

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2281
(Senator Dever)

AN ACT to amend and reenact section 12.1-05-05 of the North Dakota Century Code, relating to limitations on permissible use of force on a child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

1. Except as provided in section 15.1-19-02, a parent, guardian, or other person responsible for the care and supervision of a minor, or other person responsible for the care and supervision of a minor for a special purpose, or a person acting at the direction of any of the foregoing persons, may use reasonable force upon the minor for the purpose of safeguarding or promoting the minor's welfare, including prevention and punishment of the minor's misconduct, and the maintenance of proper discipline.
 - a. If the person using reasonable force for the prevention and punishment of the minor's misconduct or the maintenance of proper discipline is a paid caregiver, that person must be acting under written direction of the parent or guardian of the minor.
 - b. The reasonable force may be used for this purpose, regardless of whether or not it the reasonable force is "necessary" as required by subsection 1 of section 12.1-05-07.
 - c. The reasonable force used ~~must~~ may not create a substantial risk of death, serious bodily injury, disfigurement, or gross degradation.
2. A guardian or other person responsible for the care and supervision of an individual who is incompetent person, or a person acting at the direction of the guardian or responsible person, may use reasonable force upon the incompetent person individual for the purpose of safeguarding or promoting the incompetent person's welfare of the individual, including the prevention of the incompetent person's individual's misconduct or, ~~when~~ if the incompetent person individual is in a hospital or other institution for care and custody, for the purpose of maintaining reasonable discipline in the institution.
 - a. The force may be used for these purposes, ~~whether or not it~~ regardless of whether the force is "necessary" as required by subsection 1 of section 12.1-05-07.
 - b. The force used ~~must~~ may not create a substantial risk of death, serious bodily injury, disfigurement, or gross degradation.
3. A person responsible for the maintenance of order in a vehicle, train, vessel, aircraft, or other carrier, or in a place wherein which others are assembled, or a person acting at the responsible person's direction, may use force to maintain order.
4. A duly licensed physician, or a person acting at a duly licensed physician's direction, may use force in order to administer a recognized form of treatment to promote the physical or mental health of a patient if the treatment is administered:

- a. In an emergency;
 - b. With the consent of the patient, or, if the patient is a minor or an individual who is incompetent person, with the consent of the patient's parent, guardian, or other person entrusted with the patient's care and supervision; or
 - c. By order of a court of competent jurisdiction.
5. A person may use force upon ~~another person~~, an individual about to commit suicide or suffer serious bodily injury, to prevent the death or serious bodily injury of ~~such other person~~that individual.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2281.

Senate Vote: Yeas 37 Nays 10 Absent 0

House Vote: Yeas 74 Nays 14 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State