

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1195

Introduced by

Representatives Klemin, Maragos, Schneider

Senators Hogue, D. Larson, Mathern

1 A BILL for an Act to create and enact a new section to chapter 12.1-32 of the North Dakota  
2 Century Code, relating to imprisonment of minors; to amend and reenact subsection 4 of  
3 section 12.1-20-03, relating to gross sexual imposition; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 12.1-20-03 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 4. If, as a result of injuries sustained during the course of an offense under this section,  
8 the victim dies, the offense is a class AA felony, for which the maximum penalty of life  
9 imprisonment without parole must be imposed unless the defendant was a juvenile at  
10 the time of the offense.

11 **SECTION 2.** A new section to chapter 12.1-32 of the North Dakota Century Code is created  
12 and enacted as follows:

13 **Juveniles - Sentencing - Reduction.**

- 14 1. Notwithstanding any other provision of law, a court may reduce a term of imprisonment  
15 imposed upon a defendant convicted as an adult for an offense committed and  
16 completed before the defendant was eighteen years of age if:
- 17 a. The defendant has served at least twenty years in custody for the offense;  
18 b. The defendant filed a motion for reduction in sentence; and  
19 c. The court has considered the factors provided in this section and determined the  
20 defendant is not a danger to the safety of any other individual, and the interests  
21 of justice warrant a sentence modification.
- 22 2. A defendant whose sentence is reduced under this section must be ordered to serve a  
23 period of supervised release of at least five years upon release from imprisonment.

- 1           The conditions of supervised release and any modification or revocation of the term of  
2           supervised release must be in accordance with this chapter.
- 3        3. When determining whether to reduce a term of imprisonment under this section, the  
4        court shall consider:
- 5           a. The factors provided in section 12.1-32-04, including the nature of the offense;  
6           b. The age of the defendant at the time of the offense;  
7           c. A report and recommendation from the department of corrections and  
8           rehabilitation, including information relating to the defendant's ability to comply  
9           with the rules of the institution and whether the defendant completed any  
10          educational, vocational, or other prison programming;  
11          d. A report and recommendation from the state's attorney for any county in which  
12          the defendant was prosecuted;  
13          e. Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to  
14          re-enter society sufficient to justify a sentence reduction;  
15          f. A statement by a victim or a family member of a victim who was impacted by the  
16          actions of the defendant;  
17          g. A report of a physical, mental, or psychiatric examination of the defendant  
18          conducted by a licensed health care professional;  
19          h. The defendant's family and community circumstances at the time of the offense,  
20          including any history of abuse, trauma, or involvement in the child welfare  
21          system;  
22          i. The role of the defendant in the offense and whether an adult also was involved  
23          in the offense;  
24          j. The diminished culpability of juveniles compared to adults and the level of  
25          maturity and failure to appreciate the risks and consequences; and  
26          k. Any additional information the court determines relevant.
- 27        4. A defendant may make a second motion for a reduction in sentence under this section  
28        no earlier than five years after the initial motion for reduction.
- 29        5. A defendant may make a final motion for a reduction in sentence no earlier than five  
30        years after the order for a second motion was filed.