



December 2024

## **SORNA Substantial Implementation Review State of North Dakota – Revised**

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) recognizes the State of North Dakota's efforts to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its revised review of North Dakota's SORNA substantial implementation materials and has determined North Dakota has not substantially implemented SORNA.

On July 21, 2023, the North Dakota Department of Criminal Investigation submitted a substantial implementation package that included a SMART Office Substantial Implementation Checklist-Revised completed by the state. In addition, email and phone correspondence with the North Dakota Department of Criminal Investigation informed our review.

This review is exhaustive and details each area in which North Dakota meets and does not meet SORNA standards. This review follows the outline of the SMART Office Substantial Implementation Checklist - Revised and contains 11 sections addressing the SORNA requirements. Each section indicates whether North Dakota meets or does not meet the SORNA requirements of that section or deviates from the SORNA requirements in a way that does not substantially disserve SORNA's requirements.

### **I. Immediate Notification and Exchange of Information**

SORNA requires that when an offender initially registers and/or updates their information in a jurisdiction, that the initial registration information or updated information be immediately sent to each jurisdiction where the offender has to register—where the offender lives, works or goes to school—through the SORNA Exchange Portal or other means, as well as sent to the National Crime Information Center's National Sex Offender Registry (NCIC/NSOR). Notification must also be provided to appropriate law enforcement agencies, supervision agencies and any agency responsible for conducting employment-related background checks under 34 U.S.C. § 40102(a) in each jurisdiction where the offender is registered.

North Dakota meets all of the SORNA requirements in this section.

### **II. Offenses That Must Be Included in the Registry**

SORNA requires that a jurisdiction capture certain sex offenses, both from the jurisdiction itself and from other SORNA registration jurisdictions, in its registration scheme. In addition, SORNA requires certain federal, military and foreign offenses be included in a jurisdiction's registration

scheme. SORNA also requires that certain adjudications of delinquency be included in a jurisdiction's registration scheme.

#### A. North Dakota Offenses

North Dakota includes most of the North Dakota offenses for which SORNA requires registration in its registration scheme. However, the following North Dakota offenses are not included in North Dakota's registration law as required by SORNA:

- N.D. Cent. Code § 12.1-20-07(1)(a) Sexual assault
- N.D. Cent. Code § 12.1-29-01 Promoting prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-29-02 Facilitating prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-29-06 Hiring an individual to engage in sexual activity (where the victim is a minor)

While North Dakota does not expressly include these offenses within its registration statute, the registration statute permits state courts to order individuals convicted of these and other offenses to register as sex offenders and to subject them to risk assessment for registration purposes as part of their judgment of conviction.<sup>1</sup>

Additionally, North Dakota permits sentencing courts to exclude certain individuals from the duty to register. Pursuant to the state's registration statute, the sentencing court may waive registration requirements if the sexual offense is a misdemeanor or an attempted misdemeanor, the individual is no more than three years older than the victim (if the victim is a minor), the individual has not previously been convicted of a sex offense and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

#### B. Offenses of Other SORNA Registration Jurisdictions

North Dakota deviates from SORNA in that North Dakota requires registration for any offense that, based on elements or facts, would require registration as a North Dakota offense if committed or attempted in North Dakota.

#### C. Federal Offenses

North Dakota deviates from SORNA requirements in that North Dakota includes federal offense convictions in its registration scheme that, based on elements or facts, would require registration as a North Dakota offense if committed or attempted in North Dakota. The following offenses require registration under SORNA but do not appear to have equivalent North Dakota offenses.

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<sup>1</sup> An individual convicted of N.D. Cent. Code § 12.1-20-07(1)(a), N.D. Cent. Code § 12.1-29-01, N.D. Cent. Code § 12.1-29-02 or N.D. Cent. Code § 12.1-29-06 may be required by North Dakota statute to register as an offender against a child, a requirement separate from the state's sex offender registration requirements.

- 18 U.S.C. § 2252A Material containing child pornography (where “child pornography” constitutes a “digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct,” as defined in 18 U.S.C. § 2256(C))
- 18 U.S.C. § 2252B Misleading domain names on the internet
- 18 U.S.C. § 2252C Misleading words or digital images on the internet
- 18 U.S.C. § 2423(C) Engaging in illicit sexual conduct in foreign places
- 18 U.S.C. § 2424 Filing factual statement about alien individual
- 18 U.S.C. § 2425 Use of interstate facilities to transmit information about a minor

#### D. Military Offenses

North Dakota deviates from SORNA requirements in that North Dakota includes military offense convictions in its registration scheme that, based on elements or facts, would require registration as a North Dakota offense if committed or attempted in North Dakota. Therefore, there are some military offenses (such as Conduct unbecoming) that do not appear to have an equivalent offense under North Dakota law and, if not, may not require registration under North Dakota’s existing scheme.

#### E. Foreign Offenses

North Dakota deviates from SORNA requirements in that North Dakota includes foreign convictions in its registration scheme only if the offense is equivalent to a registerable North Dakota offense. Therefore, there are some foreign offenses that do not appear to have an equivalent offense under North Dakota law and, if not, may not require registration under North Dakota’s existing scheme.

#### F. Juveniles

North Dakota handles juveniles charged with sex offenses in multiple ways.

##### 1. Policies and practices to prosecute as adults juveniles who commit serious sex offenses

North Dakota statutorily mandates that juveniles accused of committing gross sexual imposition or attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury or kidnapping, who were 14 years of age or older at the time of the alleged conduct, be prosecuted as adults.

A party to a juvenile delinquency proceeding involving a juvenile 14 years of age or older may move for transfer of the proceeding to adult court. This hearing, which requires advance notice to the accused juvenile’s parents, guardian or other custodian, requires the assignment

of counsel and allows the parties to introduce evidence and cross examine witnesses. In North Dakota, juveniles are transferred for prosecution as if they were adults if the juvenile court determines that the accused juvenile committed the alleged delinquent act, the juvenile is not amenable to treatment or rehabilitation, the juvenile is not treatable in an institution for individuals who are intellectually disabled or who are mentally ill, and the interests of the community require that the juvenile be placed under legal restraint or discipline; additionally, for those who are 14 or 15 years old, they must have committed a delinquent act involving the infliction or threat of serious bodily harm. The judge presiding over this petition is generally disqualified from presiding over the subsequent prosecution or hearings in juvenile court. Additionally, juveniles 16 years of age or older may request transfer to be prosecuted as if they were adults without providing additional substantiation.

As described above, North Dakota does not expressly include all the offenses for which SORNA requires registration in its registration scheme, though the state does statutorily provide for judicial discretion to independently require juvenile registration.

## 2. Policies and practices to register juveniles adjudicated delinquent for serious sex offenses

North Dakota generally registers juveniles adjudicated delinquent of registerable sex offenses pursuant to the same laws as adults.

North Dakota juvenile courts may exercise judicial discretion over requiring juveniles adjudicated delinquent of sex offenses to register where the juvenile has not previously been adjudicated delinquent or convicted of a registerable sex offense, did not exhibit mental abnormality or predatory conduct in the commission of the offense and was adjudicated delinquent of N.D. Cent. Code § 12.1-20-03(1)(d), N.D. Cent. Code § 12.1-20-03(1)(d)(2)(a) or of a misdemeanor otherwise requiring registration.

## 3. Policies and practices to identify, track, monitor or manage juveniles adjudicated delinquent for serious sex offenses who are in the community

All juveniles adjudicated delinquent of registerable sex offenses and all juveniles prosecuted of registerable sex offenses as if they were adults must undergo an initial risk assessment to determine duration of registration and frequency of registration verification. Juveniles who are adjudicated delinquent of registerable sex offenses and supervised by the North Dakota Department of Corrections and Rehabilitation's (DOCR) Division of Juvenile Services (DJS) will have their initial risk assessment completed by DJS. Juveniles who are adjudicated delinquent of registerable sex offenses and left under the supervision of juvenile court and juveniles who are transferred to adult court and prosecuted as if they were adults shall have their initial risk assessment completed by the North Dakota Sex Offender Risk Assessment Committee of the North Dakota Attorney General's Office (SORAC).

North Dakota excludes juveniles adjudicated delinquent for registerable sex offenses from the public sex offender registry website unless they are classified by DJS or SORAC as "high risk" or have a lifetime registration requirement based on the nature of their criminal history.

These deviations do not substantially disserve the purposes of the SORNA requirements in this section.

### **III. Required Registration Information**

SORNA requires the jurisdiction collect certain information from, and for, each offender that it registers, and requires that the jurisdiction keep that registration information in its registry, in a digitized form.

North Dakota meets all of the SORNA requirements in this section.

### **IV. Where Registration Is Required**

SORNA requires the jurisdiction register an offender if the offender was convicted or incarcerated in that jurisdiction. In addition, SORNA requires that the jurisdiction register offenders who live, work or go to school in the jurisdiction.

North Dakota meets all of the SORNA requirements in this section.

### **V. Initial Registration: Generally**

SORNA requires registration of an offender who is incarcerated within the jurisdiction before release from imprisonment for the registration offense. Similarly, when an offender is sentenced in the jurisdiction, but not incarcerated, SORNA requires registration within three business days of sentencing. Additionally, when an offender has been convicted, sentenced or incarcerated in another jurisdiction (including federal or military court), the jurisdiction must register the offender within three business days of the offender establishing residence, employment or school attendance within the jurisdiction. Finally, SORNA requires that, during the initial registration process, the jurisdiction inform the offender of their registration duties and require the offender acknowledge in writing that they understand those duties.

North Dakota meets all of the SORNA requirements in this section.

### **VI. Initial Registration: Retroactive Classes of Offenders**

SORNA applies to sex offenders convicted prior to the enactment of SORNA or its implementation in the jurisdiction, if they are prisoners, supervisees or registrants at the time of implementation, or if they reenter the system because of subsequent criminal convictions.

North Dakota's registration statutes apply to any individual convicted after July 31, 1985; any individual incarcerated or on probation or parole after July 31, 1995, of an offense requiring registration in the state's sex offender code; or any individual adjudicated guilty of an offense in another court in the United States, a tribal court, or court of another country equivalent to those offenses included in the state's sex offender statute.

North Dakota does not recapture offenders who reenter the system for a new nonsexual felony offense.

These deviations do not substantially disserve the purposes of the SORNA requirements in this section.

## **VII. Keeping the Registration Current**

SORNA requires registered sex offenders immediately appear in person to the registering agency in their jurisdiction of residence to update their name, residence, employment, school attendance and termination of residence. SORNA also requires sex offenders immediately update the registering agency in their jurisdiction of residence about any changes to their email addresses, internet identifiers, telephone communications, vehicle information and temporary lodging information.

When an offender works in a jurisdiction, but does not reside or attend school there, SORNA requires the offender immediately appear in person to update employment-related information. When an offender attends school in a jurisdiction, but does not reside or work there, SORNA requires the offender immediately appear in person to update school-related information.

SORNA also requires that, when an offender intends to travel outside the United States, the offender notify the registering agency in their jurisdiction of residence at least 21 days in advance of such travel.

In addition, SORNA requires that, when an offender notifies the jurisdiction of intent to relocate to another country to live, work or attend school, or intent to travel to another country, the jurisdiction must do three things: 1) immediately notify any other jurisdiction where the offender is either registered or is required to register of that updated information; 2) immediately notify the United States Marshals Service; and 3) immediately update NCIC/NSOR.

North Dakota meets all of the SORNA requirements in this section.

## **VIII. Offense Tiering/Verification/Appearance Requirements**

SORNA requires offenses be classified into three tiers based on the nature and seriousness of the offense, the age of the victim, and the extent of the offender's recidivism and that the tier of the conviction offense determines the duration of registration and frequency of in-person appearances.

North Dakota's sex offender registration and notification scheme establishes four registration tiers (low-risk, moderate-risk, high-risk and lifetime offenders) for adults convicted of registerable sex offenses and juveniles adjudicated delinquent of registerable sex offenses. Low-risk offenders register annually for 15 years, moderate-risk offenders register biannually for 25 years, and high-risk and lifetime offenders register quarterly for the rest of their lives.

### **A. Offense Tiering**

The SMART Office has reviewed all relevant North Dakota statutes and has identified North Dakota's classification of these statutes within the tiering policy structure created by SORNA

(see the appendix for information about North Dakota’s classification of its offenders and associated registration requirements).

North Dakota employs risk assessment to assign most of its sex offenders to their registration durations and verification frequencies. DOCR conducts various public safety assessments, including risk assessment, of all inmates, probationers and parolees who are required to register and are still under DOCR custody or supervision. SORAC conducts risk assessments on all other sex offenders prosecuted as adults who are required to register, including individuals who are no longer supervised by DOCR, individuals who are transferred from other states and individuals convicted in federal court. Until SORAC assigns a risk level, the Attorney General’s Office will adopt any risk level assigned by another state, tribe or foreign country, with a notation of which state, tribe or country assigned the risk level.

DJS is responsible for conducting risk assessments of all juveniles adjudicated delinquent who are under DJS supervision. In instances where the juvenile court maintains jurisdiction over juveniles adjudicated delinquent, the court is responsible for conducting risk assessments. In instances where DJS completes the initial risk assessment, SORAC reviews the court’s analysis and determines registration duration.

SORAC comprises nine members, including representatives from the North Dakota Attorney General’s Office; DOCR and DOCR Field Services; a victim advocate; a mental health professional; two law enforcement officers; a position shared by the juvenile courts and DJS; and a civilian representative. SORAC convenes once per month and requires a quorum of at least five members to conduct risk assessments. Registrants may file a request to review their individual risk assessment determination within 14 days of issuance.

North Dakota requires individuals convicted of two or more registerable sex offenses, at least one of which is a felony offense, to register for life regardless of the year of the convictions. Individuals convicted of two or more registerable misdemeanor sex offenses are also required to register for life as long as the convictions were secured after August 1, 1999.

North Dakota requires individuals convicted of the following offenses after August 1, 1999, and equivalent offenses from other courts in the United States, a tribal court or court of another country, to register for life:

- N.D. Cent. Code § 12.1-18-01 Kidnapping (if non-parental and individual 18 or older)
- N.D. Cent. Code § 12.1-20-03(1)(a) Gross sexual imposition
- N.D. Cent. Code § 12.1-20-03(1)(d) Gross sexual imposition (if individual 18 or older and victim under 12)
- N.D. Cent. Code § 12.1-20-03.1 Continuous sexual abuse of a child

While North Dakota generally employs risk assessment to determine registration tiers, there are some offenses that are directly assigned to registration tiers by statute. These offenses are generally tiered in accordance with SORNA requirements, with the following exception.

North Dakota classifies the following offense as a lifetime offense when the victim is under 12. This offense requires tier III registration (lifetime) under SORNA when the victim is under 13.

- N.D. Cent. Code, § 12.1-20-03(1)(d) Gross sexual imposition

#### B. Duration of Registration

SORNA requires individuals register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires tier I offenders register for 15 years, tier II offenders register for 25 years and tier III offenders register for life.

North Dakota generally requires individuals to register for a duration of time that is based on the results of their risk assessment. Low-risk offenders are required to register for 15 years, moderate-risk offenders are required to register for 25 years, and high-risk and lifetime offenders are required to register for the rest of their lives. As described above, the state requires individuals convicted of certain sex offenses to register for life.

#### C. Frequency of Registration

SORNA requires individuals make in-person appearances at the registering agency based on the tier of the offense of conviction. Specifically, SORNA requires tier I offenders appear once a year, tier II offenders appear every six months and tier III offenders appear every three months.

North Dakota generally requires individuals to update their registration information and make in-person appearances based on the results of their risk assessment. Low-risk offenders are required to appear annually, moderate-risk offenders are required to appear every six months and high-risk offenders are required to appear quarterly. Lifetime offenders are required to appear as required by SORAC. As described above, the state also requires individuals convicted of certain sex offenses to appear quarterly.

#### D. Reduction of Registration Periods

SORNA creates certain requirements, including a clean record, under which a jurisdiction can allow an individual to have a reduced registration period.

All sex offenders in North Dakota must register for at least 15 years. North Dakota allows sex offenders to petition to reduce their registration requirements. Sex offenders may also request reconsideration of their assigned risk level by filing a “reconsideration request” with SORAC. High-risk offenders can seek to be recategorized as moderate-risk and moderate-risk offenders can seek to be recategorized as low-risk.

Reconsideration requests will not be considered within two years of the original level assignment and thereafter no more often than once every two years. Registered sex offenders submitting reconsideration requests must specify their changes in circumstances warranting a



modification to their level assignment. Additionally, SORAC can reconsider an individual's assigned risk level upon request of any law enforcement or registering agency or on its own initiative.

Because risk assessment is used to categorize the majority of North Dakota's sex offenders and to determine registration requirements, including duration and frequency of verification, there are North Dakota offenses that may require registration for 25 years or life under SORNA that may be deemed low-risk offenses by SORAC and therefore require only 15 years of registration. There are also North Dakota offenses that may require registration for 25 years or life under SORNA that may be recategorized as low-risk offenses by SORAC and therefore require only 15 years of registration. Additionally, individuals may file reconsideration requests within two years of assignment to their registration requirements, potentially resulting in shorter registration durations than required by SORNA. For these reasons, North Dakota does not meet the SORNA requirements in this section.

## **IX. Public Registry Website and Community Notification Requirements**

SORNA requires each jurisdiction maintain a public sex offender registry website and publish certain registration information on that website. SORNA also requires that certain information not be published on a jurisdiction's public registry website. Additionally, SORNA requires each jurisdiction disseminate certain initial and updated registration information to schools, public housing agencies, and social service entities responsible for protecting minors, and the community through an automated notification system.

### **A. Public Registry Website**

SORNA requires registrant information be published on the jurisdiction's public registry website within three business days. In addition to being able to search for a specific individual by name, the jurisdiction's sex offender website must also be searchable by ZIP code or geographic radius.

North Dakota's public sex offender registry website deviates from SORNA in that it is not searchable by ZIP code. The public sex offender registry is, however, searchable by address radius, city or county.

### **B. Community Notification**

The jurisdiction's public sex offender registry website must include a function that allows members of the public and organizations to request email notification when sex offenders move into, or start employment or school within, a ZIP code or geographic radius specified by the requester.

North Dakota's community notification provisions deviate from SORNA in that North Dakota does not have any email notification system or other method of systematic proactive community notification for members of the public and organizations when sex offenders move into, or start employment within, a ZIP code. However, North Dakota has an email

notification system for members of the public and organizations when sex offenders move into, or start employment within, an address radius, city or county.

These deviations do not substantially disserve the purposes of the SORNA requirements in this section.

## **X. Enforcement of Registration Requirements**

SORNA requires that jurisdictions take measures to enforce registration requirements, including penalties for registration violations, and engage in practical procedures for investigating and dealing with such violations.

### **A. State Penalty**

SORNA requires jurisdictions provide a criminal penalty for a sex offender's failure to comply with their registration requirements that includes a maximum imprisonment term that is longer than one year.

North Dakota's penalty for failure to register conforms with SORNA requirements.

### **B. Failure To Appear for Registration**

SORNA requires that when a jurisdiction is notified of a sex offender's intent to live, work or go to school in its jurisdiction, and that offender fails to appear for registration as required, the receiving jurisdiction must inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

North Dakota's failure to appear procedures conform with SORNA requirements.

### **C. Absconders**

SORNA requires that, when a jurisdiction has information that a sex offender may have absconded, the jurisdiction take certain actions to investigate the absconder and notify various law enforcement agencies.

North Dakota's investigation and notification procedures conform with SORNA requirements.

North Dakota meets all of the SORNA requirements in this section.

## **XI. Tribal Considerations**

North Dakota has five federally recognized Indian tribes located within its boundaries:

1. Sisseton Wahpeton Oyate
2. Spirit Lake Sioux Tribe
3. Standing Rock Sioux Tribe
4. Three Affiliated Tribes
5. Turtle Mountain Band of Chippewa Indians

North Dakota shared with the SMART Office executed agreements with Standing Rock Sioux Tribe, Three Affiliated Tribes and Turtle Mountain Band of Chippewa Indians. Spirit Lake Sioux Tribe shared the executed agreement between the tribe and the state directly with the SMART Office independently of this report.

Although they are separate memoranda, the agreements for Spirit Lake Sioux Tribe and Three Affiliated Tribes are similar. The agreements describe the responsibilities of the North Dakota Attorney General's Office to include both DNA analysis and database entry for tribal registrants. The memoranda for Standing Rock Sioux Tribe and Turtle Mountain Band of Chippewa Indians are also similar, though these agreements indicate that the North Dakota Attorney General's Office will be responsible only for storing DNA collected from registrants and do not identify who is responsible for DNA analysis and entry.

The North Dakota Bureau of Criminal Investigation, which is part of the North Dakota Attorney General's Office, is the point of contact for Indian tribes located within North Dakota regarding sex offender registration issues.

Sisseton Wahpeton Oyate, Standing Rock Sioux Tribe, Three Affiliated Tribes and Turtle Mountain Band of Chippewa Indians participate in the Tribal Access Program (TAP), which enables federally recognized tribes to submit all SORNA-required registration information into NCIC/NSOR as well as collect and submit fingerprints and palm prints to FBI CJIS. Tribes participating in TAP have full access to NCIC/NSOR and are not subject to state limitations.

As the SMART Office continues to work with North Dakota on SORNA implementation, we will notify the SORNA tribes within the state of any processes, policies or procedures that facilitate the sharing of criminal justice information.

### **Conclusion**

The SMART Office concludes that North Dakota has not yet substantially implemented SORNA. There are a number of requirements identified in this review that should be addressed for North Dakota to substantially implement SORNA.

The SMART Office recommends North Dakota focuses on the sections where the jurisdiction has not met SORNA's requirements and on resolving the issues identified in those sections to achieve substantial implementation. Additionally, the SMART Office recommends North

Dakota resolve the deviations that do not substantially disserve SORNA's requirements in order to achieve full implementation of SORNA; however, failing to resolve deviations that do not substantially disserve will not impact North Dakota's ability to achieve substantial implementation.

## **Appendix**

### **North Dakota Offense Tiering Policy Review**

The SMART Office has reviewed all relevant North Dakota statutes and has identified North Dakota's placement of these statutes within the tiering policy structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act.

In reviewing North Dakota's Century Code, the SMART Office understands that the state has four categories of registrants for purposes of its duration of registration and frequency of registration requirements:

1. Low-risk offenders, who must register for 15 years and appear to verify their registration information annually;
2. Moderate-risk offenders, who must register for 25 years and appear to verify their registration information biannually;
3. High-risk offenders, who must register for life and appear to verify their registration information annually quarterly; and
4. Lifetime offenders, who must register for life and appear to verify their registration information as required by SORAC.

### **SORNA Tier I Offenses**

SORNA requires tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in North Dakota's Century Code would require, at a minimum, tier I registration requirements under SORNA.

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| • N.D. Cent. Code § 12.1-20-03(2)(b)     | Gross sexual imposition (if offense involves sexual contact by force or threat and victim 18 or older)     |
| • N.D. Cent. Code § 12.1-20-03(2)(c)     | Gross sexual imposition (if offense involves sexual contact and victim unaware of contact and 18 or older) |
| • N.D. Cent. Code § 12.1-20-04(1)-(2)    | Sexual imposition (if offense involves sexual contact and victim 18 or older)                              |
| • N.D. Cent. Code § 12.1-20-05.1         | Luring minors by computer or other electronic means (if misdemeanor)                                       |
| • N.D. Cent. Code § 12.1-20-06           | Sexual abuse of wards (if victim 18 or older)  |
| • N.D. Cent. Code § 12.1-20-06.1         | Sexual exploitation by therapist (if victim 18 or older)   |
| • N.D. Cent. Code § 12.1-20-07(1)(b)-(f) | Sexual assault (if victim 18 or older)   |
| • N.D. Cent. Code § 12.1-20-12.2         | Surreptitious intrusion (if victim under 18)   |
| • N.D. Cent. Code § 12.1-20-12.3(1)(a)   | Sexual extortion   |
| • N.D. Cent. Code § 12.1-20-12.3(1)(b)   | Sexual extortion (if victim 18 or older)   |
| • N.D. Cent. Code § 12.1-27.2-04.1       | Possession of certain materials prohibited   |

- N.D. Cent. Code § 12.1-29-01 Promoting prostitution (if misdemeanor and victim under 18)
- N.D. Cent. Code § 12.1-29-06 Hiring an individual to engage in sexual activity (if victim under 18)

### **SORNA Tier II Offenses**

SORNA requires tier II offenders register for a minimum of 25 years and verify registration information every six months. The following offenses listed in North Dakota's Century Code would require, at a minimum, tier II registration requirements under SORNA.

- N.D. Cent. Code § 12.1-20-03(1)(d) Gross sexual imposition (if victim 13-14)
- N.D. Cent. Code § 12.1-20-03(2)(a) Gross sexual imposition (if offense involves sexual contact and victim 13-14)
- N.D. Cent. Code § 12.1-20-03(2)(b) Gross sexual imposition (if offense involves sexual contact by force or threat and victim 13-17)
- N.D. Cent. Code § 12.1-20-03(2)(c) Gross sexual imposition (if offense involves sexual contact and victim unaware of contact and 13-17)
- N.D. Cent. Code § 12.1-20-03.1 Continuous sexual abuse of a child (if offense involves non-forcible sexual act and victim 13-14)
- N.D. Cent. Code § 12.1-20-04(1)-(2) Sexual imposition (if offense involves sexual contact and victim 13-17)
- N.D. Cent. Code § 12.1-20-05(2) Corruption or solicitation of minors
- N.D. Cent. Code § 12.1-20-05.1 Luring minors by computer or other electronic means (if felony)
- N.D. Cent. Code § 12.1-20-06 Sexual abuse of wards (if victim 13-17)
- N.D. Cent. Code § 12.1-20-06.1 Sexual exploitation by therapist (if victim 13-17)
- N.D. Cent. Code § 12.1-20-07(1)(b)-(f) Sexual assault (if victim 13-17)
- N.D. Cent. Code § 12.1-20-11 Incest (if offense involves non-forcible sexual act and victim 13-17)
- N.D. Cent. Code § 12.1-20-12.3(1)(b) Sexual extortion (if victim 13-17)
- N.D. Cent. Code § 12.1-27.2-02 Use of a minor in a sexual performance
- N.D. Cent. Code § 12.1-27.2-03 Promoting or directing an obscene sexual performance by a minor
- N.D. Cent. Code § 12.1-27.2-04 Promoting a sexual performance by a minor
- N.D. Cent. Code § 12.1-29-01 Promoting prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-29-02 Facilitating prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-41-02(1)(b) Trafficking an individual (if victim 13-17)
- N.D. Cent. Code § 12.1-41-04(1)(a) Sexual servitude (if victim is 13-17)
- N.D. Cent. Code § 12.1-41-05 Patronizing a victim of sexual servitude (if victim under 18)

- N.D. Cent. Code § 12.1-41-06 Patronizing a minor for commercial sexual activity

### **SORNA Tier III Offenses**

SORNA requires tier III offenders register for life and verify registration information every three months. The following offenses listed in North Dakota’s Century Code would require, at a minimum, tier III registration requirements under SORNA.

- N.D. Cent. Code § 12.1-18-01 Kidnapping (if non-parental and victim under 18)
- N.D. Cent. Code § 12.1-18-02 Felonious restraint (if non-parental and victim under 18)
- N.D. Cent. Code § 12.1-20-03(1)(a)-(c), (e) Gross sexual imposition
- N.D. Cent. Code § 12.1-20-03(1)(d) Gross sexual imposition (if victim under 13)
- N.D. Cent. Code § 12.1-20-03(2)(a)-(c) Gross sexual imposition (if victim under 13)
- N.D. Cent. Code § 12.1-20-03.1 Continuous sexual abuse of a child (if offense involves nonconsensual sexual act or non-forcible sexual act and victim under 13)
- N.D. Cent. Code § 12.1-20-04(1) – (2) Sexual imposition (if offense involves nonconsensual sexual act or sexual contact and victim under 13)
- N.D. Cent. Code § 12.1-20-06 Sexual abuse of wards (if victim under 13)
- N.D. Cent. Code § 12.1-20-06.1 Sexual exploitation by therapist (if victim under 13)
- N.D. Cent. Code § 12.1-20-07(1)(b)-(f) Sexual assault (if victim under 13)
- N.D. Cent. Code § 12.1-20-11 Incest (if offense involves non-forcible sexual act and under 13)
- N.D. Cent. Code § 12.1-20-12.3(1)(b) Sexual extortion (if victim under 13)
- N.D. Cent. Code § 12.1-20-12.3(1)(b) Sexual extortion (if victim “vulnerable” and 18 or older)
- N.D. Cent. Code § 12.1-41-02(1)(b) Trafficking an individual (if offense involves sex trafficking by force, fraud, or coercion or victim under 13)
- N.D. Cent. Code § 12.1-41-04(1)(a) Sexual servitude (if victim under 13)
- N.D. Cent. Code § 12.1-41-04(1)(b) Sexual servitude (if offense involves sex trafficking by force, fraud, or coercion)

### **Further Review**

In reviewing the statutes North Dakota cited as registerable offenses under its registration scheme, the SMART Office noted the following SORNA-required offenses are missing from those statutes.

- N.D. Cent. Code § 12.1-20-07(1)(a) Sexual assault
- N.D. Cent. Code § 12.1-29-01 Promoting prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-29-02 Facilitating prostitution (if victim under 18)
- N.D. Cent. Code § 12.1-29-06 Hiring an individual to engage in sexual activity (if victim under 18)

In addition, North Dakota registers the following offenses, which — without the commission of (or the attempt or conspiracy to commit) a sexual offense — SORNA does not require registration for and registration thereof exceeds SORNA’s minimum standards. However, registration of these offenses in no way disserves the purposes of SORNA’s requirements.

- N.D. Cent. Code § 12.1-20-12.1 Indecent exposure
- N.D. Cent. Code § 12.1-20-12.2 Surreptitious intrusion (if victim 18 or older)