

**SENATE BILL NO. 2273**

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, ~~and~~ 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; ~~or~~

18 ~~(3) A demand for money.~~

19 b. Knowingly causes a victim to engage in sexual contact, in sexually explicit

20 conduct, or in simulated sexually explicit conduct, or to produce, provide, or

21 distribute any image, video, or other recording of any individual engaged in

22 sexually explicit conduct or any intimate image of an individual, or a demand for  
23 money, by means of:

24 (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;~~or~~

3 ~~—————(3) A demand for money.~~

4       2. The offense is:

5       a. A class ~~AB~~ felony if the actor's conduct violates subdivision b of subsection 1 and  
6                   the victim is a minor or vulnerable adult, otherwise a class ~~C~~ felony  
7   A  
8   misdemeanor.

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

10      3. For purposes of this section:

11      a. "Intimate image" has the meaning provided in subsection 1 of section  
12                   12.1-17-07.2.

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

14      c. "Sexually explicit conduct" has the meaning provided in subsection 1 of section  
15                   12.1-17-07.2.

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

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

20           **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
21 **predators - Registration requirement - Penalty. (Contingent effective date - [See note](#))**

22      1. As used in this section:

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

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

- 1 c. "Homeless" means an individual who is physically present in this state, but is  
2 living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
3 otherwise without a traditional dwelling, and also one who resides in this state but  
4 does not maintain a permanent address. The term does not include individuals  
5 who are temporarily domiciled or individuals residing in public or private shelters  
6 that provide temporary living accommodations.
- 7 d. "Mental abnormality" means a congenital or acquired condition of an individual  
8 that affects the emotional or volitional capacity of the individual in a manner that  
9 predisposes that individual to the commission of criminal sexual acts to a degree  
10 that makes the individual a menace to the health and safety of other individuals.
- 11 e. "Predatory" means an act directed at a stranger or at an individual with whom a  
12 relationship has been established or promoted for the primary purpose of  
13 victimization.
- 14 f. "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 g. "Sexually dangerous individual" means an individual who meets the definition  
26 specified in section 25-03.3-01.
- 27 h. "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. Relevant and necessary conviction and registration information must be disclosed to  
17          the public by a law enforcement agency if the individual is a moderate or high risk and  
18          the agency determines that disclosure of the conviction and registration information is  
19          necessary for public protection. The attorney general shall develop guidelines for  
20          public disclosure of offender registration information. Public disclosure may include  
21          internet access if the offender:
- 22          a. Is required to register for a lifetime under subsection 8;
- 23          b. Has been determined to be a high risk to the public by the department, the  
24          attorney general, or the courts, according to guidelines developed by those  
25          agencies; or
- 26          c. Has been determined to be a high risk to the public by an agency of another state  
27          or the federal government.

28    If the offender has been determined to be a moderate risk, public disclosure must include, at a  
29    minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any  
30    agency, civic organization, or group of persons who have characteristics similar to those of a

1 victim of the offender. Upon request, law enforcement agencies may release conviction and  
2 registration information regarding low-risk, moderate-risk, or high-risk offenders.

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

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

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

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

1           **Offenders against children and sexual offenders - Sexually violent predators -**  
2 **Registration requirement - Penalty. (Contingent effective date - [See note](#))**

3           1. As used in this section:

- 4           a. "A crime against a child" means a violation of chapter 12.1-16, section  
5           12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
6           subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
7           12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
8           section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
9           from another court in the United States, a tribal court, or court of another country,  
10          in which the victim is a minor or is otherwise of the age required for the act to be  
11          a crime or an attempt or conspiracy to commit these offenses.
- 12          b. "Department" means the department of corrections and rehabilitation.
- 13          c. "Homeless" means an individual who is physically present in this state, but is  
14          living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
15          otherwise without a traditional dwelling, and also one who resides in this state but  
16          does not maintain a permanent address. The term does not include individuals  
17          who are temporarily domiciled or individuals residing in public or private shelters  
18          that provide temporary living accommodations.
- 19          d. "Mental abnormality" means a congenital or acquired condition of an individual  
20          that affects the emotional or volitional capacity of the individual in a manner that  
21          predisposes that individual to the commission of criminal sexual acts to a degree  
22          that makes the individual a menace to the health and safety of other individuals.
- 23          e. "Predatory" means an act directed at a stranger or at an individual with whom a  
24          relationship has been established or promoted for the primary purpose of  
25          victimization.
- 26          f. "Reside" means to live permanently or be situated for a considerable time in a  
27          home or a particular place.
- 28          g. "Sexual offender" means a person who has pled guilty to or been found guilty,  
29          including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
30          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,  
31          12.1-20-07 except for subdivision a of subsection 1, 12.1-20-11, 12.1-20-12.1, or

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

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

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

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

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

27 b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
28 for, a misdemeanor or attempted misdemeanor. The court may deviate from  
29 requiring an individual to register if the court first finds the individual is no more  
30 than three years older than the victim if the victim is a minor, the individual has  
31 not previously been convicted as a sexual offender or of a crime against a child,

- 1 and the individual did not exhibit mental abnormality or predatory conduct in the  
2 commission of the offense.
- 3 c. Is a juvenile found delinquent under subdivision d of subsection 1 of section  
4 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual  
5 offender for a misdemeanor. The court may deviate from requiring the juvenile to  
6 register if the court first finds the juvenile has not previously been convicted as a  
7 sexual offender or for a crime against a child, and the juvenile did not exhibit  
8 mental abnormality or predatory conduct in the commission of the offense.
- 9 d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
10 child or an attempted crime against a child, including juvenile delinquent  
11 adjudications of equivalent offenses. Except if the offense is described in section  
12 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
13 of the victim, the court may deviate from requiring an individual to register if the  
14 court first finds the individual has not previously been convicted as a sexual  
15 offender or for a crime against a child, and the individual did not exhibit mental  
16 abnormality or predatory conduct in the commission of the offense.
- 17 e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated  
18 delinquent of any crime against another individual which is not otherwise  
19 specified in this section if the court determines that registration is warranted by  
20 the nature of the crime and therefore orders registration for the individual. If the  
21 court orders an individual to register as an offender under this section, the  
22 individual shall comply with all of the registration requirements in this chapter.
- 23 3. If a court has not ordered an individual to register in this state, an individual who  
24 resides, is homeless, or is temporarily domiciled in this state shall register if the  
25 individual:
- 26 a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
27 against a child described in section 12.1-29-02, or section 12.1-18-01 or  
28 12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
29 offender;
- 30 b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,  
31 an offense in a court of this state for which registration is mandatory under this

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

- 1           6.    An individual who is required to register pursuant to this section who is released on  
2                    probation or discharged upon payment of a fine must, before the release or discharge,  
3                    be informed of the duty to register under this section by the court in which that  
4                    individual is convicted. The court shall require the individual to read and sign a form as  
5                    required by the attorney general, stating that the duty of the individual to register under  
6                    this section has been explained to that individual. The court shall obtain the address  
7                    where the individual expects to reside, attend school, or work upon release or  
8                    discharge and shall report the address to the attorney general within three days. The  
9                    court shall give one copy of the form to the individual and shall send two copies to the  
10                  attorney general. The attorney general shall forward one copy to the appropriate law  
11                  enforcement agency having jurisdiction where the individual expects to reside, attend  
12                  school, or work upon discharge, parole, or release.
- 13          7.    Registration consists of a written or electronic statement signed by the individual,  
14                  giving the information required by the attorney general, and the biometric data and  
15                  photograph of the individual. An individual who is not required to provide a sample of  
16                  blood and other body fluids under section 31-13-03 or by the individual's state or court  
17                  of conviction or adjudication shall submit a sample of blood and other body fluids for  
18                  inclusion in a centralized database of DNA identification records under section  
19                  31-13-05. The collection, submission, testing and analysis of, and records produced  
20                  from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence  
21                  of the DNA profile comparison is admissible in accordance with section 31-13-02. A  
22                  report of the DNA analysis certified by the state crime laboratory is admissible in  
23                  accordance with section 31-13-05. A district court shall order an individual who refuses  
24                  to submit a sample of blood or other body fluids for registration purposes to show  
25                  cause at a specified time and place why the individual should not be required to  
26                  submit the sample required under this subsection. Within three days after registration,  
27                  the registering law enforcement agency shall forward the statement, biometric data,  
28                  and photograph to the attorney general and shall submit the sample of the individual's  
29                  blood and body fluids to the state crime laboratory. If an individual required to register  
30                  under this section has a change in vehicle or computer online identity, the individual  
31                  shall register, within three days after the change, with the law enforcement agency



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

- 27          8. An individual required to register under this section shall comply with the registration  
28          requirement for the longer of the following periods:
- 29              a. A period of fifteen years after the date of sentence or order deferring or  
30              suspending sentence upon a plea or finding of guilt or after release from  
31              incarceration, whichever is later;

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

1 the local law enforcement agency having jurisdiction over the place where that  
2 individual is being sent must be notified within a reasonable time period before that  
3 individual is released from the facility or institution. This subsection does not apply to  
4 any individual temporarily released under guard from the facility or institution in which  
5 that individual is confined.

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

- 10 a. The department shall conduct a risk assessment of sexual offenders who are  
11 incarcerated in institutions under the control of the department and sexual  
12 offenders who are on supervised probation. The department, in a timely manner,  
13 shall provide the attorney general any information, including the offender's level  
14 of risk and supporting documentation, concerning individuals required to be  
15 registered under this section who are about to be released or placed into the  
16 community.
- 17 b. The attorney general shall conduct a risk assessment of sexual offenders who  
18 are not under the custody or supervision of the department. The attorney general  
19 may adopt a law enforcement agency's previous assignment of risk level for an  
20 individual if the assessment was conducted in a manner substantially similar to  
21 the guidelines developed under this subsection.
- 22 c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
23 a risk assessment of juvenile sexual offenders who are required to register under  
24 this section. The juvenile courts or the agency having legal custody of a juvenile  
25 shall provide the attorney general any information, including the offender's level  
26 of risk and supporting documentation, concerning juveniles required to register  
27 and who are about to be released or placed into the community.
- 28 d. The attorney general shall notify the offender of the risk level assigned to that  
29 offender. An offender may request a review of that determination with the attorney  
30 general's sexual offender risk assessment committee and may present any  
31 information that the offender believes may lower the assigned risk level.

- 1       13. An individual assessed as a high-risk sexual offender in accordance with  
2           subsection 12, may not reside within five hundred feet [152.4 meters] of a public or  
3           nonpublic preschool or elementary, middle, or high school.
- 4       14. Relevant and necessary conviction and registration information must be disclosed to  
5           the public by a law enforcement agency if the individual is a moderate or high risk and  
6           the agency determines that disclosure of the conviction and registration information is  
7           necessary for public protection. The attorney general shall develop guidelines for  
8           public disclosure of offender registration information. Public disclosure may include  
9           internet access if the offender:
- 10       a. Is required to register for a lifetime under subsection 8;
- 11       b. Has been determined to be a high risk to the public by the department, the  
12           attorney general, or the courts, according to guidelines developed by those  
13           agencies; or
- 14       c. Has been determined to be a high risk to the public by an agency of another state  
15           or the federal government.
- 16       If the offender has been determined to be a moderate risk, public disclosure must  
17       include, at a minimum, notification of the offense to the victim registered under chapter  
18       12.1-34 and to any agency, civic organization, or group of persons who have  
19       characteristics similar to those of a victim of the offender. Upon request, law  
20       enforcement agencies may release conviction and registration information regarding  
21       low-risk, moderate-risk, or high-risk offenders.
- 22       15. A state officer, law enforcement agency, or public school district or governing body of a  
23           nonpublic school or any appointee, officer, or employee of those entities is not subject  
24           to civil or criminal liability for making risk determinations, allowing a sexual offender to  
25           attend a school function under section 12.1-20-25, or for disclosing or for failing to  
26           disclose information as permitted by this section.
- 27       16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
28           offender or as an offender against a child under this section, the juvenile shall comply  
29           with the registration requirements in this section. Notwithstanding any other provision  
30           of law, a law enforcement agency shall register a juvenile offender in the same manner  
31           as adult offenders and may release any relevant and necessary information on file to

1 other law enforcement agencies, the department of human services, or the public if  
2 disclosure is necessary to protect public health or safety. The law enforcement agency  
3 shall release any relevant and necessary information on file to the superintendent or  
4 principal of the school the juvenile attends. The school administration shall notify  
5 others in similar positions if the juvenile transfers to another learning institution in or  
6 outside the state.

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

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

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

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