CHAPTER 12.1-17
ASSAULTS - THREATS - COERCION - HARASSMENT

12.1-17-01. Simple assault.

1. A person is guilty of an offense if that person:
   a. Willfully causes bodily injury to another human being; or
   b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. The offense is:
   a. A class C felony when the victim is a peace officer or correctional institution employee acting in an official capacity, which the actor knows to be a fact; an employee of the state hospital acting in the course and scope of employment, which the actor knows to be a fact, and the actor is an individual committed to or detained at the state hospital pursuant to chapter 25-03.3; a person engaged in a judicial proceeding; or a member of a municipal or volunteer fire department or emergency medical services personnel unit or emergency department worker in the performance of the member's duties.
   b. A class B misdemeanor for the first offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and a class A misdemeanor for a second or subsequent offense when the victim is an actor's family or household member as defined in subsection 4 of section 14-07.1-01 and the actor has a prior conviction for simple assault under this section or an assault offense under section 12.1-17-01.1 or 12.1-17-02 involving the commission of domestic violence as defined in subsection 2 of section 14-07.1-01. For purposes of this subdivision, a prior conviction includes a conviction of any assault offense in which a finding of domestic violence was made under a law or ordinance of another state which is equivalent to this subdivision.
   c. A class B misdemeanor except as provided in subdivision a or b.

12.1-17-01.1. Assault.

A person is guilty of a class A misdemeanor, except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person:

1. Willfully causes substantial bodily injury to another human being; or
2. Negligently causes substantial bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

12.1-17-02. Aggravated assault.

1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:
   a. Willfully causes serious bodily injury to another human being;
   b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
   c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
   d. Fires a firearm or hurls a destructive device at another human being.
2. The person is guilty of a class B felony if the person violates subsection 1 and the victim is under the age of twelve years or the victim suffers permanent loss or impairment of the function of a bodily member or organ.

12.1-17-03. Reckless endangerment.

A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme

indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.

12.1-17-04. Terrorizing.

A person is guilty of a class C felony if, with intent to place another human being in fear for that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person:

1. Threatens to commit any crime of violence or act dangerous to human life; or
2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false.

12.1-17-05. Menacing.

A person is guilty of a class A misdemeanor if he knowingly places or attempts to place another human being in fear by menacing him with imminent serious bodily injury.

12.1-17-06. Criminal coercion.

1. A person is guilty of a class A misdemeanor if, with intent to compel another to engage in or refrain from conduct, he threatens to:
   a. Commit any crime;
   b. Accuse anyone of a crime;
   c. Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person, living or deceased, to hatred, contempt, or ridicule, or to impair another's credit or business repute; or
   d. Take or withhold official action as a public servant or cause a public servant to take or withhold official action.
2. It is an affirmative defense to a prosecution under this section that the actor believed, whether or not mistakenly:
   a. That the primary purpose of the threat was to cause the other to conduct himself in his own best interest; or
   b. That a purpose of the threat was to cause the other to desist from misbehavior, engage in behavior from which he could not lawfully abstain, make good a wrong done by him, or refrain from taking any action or responsibility for which he was disqualified.

12.1-17-07. Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
   a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
   b. Makes a telephone call anonymously or in offensively coarse language;
   c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
   d. Communicates a falsehood in writing or by electronic communication and causes mental anguish.
2. The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
3. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
4. A person is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder

communication system with the intent to annoy or harass another person or a public safety agency or who makes a false report to a public safety agency.

a. Intent to annoy or harass is established by proof of one or more calls with no legitimate emergency purpose.
b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.

5. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

12.1-17-07.1. Stalking.

1. As used in this section:
   a. "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term does not include constitutionally protected activity.
   b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.
   c. "Stalk" means:
      (1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or
      (2) The unauthorized tracking of the person's movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.
2. A person may not intentionally stalk another person.
3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.
4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.
5. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.
6. a. A person who violates this section is guilty of a class C felony if:
      (1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court, involving the victim of the stalking;
      (2) The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or
      (3) The person previously has been convicted of violating this section.
   b. If subdivision a does not apply, a person who violates this section is guilty of a class A misdemeanor.

12.1-17-07.2. Distribution of intimate images without or against consent - Penalty.

1. As used in this section:

a. "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.
b. "Hosting company" means a person that provides services or facilities for storing or distributing content over the internet without editorial or creative alteration of the content.
c. "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:
   (1) Exposed human male or female genitals or pubic area, with less than an opaque covering;
   (2) A female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or
   (3) The individual engaged in any sexually explicit conduct.
d. "Service provider" means an internet service provider, including a person who leases or rents a wire or cable for the transmission of data.
e. "Sexually explicit conduct" means actual or simulated:
   (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
   (2) Masturbation;
   (3) Bestiality;
   (4) Sadistic or masochistic activities;
   (5) Exhibition of the genitals, pubic region, buttocks, or female breast of any individual;
   (6) Visual depiction of nudity or partial nudity;
   (7) Fondling or touching of the genitals, pubic region, buttocks, or female breast; or
   (8) Explicit representation of the defecation or urination functions.
f. "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:
   a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
   b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
   c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section.
3. This section does not apply to:
   a. Lawful practices of law enforcement agencies;
   b. Prosecutorial agency functions;
   c. The reporting of a criminal offense;
   d. Court proceedings or any other judicial proceeding;
   e. Lawful and generally accepted medical practices and procedures;
   f. An intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; or
   g. An intimate image that is portrayed in a lawful commercial setting.
4. This section also does not apply to:
   a. An internet service provider or interactive computer service, as defined in 47 U.S.C. 230(f)(2);
   b. A provider of an electronic communications service, as defined in 18 U.S.C. 2510;

c. A telecommunications service, information service, or mobile service, as defined in 47 U.S.C. 153, including a commercial mobile service, as defined in 47 U.S.C. 332(d);
d. A cable operator, as defined in 47 U.S.C. 552, if:
   (1) The distribution of an intimate image by the cable operator occurs only incidentally through the operator's function of:
      (a) Transmitting or routing data from one person to another person; or
      (b) Providing a connection between one person and another person;
   (2) The operator does not intentionally aid or abet in the distribution of the intimate image; and
   (3) The operator does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the operator, as a specific condition for permitting the person to distribute the intimate image; or
e. A hosting company, if:
   (1) The distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;
   (2) The hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and
   (3) The hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

5. Distribution of an intimate image is a class A misdemeanor.

12.1-17-08. Consent as a defense.

1. When conduct is an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury by all persons injured or threatened by the conduct is a defense if:
   a. Neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;
   b. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
   c. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury, having been made aware of the risks involved, consent to the performance of the conduct or the infliction of the injury.
2. Assent does not constitute consent, within the meaning of this section, if:
   a. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor;
   b. It is given by a person who by reason of youth, mental disease or defect, or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
   c. It is induced by force, duress, or deception.

12.1-17-09. Killing or injury of law enforcement support animal - Definition - Penalty.

1. A person is guilty of a class C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a law enforcement support animal.
2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:

a. Harasses, taunts, or provokes a law enforcement support animal;
b. Interferes with a law enforcement support animal while the animal is working; or
c. Interferes with the individual handling the animal.

3. For purposes of this section, "law enforcement support animal" means any animal used by or on behalf of a law enforcement officer in the performance of the officer's functions and duties, including crowd control, corrections, arson investigation, or search and rescue, regardless of whether the animal is on or off duty.
4. This section does not apply to a law enforcement officer or a veterinarian who terminates the life of a law enforcement support animal to relieve the animal of undue suffering and pain.

12.1-17-10. Hazing - Penalty.

A person is guilty of an offense when, in the course of another person's initiation into or affiliation with any organization, the person willfully engages in conduct that creates a substantial risk of physical injury to that other person or a third person. As used in this section, "conduct" means any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress, and may include extended deprivation of sleep or rest or extended isolation, whipping, beating, branding, forced calisthenics, overexposure to the weather, and forced consumption of any food, liquor, beverage, drug, or other substance. The offense is a class A misdemeanor if the actor's conduct causes physical injury, otherwise the offense is a class B misdemeanor.

12.1-17-11. Contact by bodily fluids or excrement.

1. An individual is guilty of an offense if the individual causes blood, emesis, excrement, mucus, saliva, semen, vaginal fluid, or urine to come in contact with:
   a. A law enforcement officer acting in the scope of employment;
   b. An employee of a correctional facility or the department of corrections and rehabilitation acting in the scope of employment unless the employee does an act within the scope of employment which requires or causes the contact;
   c. Any person lawfully present in a correctional facility who is not an inmate;
   d. Any person lawfully present in the penitentiary or an affiliated facility of the penitentiary who is not an inmate; or
   e. Any person who is transporting an individual who is lawfully detained.
2. Subsection 1 does not apply to a mentally ill person as defined in section 25-03.1-02 who has been detained pursuant to chapter 25-03.1.
3. The offense is a class C felony if the individual knowingly causes the contact and is a class A misdemeanor if the individual recklessly causes the contact.

12.1-17-12. Assault or homicide while fleeing peace officer.

A person is guilty of a class A felony if that person negligently causes the death of another or a class B felony if that person negligently causes serious bodily injury to another while in violation of section 39-10-71.

12.1-17-13. Mandated treatment of domestic violence offenders.

The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic violence offender treatment program. A court may not order the offender to attend anger management classes or individual counseling unless a domestic violence offender treatment program is not reasonably available to the defendant and the court makes findings for the record explaining why an order to complete a domestic violence offender treatment program would be inappropriate.