

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

HOUSE BILL NO. 1520

(Representatives B. Koppelman, Devlin, Heinert, Klemin, K. Koppelman, Marschall, Mock, Rohr)
(Senators Hogue, O. Larsen, D. Larson, Myrdal)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

12.1-04-01. Juveniles.

Persons

1. An individual under the age of seventeen years areis deemed incapable of commission of an offense defined by the constitution or statutes of this state. The prosecution of any personan individual as an adult is barred if the offense was committed while the personindividual was less than fourteen years of age.
2. An individual ten years of age or older may be assessed for mental fitness or capacity under this chapter.

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

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

1. A child taken into custody may not be detained or placed in shelter care prior to the hearing on the petition unless the child's detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because the child has no parent, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court when required, or an order for the child's detention or shelter care has been made by the court pursuant to this chapter.
2. Law enforcement shall use a detention screening tool to assure the appropriate use of detention. The juvenile court shall establish the detention screening tool, which must include objective factors to aid in the decision of placement of the child.
3. If a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the drug court may order the child detained in a juvenile detention center operated pursuant to chapter 12-44.1. The child may be detained twice during the child's participation in the program but the total period of detention under this subsection may not exceed four days in a one-year period.

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

27-20-31. Disposition of delinquent child.

1. If the child is found to be a delinquent child, the court shall make findings and include in the order of disposition any actions or steps necessary to ensure:
 - a. The child receives the treatment or rehabilitation the court deems most appropriate;
 - b. Accountability to the victim; and
 - c. Safety of the community.
2. If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:
 1. a. Any order authorized by section 27-20-30 for the disposition of a deprived child;
 2. b. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court or the director of the county social service board under conditions and limitations the court prescribes;
 3. c. Ordering the child to pay a fine if the delinquent act committed by the child constitutes manslaughter resulting from the operation of a motor vehicle in violation of section 12.1-16-02; negligent homicide in violation of section 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance. The court may suspend the imposition of a fine imposed pursuant to this subsection upon such terms and conditions as the court may determine. Fines collected pursuant to this subsection must be paid into the county treasury for disposition pursuant to section 29-27-02.1;
 4. d. Committing the child to the division of juvenile services or to another state department to which commitment of delinquent or unruly children may be made. When necessary, the commitment order may provide that the child initially be placed in a secure facility;
 5. e. Ordering the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
 6. f. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court; or
 7. g. Ordering the child's participation in a juvenile drug court program.
3. If the delinquent act committed by the child was a sexual offense, the court shall ensure the child is assessed in a timely manner, not to exceed thirty days, with age-appropriate social assessments to determine the appropriate level of required treatment.

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

A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.

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

An individual with access or authorization to inspect juvenile court files and records under this section may not share the information contained in the files and records with any other person

not authorized by law. An individual who violates this subsection is guilty of a class B misdemeanor.

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

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

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

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

1. Upon determination by the department or the department's designee that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the department ~~may~~shall refer the report to an appropriate law enforcement agency for investigation and disposition.
2. If law enforcement determines a minor committed an act in violation of sections 12.1-20-01 through 12.1-20-04, section 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2 against another minor, law enforcement shall provide the report to the department. Law enforcement shall conduct a criminal investigation and shall coordinate with the department for the provision of services to the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors.
3. The department shall provide risk assessment, safety planning, and any appropriate evidence-based screening for the minors and any other minors under the same care. The department shall refer the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors, for appropriate services.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1520.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

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