer than ten days, or maintaining
30 employment in the jurisdiction for longer than ten days, regardless of the state of
31 the residence.

- 1 2. The court shall impose, in addition to any penalty provided by law, a requirement that
2 the individual register, within three days of coming into a county in which the individual
3 resides, is homeless, or within the period identified in this section that the individual
4 becomes temporarily domiciled. The individual must register with the chief of police of
5 the city or the sheriff of the county if the individual resides, attends school, or is
6 employed in an area other than a city. A homeless individual shall register every three
7 days with the sheriff or chief of police of the jurisdiction in which the individual is
8 physically present. The court shall require an individual to register by stating this
9 requirement on the court records, if that individual:
- 10 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
11 offender or an attempted felonious sexual offender, including juvenile delinquent
12 adjudications of equivalent offenses unless the offense is listed in subdivision c.
- 13 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
14 for, a misdemeanor or attempted misdemeanor. The court may deviate from
15 requiring an individual to register if the court first finds the individual is no more
16 than three years older than the victim if the victim is a minor, the individual has
17 not previously been convicted as a sexual offender or of a crime against a child,
18 and the individual did not exhibit mental abnormality or predatory conduct in the
19 commission of the offense.
- 20 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
21 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
22 offender for a misdemeanor. The court may deviate from requiring the juvenile to
23 register if the court first finds the juvenile has not previously been convicted as a
24 sexual offender or for a crime against a child, and the juvenile did not exhibit
25 mental abnormality or predatory conduct in the commission of the offense.
- 26 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
27 child or an attempted crime against a child, including juvenile delinquent
28 adjudications of equivalent offenses. Except if the offense is described in section
29 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
30 of the victim, the court may deviate from requiring an individual to register if the
31 court first finds the individual has not previously been convicted as a sexual

- 1 offender or for a crime against a child, and the individual did not exhibit mental
2 abnormality or predatory conduct in the commission of the offense.
- 3 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
4 delinquent of any crime against another individual which is not otherwise
5 specified in this section if the court determines that registration is warranted by
6 the nature of the crime and therefore orders registration for the individual. If the
7 court orders an individual to register as an offender under this section, the
8 individual shall comply with all of the registration requirements in this chapter.
- 9 3. If a court has not ordered an individual to register in this state, an individual who
10 resides, is homeless, or is temporarily domiciled in this state shall register if the
11 individual:
- 12 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
13 against a child described in section 12.1-29-02, or section 12.1-18-01 or
14 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
15 offender;
- 16 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
17 an offense in a court of this state for which registration is mandatory under this
18 section or an offense from another court in the United States, a tribal court, or
19 court of another country equivalent to those offenses set forth in this section; or
- 20 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
21 a child or as a sexual offender for which registration is mandatory under this
22 section if the conviction occurred after July 31, 1985.
- 23 4. In its consideration of mental abnormality or predatory conduct, the court shall
24 consider the age of the offender, the age of the victim, the difference in ages of the
25 victim and offender, the circumstances and motive of the crime, the relationship of the
26 victim and offender, and the mental state of the offender. The court may order an
27 offender to be evaluated by a qualified counselor, psychologist, or physician before
28 sentencing. Except as provided under subdivision e of subsection 2, the court shall
29 state on the record in open court its affirmative finding for not requiring an offender to
30 register.

- 1 5. When an individual is required to register under this section, the official in charge of a
2 facility or institution where the individual required to register is confined, or the
3 department, shall, before the discharge, parole, or release of that individual, inform the
4 individual of the duty to register pursuant to this section. The official or the department
5 shall require the individual to read and sign a form as required by the attorney general,
6 stating that the duty of the individual to register has been explained to that individual.
7 The official in charge of the place of confinement, or the department, shall obtain the
8 address where the individual expects to reside, attend school, or work upon discharge,
9 parole, or release and shall report the address to the attorney general. The official in
10 charge of the place of confinement, or the department, shall give three copies of the
11 form to the individual and shall send three copies to the attorney general no later than
12 forty-five days before the scheduled release of that individual. The attorney general
13 shall forward one copy to the law enforcement agency having jurisdiction where the
14 individual expects to reside, attend school, or work upon discharge, parole, or release,
15 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
16 which the individual was prosecuted. All forms must be transmitted and received by
17 the law enforcement agency, prosecutor, and court thirty days before the discharge,
18 parole, or release of the individual.
- 19 6. An individual who is required to register pursuant to this section who is released on
20 probation or discharged upon payment of a fine must, before the release or discharge,
21 be informed of the duty to register under this section by the court in which that
22 individual is convicted. The court shall require the individual to read and sign a form as
23 required by the attorney general, stating that the duty of the individual to register under
24 this section has been explained to that individual. The court shall obtain the address
25 where the individual expects to reside, attend school, or work upon release or
26 discharge and shall report the address to the attorney general within three days. The
27 court shall give one copy of the form to the individual and shall send two copies to the
28 attorney general. The attorney general shall forward one copy to the appropriate law
29 enforcement agency having jurisdiction where the individual expects to reside, attend
30 school, or work upon discharge, parole, or release.

1 7. Registration consists of a written statement signed by the individual, giving the
2 information required by the attorney general, and the biometric data and photograph of
3 the individual. An individual who is not required to provide a sample of blood and other
4 body fluids under section 31-13-03 or by the individual's state or court of conviction or
5 adjudication shall submit a sample of blood and other body fluids for inclusion in a
6 centralized database of DNA identification records under section 31-13-05. The
7 collection, submission, testing and analysis of, and records produced from, samples of
8 blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile
9 comparison is admissible in accordance with section 31-13-02. A report of the DNA
10 analysis certified by the state crime laboratory is admissible in accordance with section
11 31-13-05. A district court shall order an individual who refuses to submit a sample of
12 blood or other body fluids for registration purposes to show cause at a specified time
13 and place why the individual should not be required to submit the sample required
14 under this subsection. Within three days after registration, the registering law
15 enforcement agency shall forward the statement, biometric data, and photograph to
16 the attorney general and shall submit the sample of the individual's blood and body
17 fluids to the state crime laboratory. If an individual required to register under this
18 section has a change in vehicle or computer online identity, the individual shall
19 register, within three days after the change, with the law enforcement agency with
20 which that individual last registered of the individual's new vehicle or computer online
21 identity. If an individual required to register pursuant to this section has a change in
22 name, school, or residence or employment address, that individual shall register, at
23 least ten days before the change, with the law enforcement agency with which that
24 individual last registered of the individual's new name, school, residence address, or
25 employment address. A change in school or employment address includes the
26 termination of school or employment for which an individual required to register under
27 this section, the individual shall register within three days of the termination with the
28 law enforcement agency with which the individual last registered. The law enforcement
29 agency, within three days after receipt of the information, shall forward it to the
30 attorney general. The attorney general shall forward the appropriate registration data
31 to the law enforcement agency having local jurisdiction of the new place of residence,

1 school, or employment. Upon a change of address, the individual required to register
2 shall also register within three days at the law enforcement agency having local
3 jurisdiction of the new place of residence, school, or employment. The individual
4 registering under this section shall periodically confirm the information required under
5 this subsection in a manner and at an interval determined by the attorney general. A
6 law enforcement agency that has previously registered an offender may omit the
7 biometric data portion of the registration if that agency has a set of biometric data on
8 file for that individual and is personally familiar with and can visually identify the
9 offender. These provisions also apply in any other state that requires registration.

10 8. An individual required to register under this section shall comply with the registration
11 requirement for the longer of the following periods:

- 12 a. A period of fifteen years after the date of sentence or order deferring or
13 suspending sentence upon a plea or finding of guilt or after release from
14 incarceration, whichever is later;
- 15 b. A period of twenty-five years after the date of sentence or order deferring or
16 suspending sentence upon a plea or finding of guilt or after release from
17 incarceration, whichever is later, if the offender is assigned a moderate risk by the
18 attorney general as provided in subsection 12; or
- 19 c. For the life of the individual, if that individual:
- 20 (1) On two or more occasions has pled guilty or nolo contendere to, or been
21 found guilty of a crime against a child or as a sexual offender. If all qualifying
22 offenses are misdemeanors, this lifetime provision does not apply unless a
23 qualifying offense was committed after August 1, 1999;
- 24 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
25 committed after August 1, 1999, which is described in subdivision a of
26 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
27 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
28 under age twelve, or section 12.1-18-01 if that individual is an adult other
29 than a parent of the victim, or an equivalent offense from another court in
30 the United States, a tribal court, or court of another country; or
- 31 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

- 1 9. An individual required to register under this section who violates this section is guilty of
2 a class C felony. The failure of a homeless individual to register as required in
3 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
4 court shall forward all warrants issued for a violation of this section to the county
5 sheriff, who shall enter all such warrants into the national crime information center
6 wanted person file. A court may not relieve an individual, other than a juvenile, who
7 violates this section from serving a term of at least ninety days in jail and completing
8 probation of one year.
- 9 10. When an individual is released on parole or probation and is required to register
10 pursuant to this section, but fails to do so within the time prescribed, the court shall
11 order the probation, or the parole board shall order the parole, of the individual
12 revoked.
- 13 11. If an individual required to register pursuant to this section is temporarily sent outside
14 the facility or institution where that individual is confined under conviction or sentence,
15 the local law enforcement agency having jurisdiction over the place where that
16 individual is being sent must be notified within a reasonable time period before that
17 individual is released from the facility or institution. This subsection does not apply to
18 any individual temporarily released under guard from the facility or institution in which
19 that individual is confined.
- 20 12. The attorney general, with the assistance of the department and the juvenile courts,
21 shall develop guidelines for the risk assessment of sexual offenders who are required
22 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
23 offender as follows:
- 24 a. The department shall conduct a risk assessment of sexual offenders who are
25 incarcerated in institutions under the control of the department and sexual
26 offenders who are on supervised probation. The department, in a timely manner,
27 shall provide the attorney general any information, including the offender's level
28 of risk and supporting documentation, concerning individuals required to be
29 registered under this section who are about to be released or placed into the
30 community.

- 1 b. The attorney general shall conduct a risk assessment of sexual offenders who
2 are not under the custody or supervision of the department. The attorney general
3 may adopt a law enforcement agency's previous assignment of risk level for an
4 individual if the assessment was conducted in a manner substantially similar to
5 the guidelines developed under this subsection.
- 6 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
7 a risk assessment of juvenile sexual offenders who are required to register under
8 this section. The juvenile courts or the agency having legal custody of a juvenile
9 shall provide the attorney general any information, including the offender's level
10 of risk and supporting documentation, concerning juveniles required to register
11 and who are about to be released or placed into the community.
- 12 d. The attorney general shall notify the offender of the risk level assigned to that
13 offender. An offender may request a review of that determination with the attorney
14 general's sexual offender risk assessment committee and may present any
15 information that the offender believes may lower the assigned risk level.
- 16 13. An individual assessed as a high-risk sexual offender in accordance with
17 subsection 12, may not reside within five hundred feet [152.4 meters] of a public or
18 nonpublic preschool or elementary, middle, or high school.
- 19 14. Relevant and necessary conviction and registration information must be disclosed to
20 the public by a law enforcement agency if the individual is a moderate or high risk and
21 the agency determines that disclosure of the conviction and registration information is
22 necessary for public protection. The attorney general shall develop guidelines for
23 public disclosure of offender registration information. Public disclosure may include
24 internet access if the offender:
- 25 a. Is required to register for a lifetime under subsection 8;
- 26 b. Has been determined to be a high risk to the public by the department, the
27 attorney general, or the courts, according to guidelines developed by those
28 agencies; or
- 29 c. Has been determined to be a high risk to the public by an agency of another state
30 or the federal government.

1 If the offender has been determined to be a moderate risk, public disclosure must include, at a
2 minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any
3 agency, civic organization, or group of persons who have characteristics similar to those of a
4 victim of the offender. Upon request, law enforcement agencies may release conviction and
5 registration information regarding low-risk, moderate-risk, or high-risk offenders.

6 15. A state officer, law enforcement agency, or public school district or governing body of a
7 nonpublic school or any appointee, officer, or employee of those entities is not subject
8 to civil or criminal liability for making risk determinations, allowing a sexual offender to
9 attend a school function under section 12.1-20-25, or for disclosing or for failing to
10 disclose information as permitted by this section.

11 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual
12 offender or as an offender against a child under this section, the juvenile shall comply
13 with the registration requirements in this section. Notwithstanding any other provision
14 of law, a law enforcement agency shall register a juvenile offender in the same manner
15 as adult offenders and may release any relevant and necessary information on file to
16 other law enforcement agencies, the department of human services, or the public if
17 disclosure is necessary to protect public health or safety. The law enforcement agency
18 shall release any relevant and necessary information on file to the superintendent or
19 principal of the school the juvenile attends. The school administration shall notify
20 others in similar positions if the juvenile transfers to another learning institution in or
21 outside the state.

22 17. If an individual has been required to register as a sexual offender or an offender
23 against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the
24 individual may petition the court to be removed from the offender list if registration is
25 no longer mandatory for that individual. In considering the petition, the court shall
26 comply with the requirements of this section.

27 18. A sexual offender who is currently assigned a moderate or high-risk level by the
28 attorney general may not use a state park of this state as a residence or residential
29 address to comply with the registration requirements of this section. Before arriving at
30 a state park for overnight lodging or camping, a sexual offender who is assigned a
31 moderate or high-risk level by the attorney general shall notify a parks and recreation

1 department law enforcement officer at the state park where the sexual offender will be
2 staying.

3 **Offenders against children and sexual offenders - Sexually violent predators -**

4 **Registration requirement - Penalty. (Contingent effective date - [See note](#))**

5 1. As used in this section:

- 6 a. "A crime against a child" means a violation of chapter 12.1-16, section
7 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,
8 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,
9 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of
10 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense
11 from another court in the United States, a tribal court, or court of another country,
12 in which the victim is a minor or is otherwise of the age required for the act to be
13 a crime or an attempt or conspiracy to commit these offenses.
- 14 b. "Department" means the department of corrections and rehabilitation.
- 15 c. "Homeless" means an individual who is physically present in this state, but is
16 living in a park, under a bridge, on the streets, in a vehicle or camper, or is
17 otherwise without a traditional dwelling, and also one who resides in this state but
18 does not maintain a permanent address. The term does not include individuals
19 who are temporarily domiciled or individuals residing in public or private shelters
20 that provide temporary living accommodations.
- 21 d. "Mental abnormality" means a congenital or acquired condition of an individual
22 that affects the emotional or volitional capacity of the individual in a manner that
23 predisposes that individual to the commission of criminal sexual acts to a degree
24 that makes the individual a menace to the health and safety of other individuals.
- 25 e. "Predatory" means an act directed at a stranger or at an individual with whom a
26 relationship has been established or promoted for the primary purpose of
27 victimization.
- 28 f. "Reside" means to live permanently or be situated for a considerable time in a
29 home or a particular place.
- 30 g. "Sexual offender" means a person who has pled guilty to or been found guilty,
31 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,

1 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,
2 12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, or
3 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1,
4 subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04,
5 12.1-41-05, or 12.1-41-06, section 1 of this Act except for subdivision a of
6 subsection 1 and subdivision b of subsection 1 if the offense involves only a
7 demand for money, or an equivalent offense from another court in the United
8 States, a tribal court, or court of another country, or an attempt or conspiracy to
9 commit these offenses.

10 h. "Sexually dangerous individual" means an individual who meets the definition
11 specified in section 25-03.3-01.

12 i. "Temporarily domiciled" means staying or being physically present in this state for
13 more than thirty days in a calendar year or at a location for longer than ten
14 consecutive days, attending school for longer than ten days, or maintaining
15 employment in the jurisdiction for longer than ten days, regardless of the state of
16 the residence.

17 2. The court shall impose, in addition to any penalty provided by law, a requirement that
18 the individual register, within three days of coming into a county in which the individual
19 resides, is homeless, or within the period identified in this section that the individual
20 becomes temporarily domiciled. The individual must register with the chief of police of
21 the city of the individual's place of residence, or the sheriff of the county if the
22 individual resides in an area other than a city. A homeless individual shall register
23 every three days with the sheriff or chief of police of the jurisdiction in which the
24 individual is physically present. The court shall require an individual to register by
25 stating this requirement on the court records, if that individual:

26 a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual
27 offender or an attempted felonious sexual offender, including juvenile delinquent
28 adjudications of equivalent offenses unless the offense is listed in subdivision c.

29 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender
30 for, a misdemeanor or attempted misdemeanor. The court may deviate from
31 requiring an individual to register if the court first finds the individual is no more

1 than three years older than the victim if the victim is a minor, the individual has
2 not previously been convicted as a sexual offender or of a crime against a child,
3 and the individual did not exhibit mental abnormality or predatory conduct in the
4 commission of the offense.

5 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section
6 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual
7 offender for a misdemeanor. The court may deviate from requiring the juvenile to
8 register if the court first finds the juvenile has not previously been convicted as a
9 sexual offender or for a crime against a child, and the juvenile did not exhibit
10 mental abnormality or predatory conduct in the commission of the offense.

11 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a
12 child or an attempted crime against a child, including juvenile delinquent
13 adjudications of equivalent offenses. Except if the offense is described in section
14 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent
15 of the victim, the court may deviate from requiring an individual to register if the
16 court first finds the individual has not previously been convicted as a sexual
17 offender or for a crime against a child, and the individual did not exhibit mental
18 abnormality or predatory conduct in the commission of the offense.

19 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated
20 delinquent of any crime against another individual which is not otherwise
21 specified in this section if the court determines that registration is warranted by
22 the nature of the crime and therefore orders registration for the individual. If the
23 court orders an individual to register as an offender under this section, the
24 individual shall comply with all of the registration requirements in this chapter.

25 3. If a court has not ordered an individual to register in this state, an individual who
26 resides, is homeless, or is temporarily domiciled in this state shall register if the
27 individual:

28 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime
29 against a child described in section 12.1-29-02, or section 12.1-18-01 or
30 12.1-18-02 if the individual was not the parent of the victim, or as a sexual
31 offender;

- 1 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,
2 an offense in a court of this state for which registration is mandatory under this
3 section or an offense from another court in the United States, a tribal court, or
4 court of another country equivalent to those offenses set forth in this section; or
5 c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against
6 a child or as a sexual offender for which registration is mandatory under this
7 section if the conviction occurred after July 31, 1985.
- 8 4. In its consideration of mental abnormality or predatory conduct, the court shall
9 consider the age of the offender, the age of the victim, the difference in ages of the
10 victim and offender, the circumstances and motive of the crime, the relationship of the
11 victim and offender, and the mental state of the offender. The court may order an
12 offender to be evaluated by a qualified counselor, psychologist, or physician before
13 sentencing. Except as provided under subdivision e of subsection 2, the court shall
14 state on the record in open court its affirmative finding for not requiring an offender to
15 register.
- 16 5. When an individual is required to register under this section, the official in charge of a
17 facility or institution where the individual required to register is confined, or the
18 department, shall, before the discharge, parole, or release of that individual, inform the
19 individual of the duty to register pursuant to this section. The official or the department
20 shall require the individual to read and sign a form as required by the attorney general,
21 stating that the duty of the individual to register has been explained to that individual.
22 The official in charge of the place of confinement, or the department, shall obtain the
23 address where the individual expects to reside, attend school, or work upon discharge,
24 parole, or release and shall report the address to the attorney general. The official in
25 charge of the place of confinement, or the department, shall give three copies of the
26 form to the individual and shall send three copies to the attorney general no later than
27 forty-five days before the scheduled release of that individual. The attorney general
28 shall forward one copy to the law enforcement agency having jurisdiction where the
29 individual expects to reside, attend school, or work upon discharge, parole, or release,
30 one copy to the prosecutor who prosecuted the individual, and one copy to the court in
31 which the individual was prosecuted. All forms must be transmitted and received by

1 the law enforcement agency, prosecutor, and court thirty days before the discharge,
2 parole, or release of the individual.

3 6. An individual who is required to register pursuant to this section who is released on
4 probation or discharged upon payment of a fine must, before the release or discharge,
5 be informed of the duty to register under this section by the court in which that
6 individual is convicted. The court shall require the individual to read and sign a form as
7 required by the attorney general, stating that the duty of the individual to register under
8 this section has been explained to that individual. The court shall obtain the address
9 where the individual expects to reside, attend school, or work upon release or
10 discharge and shall report the address to the attorney general within three days. The
11 court shall give one copy of the form to the individual and shall send two copies to the
12 attorney general. The attorney general shall forward one copy to the appropriate law
13 enforcement agency having jurisdiction where the individual expects to reside, attend
14 school, or work upon discharge, parole, or release.

15 7. Registration consists of a written or electronic statement signed by the individual,
16 giving the information required by the attorney general, and the biometric data and
17 photograph of the individual. An individual who is not required to provide a sample of
18 blood and other body fluids under section 31-13-03 or by the individual's state or court
19 of conviction or adjudication shall submit a sample of blood and other body fluids for
20 inclusion in a centralized database of DNA identification records under section
21 31-13-05. The collection, submission, testing and analysis of, and records produced
22 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence
23 of the DNA profile comparison is admissible in accordance with section 31-13-02. A
24 report of the DNA analysis certified by the state crime laboratory is admissible in
25 accordance with section 31-13-05. A district court shall order an individual who refuses
26 to submit a sample of blood or other body fluids for registration purposes to show
27 cause at a specified time and place why the individual should not be required to
28 submit the sample required under this subsection. Within three days after registration,
29 the registering law enforcement agency shall forward the statement, biometric data,
30 and photograph to the attorney general and shall submit the sample of the individual's
31 blood and body fluids to the state crime laboratory. If an individual required to register

1 under this section has a change in vehicle or computer online identity, the individual
2 shall register, within three days after the change, with the law enforcement agency
3 having local jurisdiction of the individual's place of residence of the individual's new
4 vehicle or computer online identity. If an individual required to register pursuant to this
5 section has a change in name, school, or residence or employment address, that
6 individual shall register, at least ten days before the change, with the law enforcement
7 agency having local jurisdiction of the individual's place of residence of the individual's
8 new name, school, residence address, or employment address. A change in school or
9 employment address includes the termination of school or employment for which an
10 individual required to register under this section, the individual shall register within
11 three days of the termination with the law enforcement agency having local jurisdiction
12 of the individual's place of residence. The law enforcement agency, within three days
13 after receipt of the information, shall forward it to the attorney general. The attorney
14 general shall forward the appropriate registration data to the law enforcement agency
15 having local jurisdiction of the new place of residence, school, or employment. Upon a
16 change of address, the individual required to register also shall register within three
17 days at the law enforcement agency having local jurisdiction of the new place of
18 residence. If an individual required to register in North Dakota, including in a tribal
19 registry, resides in another state or on tribal lands, that individual shall register
20 employment and school addresses and any changes in required registration
21 information with the law enforcement agency having local jurisdiction over the school
22 or employment address. The individual registering under this section shall periodically
23 confirm the information required under this subsection in a manner and at an interval
24 determined by the attorney general. A law enforcement agency that has previously
25 registered an offender may omit the biometric data portion of the registration if that
26 agency has a set of biometric data on file for that individual and is personally familiar
27 with and can visually identify the offender. These provisions also apply in any other
28 state that requires registration.

- 29 8. An individual required to register under this section shall comply with the registration
30 requirement for the longer of the following periods:

- 1 a. A period of fifteen years after the date of sentence or order deferring or
2 suspending sentence upon a plea or finding of guilt or after release from
3 incarceration, whichever is later;
- 4 b. A period of twenty-five years after the date of sentence or order deferring or
5 suspending sentence upon a plea or finding of guilt or after release from
6 incarceration, whichever is later, if the offender is assigned a moderate risk by the
7 attorney general as provided in subsection 12; or
- 8 c. For the life of the individual, if that individual:
- 9 (1) On two or more occasions has pled guilty or nolo contendere to, or been
10 found guilty of a crime against a child or as a sexual offender. If all qualifying
11 offenses are misdemeanors, this lifetime provision does not apply unless a
12 qualifying offense was committed after August 1, 1999;
- 13 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense
14 committed after August 1, 1999, which is described in subdivision a of
15 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of
16 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is
17 under age twelve, or section 12.1-18-01 if that individual is an adult other
18 than a parent of the victim, or an equivalent offense from another court in
19 the United States, a tribal court, or court of another country; or
- 20 (3) Is assigned a high risk by the attorney general as provided in subsection 12.
- 21 9. An individual required to register under this section who violates this section is guilty of
22 a class C felony. The failure of a homeless individual to register as required in
23 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of
24 court shall forward all warrants issued for a violation of this section to the county
25 sheriff, who shall enter all such warrants into the national crime information center
26 wanted person file. A court may not relieve an individual, other than a juvenile, who
27 violates this section from serving a term of at least ninety days in jail and completing
28 probation of one year.
- 29 10. When an individual is released on parole or probation and is required to register
30 pursuant to this section, but fails to do so within the time prescribed, the court shall

1 order the probation, or the parole board shall order the parole, of the individual
2 revoked.

3 11. If an individual required to register pursuant to this section is temporarily sent outside
4 the facility or institution where that individual is confined under conviction or sentence,
5 the local law enforcement agency having jurisdiction over the place where that
6 individual is being sent must be notified within a reasonable time period before that
7 individual is released from the facility or institution. This subsection does not apply to
8 any individual temporarily released under guard from the facility or institution in which
9 that individual is confined.

10 12. The attorney general, with the assistance of the department and the juvenile courts,
11 shall develop guidelines for the risk assessment of sexual offenders who are required
12 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each
13 offender as follows:

14 a. The department shall conduct a risk assessment of sexual offenders who are
15 incarcerated in institutions under the control of the department and sexual
16 offenders who are on supervised probation. The department, in a timely manner,
17 shall provide the attorney general any information, including the offender's level
18 of risk and supporting documentation, concerning individuals required to be
19 registered under this section who are about to be released or placed into the
20 community.

21 b. The attorney general shall conduct a risk assessment of sexual offenders who
22 are not under the custody or supervision of the department. The attorney general
23 may adopt a law enforcement agency's previous assignment of risk level for an
24 individual if the assessment was conducted in a manner substantially similar to
25 the guidelines developed under this subsection.

26 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct
27 a risk assessment of juvenile sexual offenders who are required to register under
28 this section. The juvenile courts or the agency having legal custody of a juvenile
29 shall provide the attorney general any information, including the offender's level
30 of risk and supporting documentation, concerning juveniles required to register
31 and who are about to be released or placed into the community.

1 d. The attorney general shall notify the offender of the risk level assigned to that
2 offender. An offender may request a review of that determination with the attorney
3 general's sexual offender risk assessment committee and may present any
4 information that the offender believes may lower the assigned risk level.

5 13. An individual assessed as a high-risk sexual offender in accordance with
6 subsection 12, may not reside within five hundred feet [152.4 meters] of a public or
7 nonpublic preschool or elementary, middle, or high school.

8 14. Relevant and necessary conviction and registration information must be disclosed to
9 the public by a law enforcement agency if the individual is a moderate or high risk and
10 the agency determines that disclosure of the conviction and registration information is
11 necessary for public protection. The attorney general shall develop guidelines for
12 public disclosure of offender registration information. Public disclosure may include
13 internet access if the offender:

14 a. Is required to register for a lifetime under subsection 8;

15 b. Has been determined to be a high risk to the public by the department, the
16 attorney general, or the courts, according to guidelines developed by those
17 agencies; or

18 c. Has been determined to be a high risk to the public by an agency of another state
19 or the federal government.

20 If the offender has been determined to be a moderate risk, public disclosure must
21 include, at a minimum, notification of the offense to the victim registered under chapter
22 12.1-34 and to any agency, civic organization, or group of persons who have
23 characteristics similar to those of a victim of the offender. Upon request, law
24 enforcement agencies may release conviction and registration information regarding
25 low-risk, moderate-risk, or high-risk offenders.

26 15. A state officer, law enforcement agency, or public school district or governing body of a
27 nonpublic school or any appointee, officer, or employee of those entities is not subject
28 to civil or criminal liability for making risk determinations, allowing a sexual offender to
29 attend a school function under section 12.1-20-25, or for disclosing or for failing to
30 disclose information as permitted by this section.

1 16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual
2 offender or as an offender against a child under this section, the juvenile shall comply
3 with the registration requirements in this section. Notwithstanding any other provision
4 of law, a law enforcement agency shall register a juvenile offender in the same manner
5 as adult offenders and may release any relevant and necessary information on file to
6 other law enforcement agencies, the department of human services, or the public if
7 disclosure is necessary to protect public health or safety. The law enforcement agency
8 shall release any relevant and necessary information on file to the superintendent or
9 principal of the school the juvenile attends. The school administration shall notify
10 others in similar positions if the juvenile transfers to another learning institution in or
11 outside the state.

12 17. If an individual has been required to register as a sexual offender or an offender
13 against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the
14 individual may petition the court to be removed from the offender list if registration is
15 no longer mandatory for that individual. In considering the petition, the court shall
16 comply with the requirements of this section.

17 18. A sexual offender who is currently assigned a moderate or high-risk level by the
18 attorney general may not use a state park of this state as a residence or residential
19 address to comply with the registration requirements of this section. Before arriving at
20 a state park for overnight lodging or camping, a sexual offender who is assigned a
21 moderate or high-risk level by the attorney general shall notify a parks and recreation
22 department law enforcement officer at the state park where the sexual offender will be
23 staying.

24 **SECTION 3. AMENDMENT.** Subsection 3 of section 50-25.1-02 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 3. "Abused child" means an individual under the age of eighteen years who is suffering
27 from abuse as defined in section 14-09-22 caused by a person responsible for the
28 child's welfare and "sexually abused child" means an individual under the age of
29 eighteen years who is subjected by a person responsible for the child's welfare, or by
30 any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07,
31 sections 12.1-20-11 through 12.1-20-12.2, section 1 of this Act, or chapter 12.1-27.2.