North Dakota

Analysis[1]

People living with HIV or another sexually transmitted disease may be punished for exposing another person.

Any person who, "knowing [they] are infected with a sexually transmitted disease, willfully exposes another person to infection," is guilty of an infraction, punishable by a fine of up to $1,000.[2] Repeat infractions within one year may result in imprisonment for thirty days and a fine of $1,500.[3] "Willfully" refers to any conduct done "intentionally, knowingly, or recklessly."[4] Within the administrative code, HIV, chlamydia, gonorrhea, hepatitis B virus, and syphilis are "sexually transmitted diseases" that warrant contact tracing.[5] The law does not require an intent to harm, transmission, or engagement in behavior that poses a significant risk of transmission.

People may be subject to mandatory HIV or other sexually transmitted disease (STD) testing, treatment, and isolation.

Any person convicted of a crime who is imprisoned 15 days or more must submit to STD testing and, if positive, undergo treatment and isolation.[6] People who are incarcerated must also submit to HIV testing, the results of which are reported to the Department of Health.[7] Any person who fails to obey an order from a state health officer is guilty of an infraction, punishable by a fine of up to $1,000.[8]

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[1] In 2025, North Dakota became the fourth state to fully repeal an HIV-specific criminalization offense with the passage of House Bill 1217, which struck Section 12.1-20-17 from the North Dakota Century Code.

[2] N.D. CENT. CODE §§ 23-07-21(3); 12.1-32-01(7).

[3] N.D. CENT. CODE §§ 12.1-32-01(7); 12.1-32-01(6).

[4] N.D. CENT. CODE §12.1-02-02(1)(e). The law describes these mental states:

a. 'Intentionally' if, when he engages in the conduct, it is his purpose to do so.
b. 'Knowingly' if, when he engages in the conduct, he knows or has a firm belief, unaccompanied by substantial doubt, that he is doing so, whether or not it is his purpose to do so.
c. 'Recklessly' if he engages in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct, except that, as provided in section 12.1-04-02, awareness of the risk is not required where its absence is due to self-induced intoxication.

[5] N.D. ADMIN CODE § 33-06-04-10(1).

[6] N.D. CENT. CODE §§ 23-07-08, 23-07-09. STDs are not defined, but they include HIV, chlamydia, gonorrhea, hepatitis B, and syphilis. N.D. ADMIN CODE 33-06-04-10.

[7] N.D. CENT. CODE § 23-07-07.5.

[8] N.D. CENT. CODE §§ 23-07-21(1); 12.1-32-01(7).

Important note: *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, it should not be used as a substitute for legal advice.*

North Dakota Century Code

TITLE 12.1 CRIMINAL CODE

N.D. CENT. CODE § 12.1-32-01

Classification of offenses — Penalties

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.

7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who, within one year before commission of the infraction of which the person was convicted, has been convicted previously at least twice of the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint must specify the offense is a misdemeanor.

TITLE 23. HEALTH AND SAFETY

N.D. CENT. CODE § 23-07-07.5

Testing of inmates and convicted individuals for exposure to the human immunodeficiency virus – Reporting – Liability.

1. The following individuals must be examined or tested for the presence of antibodies to or antigens of the human immunodeficiency virus:

> a. Every individual convicted of a crime who is imprisoned for fifteen days or more in a grade one or grade two jail, a regional correctional facility, or the state penitentiary;
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> b. Every individual, whether imprisoned or not, who is convicted of a sexual offense under chapter 12.1-20, except for those convicted of violating sections 12.1-20-12.1 and 12.1-20-13; and
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> c. Every individual, whether imprisoned or not, who is convicted of an offense involving the use of a controlled substance, as defined in chapter 19-03.1, and the offense involved the use of paraphernalia, including any type of syringe or hypodermic needle, that creates an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus.

2. The results of any positive or reactive test must be reported to the state department of health in the manner prescribed by the department and to the individual tested. Subsection 1 does not require the testing of an individual before sentencing or the testing of an individual held in a jail or correctional facility awaiting transfer to the state penitentiary.

N.D. CENT. CODE § 23-07-08

Persons in prison examined and treated for sexually transmitted diseases.

Every person convicted of a crime who is imprisoned fifteen days or more in a state, county, or city prison must be examined for sexually transmitted disease and, if infected, must be treated therefor by the health officer within whose jurisdiction the person is imprisoned.

N.D. CENT. CODE § 23-07-09

Sexually transmitted diseases – Persons isolated in prison – Exceptions.

The prison authorities of any state, county, or city prison shall make available to the health officers such portion of the prison as may be necessary for a clinic or hospital wherein the following persons may be isolated and treated:

1. Persons who are imprisoned in the prison and who are infected with a sexually transmitted disease.
2. Persons who are suffering with a sexually transmitted disease at the time of the expiration of their term of imprisonment.
3. Persons isolated or quarantined by the health officer when no other suitable place for isolation or quarantine is available.

In lieu of such isolation, any of such persons, in the discretion of the health officer, may be required to report for treatment to a licensed physician. This section may not be construed to interfere with the service of any sentence imposed by a court as punishment for the commission of crime.

N.D. CENT. CODE § 23-07-21

Penalties

Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the department of health and human services, or any order issued by any state, district, county, or municipal health officer;
2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.

North Dakota Administrative Code

TITLE 33. STATE DEPARTMENT OF HEALTH

N.D. ADMIN CODE 33-06-04-10

Sexually transmitted diseases.

1. Contact tracing is appropriate for the following sexually transmitted diseases:

    a. Human immunodeficiency virus (HIV) infection;

    b. Acquired immunodeficiency syndrome (AIDS);

    c. Chlamydia;

    d. Gonorrhea;

    e. Hepatitis B virus (HBV); and

    f. Syphilis.

2. Individuals infected with a sexually transmitted disease for which contact tracing is appropriate shall disclose information concerning the source of the infection to their attending physician or public health officer.

3. Information obtained pursuant to this section will be used solely for epidemiological purposes.