

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1492

(Representatives Ista, Cory, Mitskog, Mock, O'Brien, Roers Jones, M. Ruby, Schauer, Schneider)
(Senators Hogan, Kreun, Lee)

AN ACT to amend and reenact section 14-09-22 of the North Dakota Century Code, relating to defining mental injury for the crime of child abuse; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-22 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Except as provided in subsection 2 or 3, a parent, adult family or household member, guardian, or other custodian of any child, who willfully inflicts or allows to be inflicted upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim of an offense under this section is under the age of six years in which case the offense is a class B felony. For purposes of this subsection, "mental injury" means an observable and substantial, nontransitory impairment to a child's mental or psychological ability to function within a normal range of performance or behavior.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under this section is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.
3. A person who commits an offense under this section is guilty of a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.
4. A person who has pled guilty or nolo contendere to, or has been found guilty of an offense under this section must be sentenced to a minimum of one year imprisonment.
5. For any person who pleads guilty or is convicted of an offense under this section, the court shall include in the sentence an order for the person to complete a parental capacity evaluation, mental health evaluation, and anger management assessment, and to complete treatment recommendations as ordered by the court as a condition of probation.

Dennis Johnson
Speaker of the House

Tammie Miller
President of the Senate

Bruce J. Reek
Chief Clerk of the House

David Mogen
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1492.

House Vote: Yeas 74 Nays 17 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Bruce J. Reek
Chief Clerk of the House

Received by the Governor at 9:53 AM. on March 22, 2023.

Approved at 10:24 AM. on March 27, 2023.

Doug Burgum
Governor

Filed in this office this 28th day of March, 2023,
at 2:42 o'clock P M.

Michael Howe
Secretary of State