

FIRST ENGROSSMENT
with Conference Committee Amendments

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1186

Introduced by

Representatives Delmore, DeKrey, Griffin, Mock

Senators Lyson, Nelson

1 A BILL for an Act to create and enact a new subsection to section 12.1-27.1-01 and section
2 12.1-27.1-03.3 of the North Dakota Century Code, relating to sexually expressive images; to
3 repeal section 12.1-31-08 of the North Dakota Century Code, relating to possession or
4 distribution of certain photographs or other visual representations; and to provide a penalty.

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

6 **SECTION 1.** A new subsection to section 12.1-27.1-01 of the North Dakota Century
7 Code is created and enacted as follows:

8 As used in this chapter, "sexually expressive image" means a photograph or visual
9 representation that exhibits a nude or partially denuded human figure, as defined in section
10 12.1-27.1-03.1, or sexual conduct.

11 **SECTION 2.** Section 12.1-27.1-03.3 of the North Dakota Century Code is created and
12 enacted as follows:

13 **Creation, possession, or dissemination of sexually expressive images prohibited**

14 **- Exception.**

15 1. A person is guilty of a class A misdemeanor if, knowing of its character and
16 content, that person:

17 a. Without written consent from each individual in the image, surreptitiously
18 creates or willfully possesses a sexually expressive image that was
19 surreptitiously created; or

20 b. Distributes or publishes, electronically or otherwise, a sexually expressive
21 image with the intent to cause emotional harm or humiliation to any individual
22 depicted in the sexually expressive image or after being given notice by an
23 individual or parent or guardian of the individual who is depicted in a sexually

1 expressive image that the individual, parent, or guardian does not consent to
2 the distribution or publication of the sexually expressive image.

3 2. A person is guilty of a class B misdemeanor if, knowing of its character and
4 content, that person acquires and knowingly distributes any sexually expressive
5 image that was created without the consent of the subject of the image.

6 3. This section does not authorize any act prohibited by any other law. If the sexually
7 expressive image is of a minor and possession does not violate section
8 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person
9 to possess or distribute the sexually expressive image.

10 4. This section does not apply to any book, photograph, video recording, motion
11 picture film, or other visual representation sold in the normal course of business
12 through wholesale or retail outlets that possess a valid sales tax permit or used by
13 an attorney, attorney's agent, or any other person obtaining evidence for a criminal
14 investigation or pending civil action, or by a medical professional or a peace officer
15 acting within that individual's scope of employment.

16 **SECTION 3. REPEAL.** Section 12.1-31-08 of the North Dakota Century Code is
17 repealed.