



NORTH DAKOTA

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. N.D. Cent. Code Ann. § 12.1-41-01 (2015) – Definitions

North Dakota’s human trafficking statutes define a number of relevant terms, including:

- (1) “Adult” means an individual 18 years of age or older.
- (2) “Coercion” means:
 - a. The use or threat of force against, abduction of, serious harm to, or physical restraint of, an individual;
 - b. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of, an individual;
 - c. The abuse or threatened abuse of law or legal process;
 - d. Controlling or threatening to control an individual’s access to a controlled substance as defined in N.D. Cent. Code Ann. § 19-03.1-01;
 - e. The destruction or taking of or the threatened destruction or taking of an individual’s identification document or other property;
 - f. The use of debt bondage;
 - g. The use of an individual’s physical or mental impairment when the impairment has a substantial adverse effect on the individual’s cognitive or volitional function; or
 - h. The commission of civil or criminal fraud.
- (3) “Commercial sexual activity” means sexual activity for which anything of value is given to, promised to, or received by, a person.
- (4) “Debt bondage” means inducing an individual to provide commercial sexual activity in payment toward or satisfaction of a real or purported debt or inducing an individual to provide labor or services in payment toward or satisfaction of a real or purported debt, if the reasonable value of the labor or services is not applied toward the liquidation of the debt or if the length of the labor or services is not limited and the nature of the labor or services is not defined. The term does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under state or federal laws.
- (5) “Human trafficking” means the commission of an offense created by N.D. Cent. Code Ann. § 12.1-41-02 through 12.1-41-06.

- (6) “Identification document” means a passport, driver’s license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.
- (7) “Labor or services” means activity having economic value.
- (8) “Minor” means an individual less than 18 years of age.
- (9) “Serious harm” means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.
- (10) “Sexual activity” means “sexual act” as defined in N.D. Cent. Code Ann. § 12.1-20-02. The term includes a sexually explicit performance.
- (11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.
- (12) “Victim” means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this chapter been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.

b. N.D. Cent. Code Ann. § 12.1-41-02 (2015) – Trafficking an Individual

i. Summary

In North Dakota, a person commits the offense of trafficking an individual if the person knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of: (1) forced labor in violation of N.D. Cent. Code Ann. § 12.1-41-03; or (2) sexual servitude in violation of N.D. Cent. Code Ann. § 12.1-41-04. N.D. Cent. Code Ann. § 12.1-41-02(1).

ii. Sentencing

Trafficking an adult victim is a Class A felony. N.D. Cent. Code Ann. § 12.1-41-02(2). For a Class A felony, the maximum penalty is imprisonment for 20 years, a fine of USD 20,000, or both. N.D. Cent. Code Ann. § 12.1-32-01.

Trafficking a minor victim is a Class AA felony. N.D. Cent. Code Ann. § 12.1-41-02(3). For a Class AA felony, the maximum penalty is life imprisonment. N.D. Cent. Code Ann. § 12.1-32-01.

The court shall also order a defendant convicted of trafficking to pay restitution to the victim for: (a) expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney’s fees and costs; and (b) an amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim: (1) the gross income to the defendant for, or the value to the defendant of, the victim’s labor or services or sexual activity; (2) the amount the defendant contracted to pay the victim; or (3) the value of the victim’s labor or services or sexual activity, calculated under the higher of the minimum wage and overtime provisions under North Dakota law or the federal Fair Labor Standards Act, even if the provisions do not apply to the victim’s labor or services or sexual activity. N.D. Cent. Code Ann. § 12.1-41-09.

iii. Statute of Limitations

A prosecution for the crime of human trafficking must be commenced within seven years after the commission of the offense. N.D. Cent. Code Ann. § 29-04-02.1. If the victim is under the age of 15, the applicable period of limitation does not begin to run until the victim has reached the age of 15. N.D. Cent. Code Ann. § 29.04-03.2.

c. N.D. Cent. Code Ann. § 12.1-41-03 (2015) – Forced Labor

i. Summary

A person commits the offense of forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except when that conduct is permissible under federal law or state law. N.D. Cent. Code Ann. § 12.1-41-03(1).

ii. Sentencing

Forced labor of an individual who is an adult is a Class A felony. N.D. Cent. Code Ann. § 12.1-41-03(2). A Class A felony has a maximum penalty of 20 years of imprisonment, a fine of USD 20,000, or both. N.D. Cent. Code Ann. § 12.1-32-01.

Forced labor of an individual who is a minor is a Class AA felony. N.D. Cent. Code Ann. § 12.1-41-03(3). A Class AA felony has a maximum penalty of life imprisonment. N.D. Cent. Code Ann. § 12.1-32-01.

The court shall order a defendant convicted of the crime of forced labor to pay restitution to the victim of the offense for: (a) expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and (b) an amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim: (1) the gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity; (2) the amount the defendant contracted to pay the victim; or (3) the value of the victim's labor or services or sexual activity, calculated under the higher of the minimum wage and overtime provisions under North Dakota law or the federal Fair Labor Standards Act, even if the provisions do not apply to the victim's labor or services or sexual activity. N.D. Cent. Code Ann. § 12.1-41-09.

iii. Statute of Limitations

A prosecution for the crime of forced labor must be commenced in the proper court within seven years after the commission of the offense. N.D. Cent. Code Ann. § 29-04-02.1. If the victim of the crime of human trafficking is under the age of 15, the applicable period of limitation does not begin to run until the victim has reached the age of 15. N.D. Cent. Code Ann. § 29-04-03.2.

d. N.D. Cent. Code Ann. § 12.1-41-04 (2015) – Sexual Servitude

i. Summary

A person commits the offense of sexual servitude if the person knowingly: (a) maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or (b) uses coercion or deception to compel an adult to engage in commercial sexual activity. N.D. Cent. Code Ann. § 12.1-41-04(1).

It is not a defense in a prosecution under subsection (a) that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult. N.D. Cent. Code Ann. § 12.1-41-04.

ii. Sentencing

Sexual servitude when the victim is a minor is a Class AA felony. N.D. Cent. Code Ann. § 12.1-41-04(3). Sexual servitude when the victim is an adult is a Class A felony. N.D. Cent. Code Ann. § 12.1-41-04(4). A Class AA felony has a maximum penalty of life imprisonment without parole. N.D. Cent. Code Ann. § 12.1-32-01. A Class A felony has a maximum penalty of 20 years of imprisonment, a fine of USD 20,000, or both.

The court shall order a defendant convicted of sexual servitude to pay restitution to the victim of the offense for: (a) expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and (b) an amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim: (1) the gross income to the defendant for, or the value to the

defendant of, the victim’s labor or services or sexual activity; (2) the amount the defendant contracted to pay the victim; or (3) the value of the victim’s labor or services or sexual activity, calculated under the higher of the minimum wage and overtime provisions under North Dakota law or the federal Fair Labor Standards Act, even if the provisions do not apply to the victim’s labor or services or sexual activity. N.D. Cent. Code Ann. § 12.1-41-09.

iii. Statute of Limitations

A prosecution for the crime of sexual servitude must be commenced in the proper court within seven years after the commission of the offense. N.D. Cent. Code Ann. § 29-04-02.1. If the victim of the crime of human trafficking is under the age of 15, the applicable period of limitation does not begin to run until the victim has reached the age of 15. N.D. Cent. Code Ann. § 29.04-03.2.

e. N.D. Cent. Code Ann. § 12.1-41-05 (2015) – Patronizing a Victim of Sexual Servitude

i. Summary

A person commits the offense of patronizing a victim of sexual servitude if the person knowingly gives, agrees to give, or offers to give anything of value so that an individual may engage in commercial sexual activity with another individual, and the person knows that the other individual is a victim of sexual servitude. N.D. Cent. Code Ann. § 12.1-41-05(1).

ii. Sentencing

Patronizing a victim of sexual servitude who is an adult is a Class B felony. N.D. Cent. Code Ann. § 12.1-41-05(2). Patronizing a victim of sexual servitude who is a minor is a Class A felony. N.D. Cent. Code Ann. § 12.1-41-05(3). A Class B felony has a maximum penalty of 10 years of imprisonment, a fine of USD 20,000, or both. N.D. Cent. Code Ann. § 12.1-32-01. A Class A felony has a maximum penalty of 20 years of imprisonment, a fine of USD 20,000, or both. N.D. Cent. Code Ann. § 12.1-32-01.

iii. Statute of Limitations

The crime of patronizing a victim of sexual servitude must be commenced in the proper court within seven years after the commission of the offense. N.D. Cent. Code Ann. § 29-04-02.1. If the victim of the crime of human trafficking is under the age of 15, the applicable period of limitation does not begin to run until the victim has reached the age of 15. N.D. Cent. Code Ann. § 29.04-03.2.

f. N.D. Cent. Code Ann. § 12.1-41-06 (2015) – Patronizing a Minor for Commercial Sexual Activity

i. Summary

A person commits the offense of patronizing a minor for commercial sexual activity if: (a) “with the intent that an individual engage in commercial sexual activity with a minor, the person gives, agrees to give, or offers to give anything of value to a minor or another person so that the individual may engage in commercial sexual activity with a minor” (a Class A felony); or (b) “the person gives, agrees to give, or offers to give anything of value to a minor or another person so that an individual may engage in commercial sexual activity with a minor” (a Class B felony). N.D. Cent. Code Ann. § 12.1-41-06.

ii. Sentencing

A Class A felony has a maximum penalty of 20 years of imprisonment, a fine of USD 20,000, or both. A Class B felony has a maximum penalty of 10 years of imprisonment, a fine of USD 20,000, or both. N.D. Cent. Code Ann. § 12.1-32-01.

iii. Statute of Limitations

A prosecution must be commenced in the proper court within seven years after the commission of the offense. N.D. Cent. Code Ann. § 29-04-02.1. If the victim of the crime of human trafficking is under the age of 15, the applicable period of limitation does not begin to run until the victim has reached the age of 15. N.D. Cent. Code Ann. § 29-04-03.2.

g. N.D. Cent. Code Ann. § 12.1-41-07 (2015) – Business Entity Liability

A business entity may be prosecuted for the crimes of trafficking an individual, forced labor, sexual servitude, patronizing a victim of sexual servitude, or patronizing a minor for commercial sexual activity. N.D. Cent. Code Ann. § 12.1-41-07(1).

When a business entity is prosecuted for one of these offenses, the court may consider the severity of the entity's conduct and order penalties in addition to those otherwise provided for the offense, including: (1) a fine of not more than USD 1 million per offense; (2) disgorgement of profit from activity in violation of this chapter; and (3) debarment from state and local government contracts. N.D. Cent. Code Ann. § 12.1-41-07(2).

h. N.D. Cent. Code Ann. § 12.1-41-08 (2015) – Aggravating Circumstance

An aggravating circumstance during the commission of an offense under N.D. Cent. Code Ann. § 12.1-41-02 (trafficking an individual), N.D. Cent. Code Ann. § 12.1-41-03 (forced labor), or N.D. Cent. Code Ann. § 12.1-41-04 (sexual servitude) occurs when the defendant recruited, enticed, or obtained the victim of the offense from a shelter that serves individuals subjected to human trafficking, domestic violence, or sexual assault, runaway youth, foster children, or the homeless. N.D. Cent. Code Ann. § 12.1-41-08(1).

If the trier of fact finds that an aggravating circumstance occurred during the commission of one of these offenses, the defendant may be imprisoned for up to five years, in addition to the period of imprisonment prescribed for the offense. N.D. Cent. Code Ann. § 12.1-41-08(2).

i. N.D. Cent. Code Ann. § 12.1-41-10 (2015) – Victim Confidentiality

North Dakota specifies that in an investigation of or a prosecution for a human trafficking or related offense, a law enforcement agency and state's attorney shall keep confidential the identity, pictures, and images of the alleged victim and the family of the alleged victim, except to the extent that disclosure is necessary for the purpose of investigation or prosecution, required by law or court order, or necessary to ensure provision of services or benefits for the victim or the victim's family. N.D. Cent. Code Ann. § 12.1-41-10.

j. N.D. Cent. Code Ann. § 12.1-41-11 (2015) – Past Sexual Behavior of Victim

In a prosecution for an offense under North Dakota's human trafficking act or in a civil lawsuit by a trafficking victim under N.D. Cent. Code Ann. § 12.1-41-15, evidence of a specific instance of the alleged victim's past sexual behavior or reputation or opinion evidence of past sexual behavior of the alleged victim is not admissible unless the evidence is admitted in accordance with the North Dakota rules of evidence, or offered by the prosecution to prove a pattern of human trafficking by the defendant. N.D. Cent. Code Ann. § 12.1-41-11.

k. N.D. Cent. Code Ann. § 12.1-41-12 (2015) – Immunity of Minor

If the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim of human trafficking, the individual is not criminally liable or subject to a juvenile delinquency proceeding for:

- (1) Prostitution under section 12.1-29-03;
- (2) Misdemeanor forgery under section 12.1-24-01;

- (3) Misdemeanor theft offenses under chapter 12.1-23;
- (4) Insufficient funds or credit offenses under section 6-08-16;
- (5) Manufacture or possession of a controlled or counterfeit substance offenses under section 19-03.1-23; and
- (6) Drug paraphernalia offenses under chapter 19-03.4.

N.D. Cent. Code Ann. § 12.1-41-12(1).

It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a human trafficking victim. N.D. Cent. Code Ann. § 12.1-41-12(2).

An individual who has engaged in commercial sexual activity is not criminally liable or subject to a juvenile delinquency proceeding for prostitution if the individual was a minor at the time of the offense. N.D. Cent. Code Ann. § 12.1-41-12(3).

A minor who is not subject to criminal liability or a juvenile delinquency proceeding because of the provisions in this section is presumed to be a “child in need of services.” N.D. Cent. Code Ann. § 12.1-41-12(4).

This section does not apply in a prosecution or a juvenile delinquency proceeding for patronizing a prostitute. N.D. Cent. Code Ann. § 12.1-41-12(5).

i. N.D. Cent. Code Ann. § 12.1-41-13 (2015) – Affirmative Defense of Victim

An individual charged with prostitution, forgery, theft, drug distribution, drug manufacture, drug possession, drug paraphernalia, or insufficient funds or credit offenses may assert an affirmative defense that the individual committed the act as a direct result of being a human trafficking victim. N.D. Cent. Code Ann. § 12.1-41-13.

m. N.D. Cent. Code Ann. § 12.1-41-14 (2019) – Motion to Vacate and Expunge Conviction

North Dakota provides for vacatur and expungement of certain human trafficking victims’ convictions:

- (1) An individual convicted of prostitution or an offense listed in subsection 1 of section 12.1-41-12 [prostitution, misdemeanor forgery, misdemeanor theft, insufficient funds or credit offenses, certain manufacture or possession of controlled substance offenses, and drug paraphernalia offenses] which was committed as a direct result of being a victim [of human trafficking] may apply by motion to the court to vacate the conviction and expunge the record of conviction. The court may grant the motion on a finding that the individual’s participation in the offense was a direct result of being a victim.
- (2) Official determination or documentation is not required to grant a motion ..., but an official determination or documentation from a federal, state, local, or tribal agency that the individual was a victim at the time of the offense creates a presumption that the individual’s participation was a direct result of being a victim.

N.D. Cent. Code Ann. § 12.1-41-14.

n. N.D. Cent. Code Ann. § 12.1-18.02 (1973) – Felonious Restraint

A person commits the Class C felony of felonious restraint by, among other things, restraining another with intent to hold the other in a condition of involuntary servitude. N.D. Cent. Code Ann. § 12.1-18.02(3).

o. N.D. Cent. Code Ann. § 12.1-06.1-01 (2019) – Racketeer Influenced and Corrupt Organizations

North Dakota’s racketeering statute includes human trafficking among the predicate acts. N.D. Cent. Code Ann. § 12.1-06.1-01(2)(f)(20).

p. N.D. Cent. Code Ann. § 12.1-41-21 (2015) – Forced or Coerced Abortion

i. Summary

A forced or coerced abortion during the commission of an offense under N.D. Cent. Code Ann. § 12.1-41-02 (trafficking an individual), N.D. Cent. Code Ann. § 12.1-41-03 (forced labor), or N.D. Cent. Code Ann. § 12.1-41-04 (sexual servitude) occurs when the defendant forces or coerces a victim of the offense to have an abortion against their will. N.D. Cent. Code Ann. § 12.1-41-21(2).

Upon the request of the victim, a law enforcement agency investigating a violation of this section shall notify the victim not less than 24 hours before initially contacting the individual alleged to have committed a violation of this section. N.D. Cent. Code Ann. § 12.1-41-21(3).

ii. Sentencing

If the trier of fact finds that a forced or coerced abortion occurred during the commission of an offense under N.D. Cent. Code Ann. § 12.1-41-02 (trafficking an individual), N.D. Cent. Code Ann. § 12.1-41-03 (forced labor), or N.D. Cent. Code Ann. § 12.1-41-04 (sexual servitude), the court may sentence the defendant for up to five years, in addition to the period of imprisonment prescribed for the offense. N.D. Cent. Code Ann. § 12.1-41-21(4).

q. N.D. Cent. Code Ann. § 12.1-31.2-01 (2019) – Disorderly Conduct Restraining Order

A victim of disorderly conduct may seek a disorderly conduct restraining order. For the purposes of this section, “disorderly conduct” includes human trafficking or attempted human trafficking. N.D. Cent. Code Ann. § 12.1-31.2-01(1), (2).

2. Online Child Sexual Exploitation and Child Pornography Offenses

N.D. Cent. Code Ann. § 12.1-27.2-01 – Definitions

N.D. Cent. Code Ann. § 12.1-27.2-02 – Use of Minor in a Sexual Performance

N.D. Cent. Code Ann. § 12.1-27.2-03 – Promoting or Directing an Obscene Sexual Performance by a Minor

N.D. Cent. Code Ann. § 12.1-27.2-04 – Promoting a Sexual Performance by a Minor

N.D. Cent. Code Ann. § 12.1-27.2-4.1 – Possession of Certain Materials Prohibited

N.D. Cent. Code Ann. § 12.1-27.2-4.2 – Sexual Performance by a Minor – Enhanced Penalties

N.D. Cent. Code Ann. § 12.1-27.2-05 – Sexual Performance by a Minor – Affirmative Defenses

N.D. Cent. Code Ann. § 12.1-27.2-06 – Proof of Age of Minor

3. N.D. Cent. Code Ann. § 12.1-32-15 (2019) – Sexual Offender Registration

In addition to any penalty provided by law, the court shall require a sexual offender to register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. Offenses that trigger the registration requirement include sexual servitude and trafficking in persons for sexual purposes. N.D. Cent. Code Ann. § 12.1-32-15(2)(a)–(e).

B. Civil Liability Statutes

1. N.D. Cent. Code Ann. § 12.1-41-15 (2015) – Civil Lawsuit

a. Summary

A victim may bring a civil lawsuit against a person who commits an offense against the victim under N.D. Cent. Code Ann. § 12.1-41-02 (trafficking an individual), N.D. Cent. Code Ann. § 12.1-41-03 (forced labor), or N.D. Cent. Code Ann. § 12.1-41-04 (sexual servitude). N.D. Cent. Code Ann. § 12.1-41-15(1).

This section does not preclude any other remedy available to a victim under federal law or North Dakota law. N.D. Cent. Code Ann. § 12.1-41-15(5).

b. Damages and Other Relief

A victim may recover compensatory damages, exemplary or punitive damages, injunctive relief, and any other appropriate relief. The court shall award the prevailing victim reasonable attorney's fees and costs. N.D. Cent. Code Ann. § 12.1-41-15(1), (2).

Damages awarded to a victim under this section for an item must be offset by any restitution paid to the victim for the same item. N.D. Cent. Code Ann. § 12.1-41-15(4).

c. Statute of Limitations

A lawsuit under this section must be commenced not later than 10 years after the later of the date on which the victim: (1) no longer was subject to human trafficking, or (2) reaches 18 years of age. N.D. Cent. Code Ann. § 12.1-41-15(3).

C. Additional Statutes Specific to Human Trafficking

1. N.D. Cent. Code Ann. § 12.1-41-16 (2015) – Display of Public Awareness Sign

The Department of Transportation shall display in every transportation station, rest area, and welcome center in the state which is open to the public a public awareness sign that contains state or local human trafficking resource information and the National Human Trafficking Resource Center hotline information.

2. N.D. Cent. Code Ann. § 12.1-41-17 (2015) – Eligibility for Benefit or Service Through the State

A human trafficking victim is eligible for a benefit or service available through the state, including compensation, regardless of immigration status. A minor who has engaged in commercial sexual activity is also eligible for a benefit or service available through the state, regardless of immigration status.

As soon as practicable after a first encounter with an individual who reasonably appears to law enforcement to be a trafficking victim or a minor who has engaged in commercial sexual activity, the law enforcement agency shall notify the Victim Services Division of the Department of Corrections and Rehabilitation that the individual may be eligible for a benefit or service under North Dakota law.

3. N.D. Cent. Code Ann. § 12.1-41-18 (2015) – Law Enforcement Protocol for T or U Visa Requests

On request from an individual whom a law enforcement officer reasonably believes is a trafficking victim who is or has been subjected to a severe form of trafficking or a criminal offense required for the individual to qualify for a nonimmigrant T or U visa, the law enforcement officer, as soon as practicable after receiving the request, shall complete, sign, and give to the individual the form I-914B or form I-918B provided by the United States Citizenship and Immigration Services on its internet website and ask a federal law enforcement officer to request continued presence.

4. N.D. Cent. Code Ann. § 12.1-41-19 (2015) – North Dakota Attorney General Grant to or Contract with Service Provider

The North Dakota Attorney General may make a grant to or contract with a unit of state or local government, tribal government, or a nongovernmental victims service organization to develop or expand service programs for human trafficking victims.

5. N.D. Cent. Code Ann. § 12.1-41-20 (2015) – Use of Public Funds for Abortions Prohibited

Except as provided by federal law, funds of the state or a political subdivision of the state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may be used to refer or counsel for family planning services, but may not be used to perform, refer for, or encourage abortion.

6. N.D. Cent. Code Ann. § 34-14-01 *et seq.* (2019) – Wage Collection

An employee must first file a claim for wages due with the Department of Labor and Human Rights. If the wage claim is under USD 125 or above USD 15,000, the Department will inform the employee of the right to pursue the claim in small claims court or district court. In a lawsuit by the Department, an employee may recover wages owed as well as damages. N.D. Cent. Code Ann. § 34-14-09.

More information can be found at: <https://www.nd.gov/labor/wage-claim-process>.

7. N.D. Cent. Code Ann. § 50-25.1-02 (2019) – Child Abuse and Neglect

North Dakota defines a “neglected child” to include a child who, due to the action or inaction of the person responsible for the child’s welfare, is a victim of human trafficking.

8. N.D. Cent. Code Ann. § 54-12-33 (2019) – Human Trafficking Commission

The North Dakota Attorney General may establish a human trafficking commission, comprised of designees from state, local, and tribal agencies which have contact with victims or perpetrators, nongovernmental organizations that represent or work with victims, and other organizations and individuals, including victims, whose expertise would benefit the commission. The duties of the commission include promoting awareness, collecting and evaluating data, and promoting training on investigation and prosecution.

9. N.D. Cent. Code Ann. § 54-12-33.1 (2019) – Human Trafficking Prevention Training – Exemptions – Immunity – Continuing Appropriation

The human trafficking commission must establish an educational training program with a focus on the accurate and prompt identification and reporting of, or response to, suspected human trafficking. Lodging establishments may provide this training and may post posters with information for human trafficking victims. A proprietor or employee of a lodging establishment who acts in good faith is immune from liability in a civil lawsuit for reporting suspected human trafficking.

D. Significant Cases

1. *State v. Rufus*, 868 N.W.2d 534 (N.D. 2015)

The defendant responded to an advertisement posted on Craigslist under “personals > casual encounters” by a law enforcement agent using the undercover persona of “Chad Russo.” The advertisement indicated Russo’s daughter wanted to make money while her mother was away. The defendant responded to the advertisement. “Russo” replied, informing the defendant that the girl was 14 years old. The defendant asked Russo whether it would be illegal due to the girl’s age, and requested more details. Russo acknowledged that the conduct was illegal because 14 years old is under the age of majority, but indicated that he would not tell anyone. In two separate online Yahoo Messenger

conversations, Russo and the defendant discussed the pricing for various sexual acts and discussed a time and place to meet. Russo sent the defendant a picture of “the girl.” During the online conversations via Yahoo Messenger, the defendant agreed to exchange two bags of marijuana, each worth USD 60, for one hour of time with the 14-year-old girl. The two agreed and met in a parking lot. The defendant arrived and was arrested after the deputy sheriff found marijuana, money, a cooler containing beer, one morphine bill, and one oxycodone pill in the defendant’s vehicle. He was found guilty of human trafficking under a prior version of North Dakota’s statute.

The North Dakota Supreme Court upheld the conviction. It rejected the defendant’s argument that his conduct did not constitute “obtaining” a person because, he maintained, he only attempted to obtain sexual services from a 14-year-old girl rather than attempting to obtain a 14-year-old girl. The court ruled that the defendant’s attempt to acquire temporary custody of a 14-year-old girl for the purpose of engaging in commercial sexual acts was sufficient to uphold the conviction.

2. *State v. Davison*, 900 N.W.2d 66 (N.D. 2017)

The defendants were arrested as part of a multi-agency sting operation targeted at apprehending individuals paying, or attempting to pay, for sex with minors. The operation posted advertisements on the Internet seeking sexual encounters; during communications with each of the defendants, an undercover officer posing as a minor indicated to the defendant that she was a minor. Each of the defendants arrived at the sting location and was arrested and charged with patronizing a minor for commercial sexual activity in violation of N.D. Cent. Code Ann. § 12.1-41-06(1)(a). The district court found all of the defendants guilty. The defendants argued that the language of the statute required an actual minor to be involved, and because there was no minor involved, the district court erred by denying their motions for judgment of acquittal.

The North Dakota Supreme Court upheld the convictions. Under the plain language of section 12.1-41-06, the State does not have to prove that a minor was present; instead, the State only needs proof of a person giving, agreeing to give, or offering “anything of value to a minor *or another person* with intent to engage in commercial sexual activity with a minor, and with the expectation of receiving sexual services from a minor” (emphasis in original court decision). Thus, an individual may be convicted of an offense if the agreement is made with someone other than a minor.

E. Academic Research/Papers

Sabrina Balgamwalla, *Jobs Looking for People, People Looking for Their Rights: Seeking Relief for Exploited Immigrant Workers in North Dakota*, 91 N.D. L. REV. 483, 493 (2015)

F. Resources

National Human Trafficking Hotline (North Dakota):

<https://www.humantraffickinghotline.org/state/north-dakota>

North Dakota Human Trafficking Task Force:

<https://www.ndhttf.org/>

North Dakota Office of the Attorney General, Human Trafficking:

<https://www.attorneygeneral.nd.gov/public-safety/human-trafficking>

North Dakota Office of the Attorney General, Attorney General’s Human Trafficking Commission, *Human Trafficking in the State of North Dakota 2018 Report*:

<https://attorneygeneral.nd.gov/sites/ag/files/documents/2018-Report-AG-HTCommission.pdf>

Shared Hope International, North Dakota Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_ND.pdf

Shared Hope International, North Dakota Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_ND.pdf

U.S. Department of Health & Human Services, *North Dakota: Efforts to Combat Human Trafficking* (2017):

https://www.acf.hhs.gov/sites/default/files/documents/otip/north_dakota_profile_efforts_to_combat_human_trafficking.pdf

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