

HOUSE BILL NO. 1520

Introduced by

Representatives B. Koppelman, Devlin, Heinert, Klemin, K. Koppelman, Marschall, Mock,
Rohr

Senators Hogue, O. Larsen, D. Larson, Myrdal

1 A BILL for an Act to create and enact a new subdivision to subsection 1 of section 27-20-51 and
2 a new subsection to section 27-20-51 of the North Dakota Century Code, relating to inspection
3 of juvenile court records; and to amend and reenact sections 12.1-04-01, 27-20-14, and
4 27-20-31, subsection 3 of section 50-25.1-02, and section 50-25.1-05.3 of the North Dakota
5 Century Code, relating to assessing mental fitness and capacity, detention, disposition of
6 delinquent child, and child sexual abuse assessment.

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

8 **SECTION 1. AMENDMENT.** Section 12.1-04-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12.1-04-01. Juveniles.**

11 **Persons**

12 1. An individual under the age of ~~seventen~~ years ~~are~~is deemed incapable of commission
13 of an offense defined by the constitution or statutes of this state. The prosecution of
14 ~~any person~~an individual as an adult is barred if the offense was committed while the
15 ~~person~~individual was less than fourteen years of age.

16 2. For purposes of assessing mental fitness and capacity under this chapter, a defendant
17 includes any individual ten years of age or older.

18 **SECTION 2. AMENDMENT.** Section 27-20-14 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **27-20-14. Detention of child - Juvenile drug court exception.**

21 1. A child taken into custody may not be detained or placed in shelter care prior to the
22 hearing on the petition unless the child's detention or care is required to protect the
23 person or property of others or of the child or because the child may abscond or be

1 removed from the jurisdiction of the court or because the child has no parent,
2 guardian, or custodian or other person able to provide supervision and care for the
3 child and return the child to the court when required, or an order for the child's
4 detention or shelter care has been made by the court pursuant to this chapter.

5 2. Law enforcement shall use a detention screening tool to assure the appropriate use of
6 detention. The juvenile court shall establish the detention screening tool, which must
7 include objective factors to aid in the decision of placement of the child.

8 3. If a child is participating in a juvenile drug court program as a result of an adjudication
9 for a delinquent offense, the drug court may order the child detained in a juvenile
10 detention center operated pursuant to chapter 12-44.1. The child may be detained
11 twice during the child's participation in the program but the total period of detention
12 under this subsection may not exceed four days in a one-year period.

13 **SECTION 3. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **27-20-31. Disposition of delinquent child.**

16 1. If the child is found to be a delinquent child, the court shall articulate in detail in the
17 order of disposition any actions or steps necessary to ensure:

18 a. The child receives the treatment or rehabilitation the court deems most
19 appropriate;

20 b. Justice for the victim; and

21 c. Safety of the community.

22 2. If the child is found to be a delinquent child, the court may make any of the following
23 orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

24 1. a. Any order authorized by section 27-20-30 for the disposition of a deprived child;

25 2. b. Placing the child on probation under the supervision of the director, probation
26 officer, or other appropriate officer of the court or the director of the county social
27 service board under conditions and limitations the court prescribes;

28 3. c. Ordering the child to pay a fine if the delinquent act committed by the child
29 constitutes manslaughter resulting from the operation of a motor vehicle in
30 violation of section 12.1-16-02; negligent homicide in violation of section

31 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of

1 section 39-08-01, or an equivalent ordinance. The court may suspend the
2 imposition of a fine imposed pursuant to this subsection upon such terms and
3 conditions as the court may determine. Fines collected pursuant to this
4 subsection must be paid into the county treasury for disposition pursuant to
5 section 29-27-02.1;

6 4. d. Committing the child to the division of juvenile services or to another state
7 department to which commitment of delinquent or unruly children may be made.
8 When necessary, the commitment order may provide that the child initially be
9 placed in a secure facility;

10 5. e. Ordering the child to make monetary restitution to the victim of the offense or to
11 complete a specified number of hours of community service as determined by the
12 court, or both;

13 6. f. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules
14 or policies adopted by the supreme court; or

15 7. g. Ordering the child's participation in a juvenile drug court program.

16 3. If the ~~child is found to be a delinquent child, is twelve years old or older, and the~~
17 ~~delinquent act committed by the child constitutes gross~~ was a sexual imposition in-
18 ~~violation of section 12.1-20-03 or sexual imposition in violation of section-~~
19 ~~12.1-20-04~~ offense, the court shall ~~order~~ ensure the child ~~be placed at the North Dakota~~
20 ~~youth correctional center or other similar facility for a twenty-one day evaluation that~~
21 ~~must include a psychosexual evaluation. The completed evaluation must be submitted~~
22 ~~to the court for further disposition. After review of the completed evaluation, in addition~~
23 ~~to the orders of disposition the court may make under subsection 2, the court shall~~
24 ~~include in the order of disposition any actions or steps necessary to satisfy the~~
25 ~~requirements of subsection 1.~~

26 ~~4. The twenty-one day placement and psychosexual evaluation of the child required~~
27 ~~under subsection 3 may satisfy any of the requirements of subsection 1~~ is assessed in
28 a timely manner, not to exceed thirty days, with age-appropriate social assessments to
29 determine the appropriate level of required treatment.

30 **SECTION 4.** A new subdivision to subsection 1 of section 27-20-51 of the North Dakota
31 Century Code is created and enacted as follows:

1 A victim of the delinquent child or the victim's guardian. All records including
2 medical, educational, and school information must be redacted before inspection.

3 **SECTION 5.** A new subsection to section 27-20-51 of the North Dakota Century Code is
4 created and enacted as follows:

5 A person with access or authorization to inspect juvenile court files and records may
6 not share the information contained in the files and records with any other person not
7 authorized by law.

8 **SECTION 6. AMENDMENT.** Subsection 3 of section 50-25.1-02 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 3. "Abused child" means an individual under the age of eighteen years who is suffering
11 from abuse as defined in section 14-09-22 caused by a person responsible for the
12 child's welfare and "sexually abused child" means an individual under the age of
13 eighteen years who is subjected by a person responsible for the child's welfare, or by
14 any individual, including a juvenile, who acts in violation of sections 12.1-20-01
15 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

16 **SECTION 7. AMENDMENT.** Section 50-25.1-05.3 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **50-25.1-05.3. Disposition of reports implicating a person not responsible for the**
19 **child's health or welfare.**

- 20 1. Upon determination by the department or the department's designee that a report
21 made under this chapter implicates a person other than a person responsible for a
22 child's welfare, the department may shall refer the report to an appropriate law
23 enforcement agency for investigation and disposition.
24 2. In addition to the provisions of section 50-25.1-05, if a report alleges a violation of a
25 criminal statute involving sexual abuse committed by an individual under the age of
26 eighteen, the department shall provide risk assessment, safety planning, and any
27 appropriate evidence-based screening, referrals, and services to the abused child;
28 alleged suspect; the parents, custodian, or other persons serving in loco parentis with
29 respect to the child or the alleged suspect; and any other children under the same
30 care.