

Introduced by

Senator Dever

1 A BILL for an Act to amend and reenact section 12.1-05-05 of the North Dakota Century Code,
2 relating to limitations on permissible use of force on a child.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-05-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-05-05. Use of force by persons with parental, custodial, or similar**
7 **responsibilities.**

8 The use of force upon ~~another person~~ an individual is justified under any of the following
9 circumstances:

- 10 1. Except as provided in section 15.1-19-02, a parent, guardian, or other person
11 responsible for the care and supervision of a minor, or other person responsible for the
12 care and supervision of a minor for a special purpose, or a person acting at the
13 direction of any of the foregoing persons, may use reasonable force upon the minor for
14 the purpose of safeguarding or promoting the minor's welfare, including prevention
15 and punishment of the minor's misconduct, and the maintenance of proper discipline.

- 16 a. ~~The reasonable force used for the purpose of safeguarding or promoting the~~
17 ~~minor's welfare does not include the prevention of or punishment for the~~
18 ~~misconduct of the minor or the maintenance of proper discipline, unless used by~~
19 ~~a parent or guardian, or a person acting at the direction of a parent or guardian. If~~
20 ~~the person acting at the direction of a parent or guardian using reasonable force~~
21 ~~for the prevention and punishment of the minor's misconduct or the maintenance~~
22 ~~of proper discipline is a paid caregiver, the direction must be in writing that person~~
23 ~~must be acting under written direction of the parent or guardian of the minor.~~

- 1 b. The reasonable force may be used for this purpose, regardless of whether or not
2 ~~if~~the reasonable force is "necessary" as required by subsection 1 of section
3 12.1-05-07.
- 4 c. The reasonable force used ~~must~~may not create a substantial risk of death,
5 serious bodily injury, disfigurement, or gross degradation.
- 6 2. A guardian or other person responsible for the care and supervision of an individual
7 who is incompetent ~~person~~, or a person acting at the direction of the guardian or
8 responsible person, may use reasonable force upon the ~~incompetent person~~individual
9 for the purpose of safeguarding or promoting the ~~incompetent person's~~ welfare of the
10 individual, including the prevention of the ~~incompetent person's~~individual's misconduct
11 or, ~~when~~if the ~~incompetent person~~individual is in a hospital or other institution for care
12 and custody, for the purpose of maintaining reasonable discipline in the institution.
- 13 a. The force may be used for these purposes, ~~whether or not it~~regardless of
14 whether the force is "necessary" as required by subsection 1 of section
15 12.1-05-07.
- 16 b. The force used ~~must~~may not create a substantial risk of death, serious bodily
17 injury, disfigurement, or gross degradation.
- 18 3. A person responsible for the maintenance of order in a vehicle, train, vessel, aircraft,
19 or other carrier, or in a place ~~wherein~~ in which others are assembled, or a person acting
20 at the responsible person's direction, may use force to maintain order.
- 21 4. A duly licensed physician, or a person acting at a duly licensed physician's direction,
22 may use force in order to administer a recognized form of treatment to promote the
23 physical or mental health of a patient if the treatment is administered:
- 24 a. In an emergency;
- 25 b. With the consent of the patient, or, if the patient is a minor or an individual who is
26 incompetent ~~person~~, with the consent of the patient's parent, guardian, or other
27 person entrusted with the patient's care and supervision; or
- 28 c. By order of a court of competent jurisdiction.
- 29 5. A person may use force upon ~~another person~~, an individual about to commit suicide or
30 suffer serious bodily injury, to prevent the death or serious bodily injury of ~~such other~~
31 ~~person~~that individual.