

**HOUSE BILL NO. 1396**

Introduced by

Representatives Schauer, Adams, Hoverson, K. Koppelman, Mitskog, Pyle, Satrom

Senator Hogan

1 A BILL for an Act to create and enact a new subsection to section 12-67-02 of the North Dakota  
2 Century Code, relating to electronic monitoring; to amend and reenact sections 12.1-32-15 and  
3 14-09-22 of the North Dakota Century Code, relating to registration requirements for a crime  
4 against a child, mandatory sentencing for abuse of a child, and electronic monitoring; and to  
5 provide a penalty.

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

7 **SECTION 1.** A new subsection to section 12-67-02 of the North Dakota Century Code is  
8 created and enacted as follows:

9 Notwithstanding any other provision of law, an offender who has pled guilty or nolo  
10 contendere to, or has been found guilty of a felony under section 14-09-22, is not  
11 eligible for electronic home detention or global position system monitoring.

12 **SECTION 2. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **12.1-32-15. Offenders against children and sexual offenders - Sexually violent**  
15 **predators - Registration requirement - Penalty. (Contingent effective date - [See note](#))**

16 1. As used in this section:

17 a. "A crime against a child" means a violation of chapter 12.1-16, section  
18 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
19 subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
20 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
21 section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
22 from another court in the United States, a tribal court, or court of another country,  
23 in which the victim is a minor or is otherwise of the age required for the act to be  
24 a crime or an attempt or conspiracy to commit these offenses.

- 1           b. "Department" means the department of corrections and rehabilitation.
- 2           c. "Homeless" means an individual who is physically present in this state, but is  
3           living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
4           otherwise without a traditional dwelling, and also one who resides in this state but  
5           does not maintain a permanent address. The term does not include individuals  
6           who are temporarily domiciled or individuals residing in public or private shelters  
7           that provide temporary living accommodations.
- 8           d. "Mental abnormality" means a congenital or acquired condition of an individual  
9           that affects the emotional or volitional capacity of the individual in a manner that  
10          predisposes that individual to the commission of criminal sexual acts to a degree  
11          that makes the individual a menace to the health and safety of other individuals.
- 12          e. "Predatory" means an act directed at a stranger or at an individual with whom a  
13          relationship has been established or promoted for the primary purpose of  
14          victimization.
- 15          f. "Sexual offender" means a person who has pled guilty to or been found guilty,  
16          including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
17          12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,  
18          12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2,  
19          chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subdivision b of  
20          subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or  
21          12.1-41-06, or an equivalent offense from another court in the United States, a  
22          tribal court, or court of another country, or an attempt or conspiracy to commit  
23          these offenses.
- 24          g. "Sexually dangerous individual" means an individual who meets the definition  
25          specified in section 25-03.3-01.
- 26          h. "Temporarily domiciled" means staying or being physically present in this state for  
27          more than thirty days in a calendar year or at a location for longer than ten  
28          consecutive days, attending school for longer than ten days, or maintaining  
29          employment in the jurisdiction for longer than ten days, regardless of the state of  
30          the residence.

- 1           2.   The court shall impose, in addition to any penalty provided by law, a requirement that  
2           the individual register, within three days of coming into a county in which the individual  
3           resides, is homeless, or within the period identified in this section that the individual  
4           becomes temporarily domiciled. The individual must register with the chief of police of  
5           the city or the sheriff of the county if the individual resides, attends school, or is  
6           employed in an area other than a city. A homeless individual shall register every three  
7           days with the sheriff or chief of police of the jurisdiction in which the individual is  
8           physically present. The court shall require an individual to register by stating this  
9           requirement on the court records, if that individual:
- 10           a.   Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
11           offender or an attempted felonious sexual offender, including juvenile delinquent  
12           adjudications of equivalent offenses unless the offense is listed in subdivision c.
- 13           b.   Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
14           for, a misdemeanor or attempted misdemeanor. The court may deviate from  
15           requiring an individual to register if the court first finds the individual is no more  
16           than three years older than the victim if the victim is a minor, the individual has  
17           not previously been convicted as a sexual offender or of a crime against a child,  
18           and the individual did not exhibit mental abnormality or predatory conduct in the  
19           commission of the offense.
- 20           c.   Is a juvenile found delinquent under subdivision d of subsection 1 of section  
21           12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual  
22           offender for a misdemeanor. The court may deviate from requiring the juvenile to  
23           register if the court first finds the juvenile has not previously been convicted as a  
24           sexual offender or for a crime against a child, and the juvenile did not exhibit  
25           mental abnormality or predatory conduct in the commission of the offense.
- 26           d.   Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
27           child or an attempted crime against a child, including juvenile delinquent  
28           adjudications of equivalent offenses. Except if the offense is described in section  
29           12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
30           of the victim, the court may deviate from requiring an individual to register if the  
31           court first finds the individual has not previously been convicted as a sexual

- 1                   offender or for a crime against a child, and the individual did not exhibit mental  
2                   abnormality or predatory conduct in the commission of the offense.
- 3           e.   Has pled guilty or nolo contendere, been found guilty, or been adjudicated  
4                   delinquent of any crime against another individual which is not otherwise  
5                   specified in this section if the court determines that registration is warranted by  
6                   the nature of the crime and therefore orders registration for the individual. If the  
7                   court orders an individual to register as an offender under this section, the  
8                   individual shall comply with all of the registration requirements in this chapter.
- 9           3.   If a court has not ordered an individual to register in this state, an individual who  
10               resides, is homeless, or is temporarily domiciled in this state shall register if the  
11               individual:
- 12               a.   Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
13                   against a child described in section 12.1-29-02, or section 12.1-18-01 or  
14                   12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
15                   offender;
- 16               b.   Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,  
17                   an offense in a court of this state for which registration is mandatory under this  
18                   section or an offense from another court in the United States, a tribal court, or  
19                   court of another country equivalent to those offenses set forth in this section; or
- 20               c.   Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
21                   a child or as a sexual offender for which registration is mandatory under this  
22                   section if the conviction occurred after July 31, 1985.
- 23           4.   In its consideration of mental abnormality or predatory conduct, the court shall  
24               consider the age of the offender, the age of the victim, the difference in ages of the  
25               victim and offender, the circumstances and motive of the crime, the relationship of the  
26               victim and offender, and the mental state of the offender. The court may order an  
27               offender to be evaluated by a qualified counselor, psychologist, or physician before  
28               sentencing. Except as provided under subdivision e of subsection 2, the court shall  
29               state on the record in open court its affirmative finding for not requiring an offender to  
30               register.

- 1           5.   When an individual is required to register under this section, the official in charge of a  
2           facility or institution where the individual required to register is confined, or the  
3           department, shall, before the discharge, parole, or release of that individual, inform the  
4           individual of the duty to register pursuant to this section. The official or the department  
5           shall require the individual to read and sign a form as required by the attorney general,  
6           stating that the duty of the individual to register has been explained to that individual.  
7           The official in charge of the place of confinement, or the department, shall obtain the  
8           address where the individual expects to reside, attend school, or work upon discharge,  
9           parole, or release and shall report the address to the attorney general. The official in  
10          charge of the place of confinement, or the department, shall give three copies of the  
11          form to the individual and shall send three copies to the attorney general no later than  
12          forty-five days before the scheduled release of that individual. The attorney general  
13          shall forward one copy to the law enforcement agency having jurisdiction where the  
14          individual expects to reside, attend school, or work upon discharge, parole, or release,  
15          one copy to the prosecutor who prosecuted the individual, and one copy to the court in  
16          which the individual was prosecuted. All forms must be transmitted and received by  
17          the law enforcement agency, prosecutor, and court thirty days before the discharge,  
18          parole, or release of the individual.
- 19          6.   An individual who is required to register pursuant to this section who is released on  
20          probation or discharged upon payment of a fine must, before the release or discharge,  
21          be informed of the duty to register under this section by the court in which that  
22          individual is convicted. The court shall require the individual to read and sign a form as  
23          required by the attorney general, stating that the duty of the individual to register under  
24          this section has been explained to that individual. The court shall obtain the address  
25          where the individual expects to reside, attend school, or work upon release or  
26          discharge and shall report the address to the attorney general within three days. The  
27          court shall give one copy of the form to the individual and shall send two copies to the  
28          attorney general. The attorney general shall forward one copy to the appropriate law  
29          enforcement agency having jurisdiction where the individual expects to reside, attend  
30          school, or work upon discharge, parole, or release.

1           7.   Registration consists of a written statement signed by the individual, giving the  
2           information required by the attorney general, and the biometric data and photograph of  
3           the individual. An individual who is not required to provide a sample of blood and other  
4           body fluids under section 31-13-03 or by the individual's state or court of conviction or  
5           adjudication shall submit a sample of blood and other body fluids for inclusion in a  
6           centralized database of DNA identification records under section 31-13-05. The  
7           collection, submission, testing and analysis of, and records produced from, samples of  
8           blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile  
9           comparison is admissible in accordance with section 31-13-02. A report of the DNA  
10          analysis certified by the state crime laboratory is admissible in accordance with section  
11          31-13-05. A district court shall order an individual who refuses to submit a sample of  
12          blood or other body fluids for registration purposes to show cause at a specified time  
13          and place why the individual should not be required to submit the sample required  
14          under this subsection. Within three days after registration, the registering law  
15          enforcement agency shall forward the statement, biometric data, and photograph to  
16          the attorney general and shall submit the sample of the individual's blood and body  
17          fluids to the state crime laboratory. If an individual required to register under this  
18          section has a change in vehicle or computer online identity, the individual shall  
19          register, within three days after the change, with the law enforcement agency with  
20          which that individual last registered of the individual's new vehicle or computer online  
21          identity. If an individual required to register pursuant to this section has a change in  
22          name, school, or residence or employment address, that individual shall register, at  
23          least ten days before the change, with the law enforcement agency with which that  
24          individual last registered of the individual's new name, school, residence address, or  
25          employment address. A change in school or employment address includes the  
26          termination of school or employment for which an individual required to register under  
27          this section, the individual shall register within three days of the termination with the  
28          law enforcement agency with which the individual last registered. The law enforcement  
29          agency, within three days after receipt of the information, shall forward it to the  
30          attorney general. The attorney general shall forward the appropriate registration data  
31          to the law enforcement agency having local jurisdiction of the new place of residence,

1 school, or employment. Upon a change of address, the individual required to register  
2 shall also register within three days at the law enforcement agency having local  
3 jurisdiction of the new place of residence, school, or employment. The individual  
4 registering under this section shall periodically confirm the information required under  
5 this subsection in a manner and at an interval determined by the attorney general. A  
6 law enforcement agency that has previously registered an offender may omit the  
7 biometric data portion of the registration if that agency has a set of biometric data on  
8 file for that individual and is personally familiar with and can visually identify the  
9 offender. These provisions also apply in any other state that requires registration.

10 8. An individual required to register under this section shall comply with the registration  
11 requirement for the longer of the following periods:

- 12 a. A period of fifteen years after the date of sentence or order deferring or  
13 suspending sentence upon a plea or finding of guilt or after release from  
14 incarceration, whichever is later;
- 15 b. A period of twenty-five years after the date of sentence or order deferring or  
16 suspending sentence upon a plea or finding of guilt or after release from  
17 incarceration, whichever is later, if the offender is assigned a moderate risk by the  
18 attorney general as provided in subsection 12; or
- 19 c. For the life of the individual, if that individual:
- 20 (1) On two or more occasions has pled guilty or nolo contendere to, or been  
21 found guilty of a crime against a child or as a sexual offender. If all qualifying  
22 offenses are misdemeanors, this lifetime provision does not apply unless a  
23 qualifying offense was committed after August 1, 1999;
- 24 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense  
25 committed after August 1, 1999, which is described in subdivision a of  
26 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of  
27 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is  
28 under age twelve, or section 12.1-18-01 if that individual is an adult other  
29 than a parent of the victim, or an equivalent offense from another court in  
30 the United States, a tribal court, or court of another country; or
- 31 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

- 1           9.    An individual required to register under this section who violates this section is guilty of  
2           a class C felony. The failure of a homeless individual to register as required in  
3           subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of  
4           court shall forward all warrants issued for a violation of this section to the county  
5           sheriff, who shall enter all such warrants into the national crime information center  
6           wanted person file. A court may not relieve an individual, other than a juvenile, who  
7           violates this section from serving a term of at least ninety days in jail and completing  
8           probation of one year.
- 9           10.   When an individual is released on parole or probation and is required to register  
10          pursuant to this section, but fails to do so within the time prescribed, the court shall  
11          order the probation, or the parole board shall order the parole, of the individual  
12          revoked.
- 13          11.   If an individual required to register pursuant to this section is temporarily sent outside  
14          the facility or institution where that individual is confined under conviction or sentence,  
15          the local law enforcement agency having jurisdiction over the place where that  
16          individual is being sent must be notified within a reasonable time period before that  
17          individual is released from the facility or institution. This subsection does not apply to  
18          any individual temporarily released under guard from the facility or institution in which  
19          that individual is confined.
- 20          12.   The attorney general, with the assistance of the department and the juvenile courts,  
21          shall develop guidelines for the risk assessment of sexual offenders who are required  
22          to register, with a low-risk, moderate-risk, or high-risk level being assigned to each  
23          offender as follows:
- 24               a.    The department shall conduct a risk assessment of sexual offenders who are  
25               incarcerated in institutions under the control of the department and sexual  
26               offenders who are on supervised probation. The department, in a timely manner,  
27               shall provide the attorney general any information, including the offender's level  
28               of risk and supporting documentation, concerning individuals required to be  
29               registered under this section who are about to be released or placed into the  
30               community.



- 1           b. The attorney general shall conduct a risk assessment of sexual offenders who  
2           are not under the custody or supervision of the department. The attorney general  
3           may adopt a law enforcement agency's previous assignment of risk level for an  
4           individual if the assessment was conducted in a manner substantially similar to  
5           the guidelines developed under this subsection.
- 6           c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
7           a risk assessment of juvenile sexual offenders who are required to register under  
8           this section. The juvenile courts or the agency having legal custody of a juvenile  
9           shall provide the attorney general any information, including the offender's level  
10          of risk and supporting documentation, concerning juveniles required to register  
11          and who are about to be released or placed into the community.
- 12          d. The attorney general shall notify the offender of the risk level assigned to that  
13          offender. An offender may request a review of that determination with the attorney  
14          general's sexual offender risk assessment committee and may present any  
15          information that the offender believes may lower the assigned risk level.
- 16      13. a. Relevant and necessary conviction and registration information must be  
17          disclosed to the public by a law enforcement agency if the individual is a:  
18          (1) A moderate or high risk and the agency determines that disclosure of the  
19                  conviction and registration information is necessary for public protection; or  
20          (2) Incarcerated or is on probation or parole, has pled guilty or nolo contendere  
21                  to, or has been found guilty of a crime against a child, and is ordered by the  
22                  court to register under this section.
- 23          b. The attorney general shall develop guidelines for public disclosure of offender  
24          registration information. Public disclosure may include internet access if the  
25          offender:
- 26          a- (1) Is required to register for a lifetime under subsection 8;
- 27          b- (2) Has been determined to be a high risk to the public by the department, the  
28                  attorney general, or the courts, according to guidelines developed by those  
29                  agencies; or
- 30          e- (3) Has been determined to be a high risk to the public by an agency of another  
31          state or the federal government; or

1           (4) Is incarcerated or is on probation or parole, has pled guilty or nolo  
2           contendere to, or has been found guilty of a crime against a child, and is  
3           ordered by the court to register under this section.

4           c. If the offender has been determined to be a moderate risk, public disclosure must  
5           include, at a minimum, notification of the offense to the victim registered under  
6           chapter 12.1-34 and to any agency, civic organization, or group of persons who  
7           have characteristics similar to those of a victim of the offender. Upon request, law  
8           enforcement agencies may release conviction and registration information  
9           regarding low-risk, moderate-risk, or high-risk offenders.

10        14. A state officer, law enforcement agency, or public school district or governing body of a  
11        nonpublic school or any appointee, officer, or employee of those entities is not subject  
12        to civil or criminal liability for making risk determinations, allowing a sexual offender to  
13        attend a school function under section 12.1-20-25, or for disclosing or for failing to  
14        disclose information as permitted by this section.

15        15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
16        offender or as an offender against a child under this section, the juvenile shall comply  
17        with the registration requirements in this section. Notwithstanding any other provision  
18        of law, a law enforcement agency shall register a juvenile offender in the same manner  
19        as adult offenders and may release any relevant and necessary information on file to  
20        other law enforcement agencies, the department of human services, or the public if  
21        disclosure is necessary to protect public health or safety. The law enforcement agency  
22        shall release any relevant and necessary information on file to the superintendent or  
23        principal of the school the juvenile attends. The school administration shall notify  
24        others in similar positions if the juvenile transfers to another learning institution in or  
25        outside the state.

26        16. If an individual has been required to register as a sexual offender or an offender  
27        against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the  
28        individual may petition the court to be removed from the offender list if registration is  
29        no longer mandatory for that individual. In considering the petition, the court shall  
30        comply with the requirements of this section.

1       17. A sexual offender who is currently assigned a moderate or high-risk level by the  
2       attorney general may not use a state park of this state as a residence or residential  
3       address to comply with the registration requirements of this section. Before arriving at  
4       a state park for overnight lodging or camping, a sexual offender who is assigned a  
5       moderate or high-risk level by the attorney general shall notify a parks and recreation  
6       department law enforcement officer at the state park where the sexual offender will be  
7       staying.

8       **Offenders against children and sexual offenders - Sexually violent predators -**  
9       **Registration requirement - Penalty. (Contingent effective date - [See note](#))**

10      1. As used in this section:

- 11      a. "A crime against a child" means a violation of chapter 12.1-16, section  
12      12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04,  
13      subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01,  
14      12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of  
15      section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense  
16      from another court in the United States, a tribal court, or court of another country,  
17      in which the victim is a minor or is otherwise of the age required for the act to be  
18      a crime or an attempt or conspiracy to commit these offenses.
- 19      b. "Department" means the department of corrections and rehabilitation.
- 20      c. "Homeless" means an individual who is physically present in this state, but is  
21      living in a park, under a bridge, on the streets, in a vehicle or camper, or is  
22      otherwise without a traditional dwelling, and also one who resides in this state but  
23      does not maintain a permanent address. The term does not include individuals  
24      who are temporarily domiciled or individuals residing in public or private shelters  
25      that provide temporary living accommodations.
- 26      d. "Mental abnormality" means a congenital or acquired condition of an individual  
27      that affects the emotional or volitional capacity of the individual in a manner that  
28      predisposes that individual to the commission of criminal sexual acts to a degree  
29      that makes the individual a menace to the health and safety of other individuals.

- 1 e. "Predatory" means an act directed at a stranger or at an individual with whom a  
2 relationship has been established or promoted for the primary purpose of  
3 victimization.
- 4 f. "Reside" means to live permanently or be situated for a considerable time in a  
5 home or a particular place.
- 6 g. "Sexual offender" means a person who has pled guilty to or been found guilty,  
7 including juvenile delinquent adjudications, of a violation of section 12.1-20-03,  
8 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1,  
9 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2,  
10 chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subdivision b of  
11 subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or  
12 12.1-41-06, or an equivalent offense from another court in the United States, a  
13 tribal court, or court of another country, or an attempt or conspiracy to commit  
14 these offenses.
- 15 h. "Sexually dangerous individual" means an individual who meets the definition  
16 specified in section 25-03.3-01.
- 17 i. "Temporarily domiciled" means staying or being physically present in this state for  
18 more than thirty days in a calendar year or at a location for longer than ten  
19 consecutive days, attending school for longer than ten days, or maintaining  
20 employment in the jurisdiction for longer than ten days, regardless of the state of  
21 the residence.
- 22 2. The court shall impose, in addition to any penalty provided by law, a requirement that  
23 the individual register, within three days of coming into a county in which the individual  
24 resides, is homeless, or within the period identified in this section that the individual  
25 becomes temporarily domiciled. The individual must register with the chief of police of  
26 the city of the individual's place of residence, or the sheriff of the county if the  
27 individual resides in an area other than a city. A homeless individual shall register  
28 every three days with the sheriff or chief of police of the jurisdiction in which the  
29 individual is physically present. The court shall require an individual to register by  
30 stating this requirement on the court records, if that individual:

- 1           a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual  
2           offender or an attempted felonious sexual offender, including juvenile delinquent  
3           adjudications of equivalent offenses unless the offense is listed in subdivision c.
- 4           b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender  
5           for, a misdemeanor or attempted misdemeanor. The court may deviate from  
6           requiring an individual to register if the court first finds the individual is no more  
7           than three years older than the victim if the victim is a minor, the individual has  
8           not previously been convicted as a sexual offender or of a crime against a child,  
9           and the individual did not exhibit mental abnormality or predatory conduct in the  
10          commission of the offense.
- 11          c. Is a juvenile found delinquent under subdivision d of subsection 1 of section  
12          12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual  
13          offender for a misdemeanor. The court may deviate from requiring the juvenile to  
14          register if the court first finds the juvenile has not previously been convicted as a  
15          sexual offender or for a crime against a child, and the juvenile did not exhibit  
16          mental abnormality or predatory conduct in the commission of the offense.
- 17          d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a  
18          child or an attempted crime against a child, including juvenile delinquent  
19          adjudications of equivalent offenses. Except if the offense is described in section  
20          12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent  
21          of the victim, the court may deviate from requiring an individual to register if the  
22          court first finds the individual has not previously been convicted as a sexual  
23          offender or for a crime against a child, and the individual did not exhibit mental  
24          abnormality or predatory conduct in the commission of the offense.
- 25          e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated  
26          delinquent of any crime against another individual which is not otherwise  
27          specified in this section if the court determines that registration is warranted by  
28          the nature of the crime and therefore orders registration for the individual. If the  
29          court orders an individual to register as an offender under this section, the  
30          individual shall comply with all of the registration requirements in this chapter.

- 1           3. If a court has not ordered an individual to register in this state, an individual who  
2           resides, is homeless, or is temporarily domiciled in this state shall register if the  
3           individual:
- 4           a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime  
5           against a child described in section 12.1-29-02, or section 12.1-18-01 or  
6           12.1-18-02 if the individual was not the parent of the victim, or as a sexual  
7           offender;
- 8           b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of,  
9           an offense in a court of this state for which registration is mandatory under this  
10          section or an offense from another court in the United States, a tribal court, or  
11          court of another country equivalent to those offenses set forth in this section; or
- 12          c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against  
13          a child or as a sexual offender for which registration is mandatory under this  
14          section if the conviction occurred after July 31, 1985.
- 15          4. In its consideration of mental abnormality or predatory conduct, the court shall  
16          consider the age of the offender, the age of the victim, the difference in ages of the  
17          victim and offender, the circumstances and motive of the crime, the relationship of the  
18          victim and offender, and the mental state of the offender. The court may order an  
19          offender to be evaluated by a qualified counselor, psychologist, or physician before  
20          sentencing. Except as provided under subdivision e of subsection 2, the court shall  
21          state on the record in open court its affirmative finding for not requiring an offender to  
22          register.
- 23          5. When an individual is required to register under this section, the official in charge of a  
24          facility or institution where the individual required to register is confined, or the  
25          department, shall, before the discharge, parole, or release of that individual, inform the  
26          individual of the duty to register pursuant to this section. The official or the department  
27          shall require the individual to read and sign a form as required by the attorney general,  
28          stating that the duty of the individual to register has been explained to that individual.  
29          The official in charge of the place of confinement, or the department, shall obtain the  
30          address where the individual expects to reside, attend school, or work upon discharge,  
31          parole, or release and shall report the address to the attorney general. The official in

1 charge of the place of confinement, or the department, shall give three copies of the  
2 form to the individual and shall send three copies to the attorney general no later than  
3 forty-five days before the scheduled release of that individual. The attorney general  
4 shall forward one copy to the law enforcement agency having jurisdiction where the  
5 individual expects to reside, attend school, or work upon discharge, parole, or release,  
6 one copy to the prosecutor who prosecuted the individual, and one copy to the court in  
7 which the individual was prosecuted. All forms must be transmitted and received by  
8 the law enforcement agency, prosecutor, and court thirty days before the discharge,  
9 parole, or release of the individual.

10 6. An individual who is required to register pursuant to this section who is released on  
11 probation or discharged upon payment of a fine must, before the release or discharge,  
12 be informed of the duty to register under this section by the court in which that  
13 individual is convicted. The court shall require the individual to read and sign a form as  
14 required by the attorney general, stating that the duty of the individual to register under  
15 this section has been explained to that individual. The court shall obtain the address  
16 where the individual expects to reside, attend school, or work upon release or  
17 discharge and shall report the address to the attorney general within three days. The  
18 court shall give one copy of the form to the individual and shall send two copies to the  
19 attorney general. The attorney general shall forward one copy to the appropriate law  
20 enforcement agency having jurisdiction where the individual expects to reside, attend  
21 school, or work upon discharge, parole, or release.

22 7. Registration consists of a written or electronic statement signed by the individual,  
23 giving the information required by the attorney general, and the biometric data and  
24 photograph of the individual. An individual who is not required to provide a sample of  
25 blood and other body fluids under section 31-13-03 or by the individual's state or court  
26 of conviction or adjudication shall submit a sample of blood and other body fluids for  
27 inclusion in a centralized database of DNA identification records under section  
28 31-13-05. The collection, submission, testing and analysis of, and records produced  
29 from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence  
30 of the DNA profile comparison is admissible in accordance with section 31-13-02. A  
31 report of the DNA analysis certified by the state crime laboratory is admissible in

1           accordance with section 31-13-05. A district court shall order an individual who refuses  
2           to submit a sample of blood or other body fluids for registration purposes to show  
3           cause at a specified time and place why the individual should not be required to  
4           submit the sample required under this subsection. Within three days after registration,  
5           the registering law enforcement agency shall forward the statement, biometric data,  
6           and photograph to the attorney general and shall submit the sample of the individual's  
7           blood and body fluids to the state crime laboratory. If an individual required to register  
8           under this section has a change in vehicle or computer online identity, the individual  
9           shall register, within three days after the change, with the law enforcement agency  
10          having local jurisdiction of the individual's place of residence of the individual's new  
11          vehicle or computer online identity. If an individual required to register pursuant to this  
12          section has a change in name, school, or residence or employment address, that  
13          individual shall register, at least ten days before the change, with the law enforcement  
14          agency having local jurisdiction of the individual's place of residence of the individual's  
15          new name, school, residence address, or employment address. A change in school or  
16          employment address includes the termination of school or employment for which an  
17          individual required to register under this section, the individual shall register within  
18          three days of the termination with the law enforcement agency having local jurisdiction  
19          of the individual's place of residence. The law enforcement agency, within three days  
20          after receipt of the information, shall forward it to the attorney general. The attorney  
21          general shall forward the appropriate registration data to the law enforcement agency  
22          having local jurisdiction of the new place of residence, school, or employment. Upon a  
23          change of address, the individual required to register also shall register within three  
24          days at the law enforcement agency having local jurisdiction of the new place of  
25          residence. If an individual required to register in North Dakota, including in a tribal  
26          registry, resides in another state or on tribal lands, that individual shall register  
27          employment and school addresses and any changes in required registration  
28          information with the law enforcement agency having local jurisdiction over the school  
29          or employment address. The individual registering under this section shall periodically  
30          confirm the information required under this subsection in a manner and at an interval  
31          determined by the attorney general. A law enforcement agency that has previously



1 registered an offender may omit the biometric data portion of the registration if that  
2 agency has a set of biometric data on file for that individual and is personally familiar  
3 with and can visually identify the offender. These provisions also apply in any other  
4 state that requires registration.

5 8. An individual required to register under this section shall comply with the registration  
6 requirement for the longer of the following periods:

7 a. A period of fifteen years after the date of sentence or order deferring or  
8 suspending sentence upon a plea or finding of guilt or after release from  
9 incarceration, whichever is later;

10 b. A period of twenty-five years after the date of sentence or order deferring or  
11 suspending sentence upon a plea or finding of guilt or after release from  
12 incarceration, whichever is later, if the offender is assigned a moderate risk by the  
13 attorney general as provided in subsection 12; or

14 c. For the life of the individual, if that individual:

15 (1) On two or more occasions has pled guilty or nolo contendere to, or been  
16 found guilty of a crime against a child or as a sexual offender. If all qualifying  
17 offenses are misdemeanors, this lifetime provision does not apply unless a  
18 qualifying offense was committed after August 1, 1999;

19 (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense  
20 committed after August 1, 1999, which is described in subdivision a of  
21 subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of  
22 subsection 1 of section 12.1-20-03 if the person is an adult and the victim is  
23 under age twelve, or section 12.1-18-01 if that individual is an adult other  
24 than a parent of the victim, or an equivalent offense from another court in  
25 the United States, a tribal court, or court of another country; or

26 (3) Is assigned a high risk by the attorney general as provided in subsection 12.

27 9. An individual required to register under this section who violates this section is guilty of  
28 a class C felony. The failure of a homeless individual to register as required in  
29 subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of  
30 court shall forward all warrants issued for a violation of this section to the county  
31 sheriff, who shall enter all such warrants into the national crime information center

1 wanted person file. A court may not relieve an individual, other than a juvenile, who  
2 violates this section from serving a term of at least ninety days in jail and completing  
3 probation of one year.

4 10. When an individual is released on parole or probation and is required to register  
5 pursuant to this section, but fails to do so within the time prescribed, the court shall  
6 order the probation, or the parole board shall order the parole, of the individual  
7 revoked.

8 11. If an individual required to register pursuant to this section is temporarily sent outside  
9 the facility or institution where that individual is confined under conviction or sentence,  
10 the local law enforcement agency having jurisdiction over the place where that  
11 individual is being sent must be notified within a reasonable time period before that  
12 individual is released from the facility or institution. This subsection does not apply to  
13 any individual temporarily released under guard from the facility or institution in which  
14 that individual is confined.

15 12. The attorney general, with the assistance of the department and the juvenile courts,  
16 shall develop guidelines for the risk assessment of sexual offenders who are required  
17 to register, with a low-risk, moderate-risk, or high-risk level being assigned to each  
18 offender as follows:

19 a. The department shall conduct a risk assessment of sexual offenders who are  
20 incarcerated in institutions under the control of the department and sexual  
21 offenders who are on supervised probation. The department, in a timely manner,  
22 shall provide the attorney general any information, including the offender's level  
23 of risk and supporting documentation, concerning individuals required to be  
24 registered under this section who are about to be released or placed into the  
25 community.

26 b. The attorney general shall conduct a risk assessment of sexual offenders who  
27 are not under the custody or supervision of the department. The attorney general  
28 may adopt a law enforcement agency's previous assignment of risk level for an  
29 individual if the assessment was conducted in a manner substantially similar to  
30 the guidelines developed under this subsection.

- 1           c. The juvenile courts or the agency having legal custody of a juvenile shall conduct  
2           a risk assessment of juvenile sexual offenders who are required to register under  
3           this section. The juvenile courts or the agency having legal custody of a juvenile  
4           shall provide the attorney general any information, including the offender's level  
5           of risk and supporting documentation, concerning juveniles required to register  
6           and who are about to be released or placed into the community.
- 7           d. The attorney general shall notify the offender of the risk level assigned to that  
8           offender. An offender may request a review of that determination with the attorney  
9           general's sexual offender risk assessment committee and may present any  
10          information that the offender believes may lower the assigned risk level.
- 11        13. An individual assessed as a high-risk sexual offender in accordance with  
12          subsection 12, may not reside within five hundred feet [152.4 meters] of a public or  
13          nonpublic preschool or elementary, middle, or high school.
- 14        14. a. Relevant and necessary conviction and registration information must be  
15          disclosed to the public by a law enforcement agency if the individual is a:  
16          (1) A moderate or high risk and the agency determines that disclosure of the  
17               conviction and registration information is necessary for public protection; or  
18          (2) Incarcerated or is on probation or parole, has pled guilty or nolo contendere  
19               to, or has been found guilty of a crime against a child, and is ordered by the  
20               court to register under this section.
- 21        b. The attorney general shall develop guidelines for public disclosure of offender  
22          registration information. Public disclosure may include internet access if the  
23          offender:
- 24        a. (1) Is required to register for a lifetime under subsection 8;
- 25        b. (2) Has been determined to be a high risk to the public by the department, the  
26               attorney general, or the courts, according to guidelines developed by those  
27               agencies; ~~or~~
- 28        e. (3) Has been determined to be a high risk to the public by an agency of another  
29          state or the federal government; or

1           (4) Is incarcerated or is on probation or parole, has pled guilty or nolo  
2           contendere to, or has been found guilty of a crime against a child, and is  
3           ordered by the court to register under this section.

4           c. If the offender has been determined to be a moderate risk, public disclosure must  
5           include, at a minimum, notification of the offense to the victim registered under  
6           chapter 12.1-34 and to any agency, civic organization, or group of persons who  
7           have characteristics similar to those of a victim of the offender. Upon request, law  
8           enforcement agencies may release conviction and registration information  
9           regarding low-risk, moderate-risk, or high-risk offenders.

10       15. A state officer, law enforcement agency, or public school district or governing body of a  
11       nonpublic school or any appointee, officer, or employee of those entities is not subject  
12       to civil or criminal liability for making risk determinations, allowing a sexual offender to  
13       attend a school function under section 12.1-20-25, or for disclosing or for failing to  
14       disclose information as permitted by this section.

15       16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual  
16       offender or as an offender against a child under this section, the juvenile shall comply  
17       with the registration requirements in this section. Notwithstanding any other provision  
18       of law, a law enforcement agency shall register a juvenile offender in the same manner  
19       as adult offenders and may release any relevant and necessary information on file to  
20       other law enforcement agencies, the department of human services, or the public if  
21       disclosure is necessary to protect public health or safety. The law enforcement agency  
22       shall release any relevant and necessary information on file to the superintendent or  
23       principal of the school the juvenile attends. The school administration shall notify  
24       others in similar positions if the juvenile transfers to another learning institution in or  
25       outside the state.

26       17. If an individual has been required to register as a sexual offender or an offender  
27       against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the  
28       individual may petition the court to be removed from the offender list if registration is  
29       no longer mandatory for that individual. In considering the petition, the court shall  
30       comply with the requirements of this section.

1       18. A sexual offender who is currently assigned a moderate or high-risk level by the  
2       attorney general may not use a state park of this state as a residence or residential  
3       address to comply with the registration requirements of this section. Before arriving at  
4       a state park for overnight lodging or camping, a sexual offender who is assigned a  
5       moderate or high-risk level by the attorney general shall notify a parks and recreation  
6       department law enforcement officer at the state park where the sexual offender will be  
7       staying.

8       **SECTION 3. AMENDMENT.** Section 14-09-22 of the North Dakota Century Code is  
9       amended and reenacted as follows:

10       **14-09-22. Abuse of child - Mandatory sentence - Penalty.**

11       1. Except as provided in subsection 2 or 3, a parent, adult family or household member,  
12       guardian, or other custodian of any child, who willfully inflicts or allows to be inflicted  
13       upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily  
14       injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim  
15       of an offense under this section is under the age of six years in which case the offense  
16       is a class B felony. Any person who has pled guilty or nolo contendere to, or has been  
17       found guilty of an offense under this subsection, and the victim of the offense is under  
18       the age of two years, must be sentenced to a minimum of two years imprisonment.

19       2. A person who provides care, supervision, education, or guidance for a child  
20       unaccompanied by the child's parent, adult family or household member, guardian, or  
21       custodian in exchange for money, goods, or other services and who while providing  
22       such services commits an offense under this section is guilty of a class B felony. Any  
23       such person ~~that~~who commits, allows to be committed, or conspires to commit,  
24       against the child, a sex offense as defined in chapter 12.1-20 is subject to the  
25       penalties provided in that chapter. Any person who has pled guilty or nolo contendere  
26       to, or has been found guilty of an offense under this subsection, and the victim of the  
27       offense is under the age of two years, must be sentenced to a minimum of two years  
28       imprisonment.

29       3. A person ~~that~~who commits an offense under this section is guilty of a class B felony if  
30       the victim suffers permanent loss or impairment of the function of a bodily member or  
31       organ, except if the victim of the offense is under the age of six years in which case

- 1           the offense is a class A felony. Any person who has pled guilty or nolo contendere to,  
2           or has been found guilty of an offense under this subsection, and the victim of the  
3           offense is under the age of two years, must be sentenced to a minimum of five years  
4           imprisonment.
- 5           4. Any person who has pled guilty or nolo contendere to, or has been found guilty of an  
6           offense under this section, is not eligible for electronic home detention or global  
7           position system monitoring under chapter 12-67.