



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW

A nonprofit, nonpartisan legal organization formed at the request of President Kennedy in 1963

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HATE CRIME – FAQs NORTH DAKOTA

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Note: This guide is not exhaustive. Situations or inquiries may arise that are not answered below. In those circumstances, please call 844-9-NO-HATE.

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1. What is a hate crime or hate incident?

A hate crime is generally defined as a crime against a person or property that is motivated by bias, prejudice, or hatred toward the personal, or perceived personal, characteristics of a victim, including: race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

The definition of a hate crime differs from state to state, but always includes an underlying crime.¹ Several states do not have separate statutes for crimes motivated by hate, but at a minimum, most states have enhanced penalties for crimes motivated by hatred based upon the above characteristics. Furthermore, if state and local authorities do not sufficiently protect victims of hate crimes, then the federal government may step in and prosecute hate crime violations.

North Dakota's hate crime definition resembles the general definition above. North Dakota's main hate crime laws make it a class B misdemeanor to use force, threat of force, or economic coercion to intentionally injure, intimidate, or interfere with another person because of his sex, race, color, religion, or national origin because this person is, has been, or is attempting to exercise his right to full and equal enjoyment of any facility open to the public, or because this person is, has been, or is about to, exercise his civil rights, or in order to intimidate or prevent another person from aiding a third person to exercise his civil rights.²

A hate incident is based on the same behaviors and motivations as a hate crime, but does not rise to the level of a crime. For example, you may be a victim of hate speech, which, depending on the circumstances, may not constitute a crime (and may be protected under the First Amendment), but which may constitute a hate incident.

2. I believe I was the victim of a hate crime or hate incident. What should I do?

If you think you may be a victim of a hate crime or hate incident, you should immediately take the following three steps:

STEP 1 - - REPORT IT

For emergencies:

- If you (or others) have been injured or fear for your safety, call 911 immediately.
- If you are uncomfortable calling 911 or local law enforcement, consider calling the local United States Attorney, the local FBI Field Office, or the State Attorney General's office to report the offense. Understand, however, that these authorities may not respond as quickly as local law enforcement responding to a 911 call.
- Obtain medical attention if necessary.

For non-emergencies:

- If a non-emergency, call your local police station, or visit your local police office or federal law enforcement office as soon as possible to report the offense.

- If you are not comfortable calling law enforcement, consider calling a trusted community or legal services organization. You can call 1-844-9-NO-HATE to be connected to a local organization.

Follow-up and key things to remember for both emergencies and non-emergencies:

- Ensure that a police report is filed regarding the offense and obtain a copy of the report (which should include the responding officer's name and badge number).
- Request that the police report indicate that the offense may have been a hate crime or a hate incident.
- File the report with local law enforcement, the State Attorney General's office, and federal law enforcement.
- For additional support and documentation, also report it to 844-9-NO HATE.

STEP 2 - - GATHER INFORMATION

- Preserve any evidence and take photographs of the evidence. For example, do not remove graffiti but instead, take photographs of the graffiti. Do not delete electronic correspondence (e.g., text messages, e-mails, social media posts, etc.), including your own. If you decide to involve law enforcement, you should preserve all evidence as directed by law enforcement.
- Document the experience in writing as soon as possible after the offense, including any specific words used during the offense. Record all your thoughts.
- Record any information you can remember about the perpetrator, including approximate age, height, weight, gender, race, clothing and any other distinguishing characteristics.
- Obtain contact information (names, addresses, and telephone numbers) of any other victims or witnesses to the offense.

STEP 3 - - GET ADDITIONAL SUPPORT

- Find support in the community -- through friends and family, victims' organizations, advocacy or community groups, religious organizations, legal groups, professional counseling, etc.
- Consider seeking legal representation.

Remember: you can always contact 1-844-9-NO-HATE.

3. Does North Dakota have a state hate crime law?

Yes. North Dakota does have a state hate crime law. **N.D.C.C. §§ 12.1-14-04 and 12.1-14-05** – North Dakota's main hate crime laws make it a class B misdemeanor to use force, threat of force, or economic coercion to intentionally injure, intimidate, or interfere with another person because of their sex, race, color, religion, or national origin because this person is, has been, or is attempting to exercise their right to full and equal enjoyment of any facility open to the public; or because this person is, has been, or is

about to, exercise their civil rights; or in order to intimidate or prevent another person from aiding a third person to exercise his civil rights.³

4. Who is protected under North Dakota's hate crime law?

North Dakota's hate crime law protects any person who is the victim of a crime because of his or her:

- Race;
- Color;
- Religion;
- Sex; or
- National origin.

5. Someone damaged my property and it appears to have been motivated by bias, prejudice, or hatred against a certain social group (e.g., a swastika, derogatory terms, etc). What are North Dakota's relevant laws?

Although North Dakota does not have laws specially directed at bias-motivated property crimes, several North Dakota criminal laws of general application protect property owners.

N.D.C.C. § 12.1-21-05 – North Dakota's "criminal mischief" law makes it a crime to willfully tamper with or damage another person's property. This crime is classified as a class B misdemeanor, however, if a person *intentionally* causes property damage, the penalty can be more severe according to the money value of the property damage:

- The crime is a class A misdemeanor if damages fall between \$100.00 - \$2,000.00.
- The crime is a class C felony if damages fall between \$2,000.00 - \$10,000.00, or the property damage arose by means of an explosive or a destructive device.
- The crime is a class B felony if damages are over \$10,000.00.⁴

A person who is convicted of criminal mischief will be responsible for actual damages to real and personal property and these damages may be recovered in a civil lawsuit.⁵

Trespass – Even if property damage does not occur, a person who commits a civil trespass is still liable to a property owner. In North Dakota, trespass is an intentional harm where one person intentionally and without consent or privilege enters another person's land or causes a thing or third person to do so. In other words, victims may still be able to recover damages in a civil suit without actual property damage.⁶

Note: While private individuals may file a civil lawsuit for damages incurred, criminal mischief is a criminal law—so criminal mischief charges must be brought by a prosecutor.

6. Someone attacked me or a family member. The attack appears to have been motivated by bias, prejudice, or hatred against a certain social group (e.g., before attacking, the perpetrator shouted "Go home!"). What are North Dakota's relevant laws?

N.D.C.C. §§ 12.1-14-04 and 12.1-14-05 – (See [Question 3](#)) North Dakota's main hate crime laws make it a class B misdemeanor to use force or threat of force to intentionally injure, intimidate, or interfere with another person because of his sex, race, color,

religion, or national origin because this person is, has been, or is attempting to exercise his right to full and equal enjoyment of a facility open to the public; or because this person is, has been, or is about to, exercise his civil rights; or in order to intimidate or prevent another person from aiding a third person to exercise his civil rights. In other words, in certain circumstances these laws may also apply.

N.D.C.C. § 12.1-17-04 – North Dakota’s “terrorizing” law makes it a class C felony for a person to threaten to commit any crime of violence or act dangerous to human life with the intent to place another human being in fear for that human being’s or another’s safety.⁷

N.D.C.C. § 12.1-17-05 – North Dakota’s “menacing” law makes it a class A misdemeanor for a person to knowingly place or attempt to place another human being in fear by menacing him with imminent serious bodily injury.⁸

N.D.C.C. § 12.1-17-03 – North Dakota’s “reckless endangerment” law make it a class A misdemeanor for a person to create a substantial risk of serious bodily injury or death to another person. This crime is also elevated to a class C felony if the circumstances manifest an offender’s extreme indifference to the value of human life. Risk can be construed to mean that the potential for harm existed, even if a particular person’s safety was not actually jeopardized.⁹

7. Someone defaced my place of worship (or otherwise targeted a religious institution). Does North Dakota have any special laws protecting religious groups from hate motivated acts?

No, but one or more of the following may apply:

N.D.C.C. § 12.1-21-05 & Trespass – (See [Question 5](#)) Although North Dakota does not have specific laws directed at protecting victims from hate-motivated property crimes, if a person willfully tampered with or damaged property, North Dakota’s “criminal mischief” law can apply to protect victims from intentionally caused property damage. Likewise, offenders may be civilly liable for trespass even if property damage did not occur. Victims can bring a civil lawsuit to recover damages for either of these actions.¹⁰

N.D.C.C. § 12.1-31-01.1 – North Dakota criminal law discourages disorderly conduct at funerals by making it a class B misdemeanor for a person to either display “any visual images that convey fighting words or actual or veiled threats against any other individual” or engage “in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within 1000 feet” of a funeral site if the volume of the noise “is likely to be audible at and disturbing to the funeral site.” Second and additional violations will be classified as a class A misdemeanor.¹¹

8. Someone hung a noose at my work, burnt a religious symbol by my home, or otherwise tried to intimidate me and members of my community with a symbol or message. Are there any special laws against intimidation or terrorism in North Dakota?

N.D.C.C. § 12.1-31-01.1 – North Dakota criminal law discourages disorderly conduct at funerals by making it a class B misdemeanor for a person to either display “any visual images that convey fighting words or actual or veiled threats against any other individual” or engage “in any loud singing, playing of music, chanting, whistling, yelling,

or noisemaking within 1000 feet” of a funeral site if the volume of the noise “is likely to be audible at and disturbing to the funeral site.” Second and additional violations will be classified as a class A misdemeanor.¹²

Outside of the above law directed at disorderly conduct at funerals, no North Dakota statutes criminalize common hate incidents, such as the hanging of a noose, the displaying of signs, marks, or symbols, or the burning or desecration of a religious symbol. However, other North Dakota laws of general application may offer some protection for victims:

N.D.C.C. § 12.1-31-15 – North Dakota makes it a class A misdemeanor to wear a mask, hood, or other device that covers, hides, or conceals any portion of a person's face if the person does so: 1) with the intent to intimidate, threaten, abuse, or harass another; 2) for the purpose escaping discovery, recognition, or identification during commission of a criminal offense; or 3) for the purpose of concealment, flight, or escape when an individual has been charged, arrested, or convicted of a criminal offense.¹³

N.D.C.C. § 12.1-32-02.1 – Certain offenders may face mandatory imprisonment in certain circumstances. For example, if while committing a criminal offense an offender “inflicts or attempts to inflict bodily injury,” “threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm,” or “possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm” while committing certain felony offenses” if the requirements of the statute are met and the offender is found guilty, a term of imprisonment will be required.

N.D.C.C. § 12.1-31-01 – North Dakota’s “disorderly conduct” law makes it a class B misdemeanor if an individual engages in any of the following conduct with the intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior:

- Engages in fighting, or in violent, tumultuous, or threatening behavior;
- Makes unreasonable noise;
- In a public place, uses abusive or obscene language, knowingly exposes private genitalia or makes an obscene gesture;
- Obstructs vehicular or pedestrian traffic or the use of a public facility;
- Persistently follows a person in or about a public place or places;
- Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.

Note: This law does not prohibit constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

Laws that focus on harassment, stalking, and hazing, may also provide relief for victims of hate-motivated intimidation:

N.D.C.C. § 12.1-17-10 – North Dakota’s “hazing” law prohibits willfully engaging in “conduct that creates a substantial risk of physical injury” during “the course of another person’s initiation into or affiliation with any organization.” That “conduct” may include “any treatment or forced physical activity that is likely to adversely affect the physical health or safety of that other person or a third person, or which subjects that other person or third person to extreme mental stress.” This crime is classified as a class A misdemeanor if the offender’s conduct causes physical injury; otherwise the offense is a class B misdemeanor.

N.D.C.C. § 12.1-17-07 – North Dakota’s “harassment” law prohibits persons from engaging in the following conduct if these acts are done with the intent “to frighten or harass” a person:

- communicating in writing or electronic communication a threat to inflict injury on any person, to a person’s reputation, or to any property;
- making a phone call anonymously or in offensively coarse language;
- making repeated phone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication;
- communicating a falsehood in writing or electronic communication that causes mental anguish; or
- initiating communication with a 911 emergency line, etc. with the intent to annoy or harass another person or a public safety agency, or to make a false report to a public safety agency.

These crimes will either be classified as a class A misdemeanor or a class B misdemeanor depending on which section of the statute the conduct is listed in.

N.D.C.C. § 12.1-17-07.1 – North Dakota’s “stalking” law prevents people from engaging in intentional conduct directed at a specific person (or a member of that person’s immediate family) “which frightens, intimidates, or harasses that person and which serves no legitimate purpose” that causes a reasonable person to experience fear, intimidation, or harassment. Likewise, a person may not track another “person’s movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.” Victims do not need to provide an offender with “actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the [offender] did not intend to frighten, intimidate, or harass the person.”¹⁴

Stalking is a class A misdemeanor, unless either a) the person was previously convicted of simple assault, assault, aggravated assault, terrorizing, menacing, or harassment, or a similar offense involving the same victim; or b) the offender was previously convicted of violating this law. In both of these cases the crime will be classified as a class C felony.

N.D.C.C. § 12.1-31.2-02 – In North Dakota, “if an individual who is charged or arrested for a crime of violence or threat of violence, stalking, or harassment” is released from custody before arraignment or trial, a court will consider and may issue an order prohibiting an individual from having contact with the victim. Also, “if the court has probable cause to believe that the individual charged or arrested is likely to use, display, or threaten to use a firearm or dangerous weapon in any further act of violence,” the

individual may be required to surrender their weapons to the police. Persons who violate a court order prohibiting contact with a victim will be charged with a class A misdemeanor.¹⁵

9. The state is not investigating my case or bringing a lawsuit. How can I get in touch with an attorney with the state to discuss my case?

The Lawyers' Committee for Civil Rights Under Law maintains the Stop Hate Resource Hotline (1-844-9-NO-HATE) which serves as a resource for organizations and individuals working to combat hate in their community and can be called for reporting and resource purposes.

North Dakota Crime Victims Compensation Program (701) 328-6195; (800) 445-2322
<https://www.nd.gov/docr/programs/victims/viccomp.html>.

10. The state is not investigating my case or bringing a lawsuit, but I would like to explore bringing a case with a private attorney against the perpetrator (known as a "civil case"). Does North Dakota have civil laws relevant to hate crimes or hate incidents?

N.D.C.C. § 12.1-21-05 & Trespass – (See [Question 5](#)) North Dakota does not have civil laws relevant to hate crimes and hate incidents, however, victims who have suffered property damage, medical bills, and other similar expenses, are entitled to seek compensatory damages by filing a civil lawsuit against an offender. If an offender has interfered with a person's property rights by trespassing, victims can also file a civil suit for trespass as well.

N.D.C.C. §§ 15.1-19-17 & 15.1-19-18 – North Dakota's civil "bullying" laws require all North Dakota school districts to have a policy prohibiting conduct that qualifies as bullying while a victim is at a public school, on school district premises or vehicles, and at school-sponsored events. Students are prohibited from engaging in bullying or in reprisal or retaliation against a bullying victim or any individual who witnesses, reports, or provides information about alleged acts of bullying.

All school policies must include a definition of "bullying" that (at least) encompasses the conduct described in § 15.1-19-17. That provision defines bullying as 1) conduct is so severe, pervasive, or objectively offensive that it substantially interferes with a student's educational opportunities; 2) conduct which places a student in actual and reasonable fear of harm or damage to a student's property; and 3) conduct that substantially disrupts the orderly operation of a school. Additionally, it covers conduct that is received by a student while the student is in a school, on school district premises, in a district owned or leased school bus or vehicle, or at any public school or school district sanctioned or sponsored activity or event. Such "conduct" also includes the use of technology or other electronic media.

North Dakota law requires all schools to:

- 1) establish strategies to protect victims and procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, including procedures for anonymous reporting and timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;

- 2) set forth the disciplinary measures applicable to individuals who engage in bullying or reprisal or retaliation;
- 3) require notification of law enforcement if a school investigation results in reasonable suspicion that a crime might have occurred;
- 4) establish disciplinary measures to use if an individual makes a false accusation, report, or complaint;
- 5) ensure that the policy is explained to and discussed with students and file a copy of the policy with the superintendent and make the policy available in student and personnel handbooks.

Although neither § 15.1-19-17 or 15.1-19-18 establish criminal penalties, a school's disciplinary measures may offer further assistance and protection for victims who suffered from a bias-motivated incident while at a public school, on school district premises, in a school bus or vehicle, or at a school sponsored event because these penalties may include suspension or even permanent expulsion.

Prohibited conduct that is received by a student who is on school property or at a school sponsored event is covered and conduct can include the use of technology or other electronic media. Because related laws on prohibited electronic media communications state that these offenses "may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received," if a victim is on school property or at a school sponsored event when the prohibited electronic communication was sent, the person engaging in "bullying" may still be subject to the disciplinary measures and penalties listed by a school's bullying policy.¹⁶

As described in [Question 11](#) below, there are other civil remedies outside of this particular statute.

11. I have been attacked, put in fear of danger, intentionally made to suffer emotional distress, had my property vandalized, or harmed in another way due to an act motivated by hate. What other civil laws can I use to bring a case?

There are a number of other civil laws that you can use to bring a case against someone who physically or emotionally injures you. This is true even if the person's actions do not rise to the legal definition of a hate crime or hate incident. These other civil laws, or causes of action, are generally known as torts. A tort is a wrongful act that results in legal liability. All torts arise from the legal duty to abstain from injuring the person or property of another. In North Dakota, if someone intentionally injures you or your property, you may be able to sue that person for damages using any of the following tort causes of action:

Assault – An assault is defined as either willfully causing bodily injury to another person, or negligently causing bodily injury to another person by using "a firearm, destructive device, or other weapon" if the use of such a device against another person "is likely to cause death or serious bodily injury." North Dakota codes § 12.1-17-01 and § 12.1-17-01.1 prohibit assault and simple assault. If a person willfully causes substantial bodily injury, the crime will be elevated and reclassified from a "simple assault" to "assault." Simple assault is classified as a class B misdemeanor whereas the crime of

assault is classified as a class A misdemeanor. Also, if a victim of an assault is under the age of 12, the crime will be elevated to classify as a class C felony. An example of an assault is when someone uses a toy gun to threaten another.¹⁷

False Imprisonment – False imprisonment is best defined by its elements. To bring a claim for false imprisonment, you must be able to show: “(1) the detention or restraint of a person against the person's will, and (2) the unlawfulness of such detention or restraint.” In other words, a person is falsely imprisoned if he is wrongfully deprived of his freedom to leave a particular place by the conduct of another. An example of false imprisonment would be if someone locked you in a room and you were unable to escape.¹⁸

Intentional Infliction of Emotional Distress (“IIED”) – IIED is also best defined by its elements. To bring an IIED claim, you must be able to show: “(1) extreme and outrageous conduct that is (2) intentional or reckless and that causes (3) severe emotional distress.” An example of outrageous conduct would be someone calling your phone and leaving messages threatening physical violence or death.¹⁹

Trespass to Land & Conversion – Trespass to land and conversion are causes of action used when another person damages your real or personal property. Trespass to land applies to real property and can best be defined as when another person either enters onto land of another person without express or implied consent of the owner, lessee, or caretaker, or remains on land of another person after having been notified by the owner or occupant not to enter or remain on the premises. In other words, victims may still be able to recover damages in a civil suit without actual property damage. An unauthorized entry onto another person's property is sufficient to constitute the crime of trespass. Conversion, on the other hand, applies to personal property and is defined as “wrongful exercise of dominion over the personal property of another in a manner inconsistent with, or in defiance of, the owner's rights.” “Conversion does not require a bad intention on the converter's part; it only requires an intent to exercise control or interfere with an owner's use to an actionable degree.” An example of conversion would be if someone removed a coat from a coat rack and used it for several months.²⁰

In addition, if it can be proven that the person injured you or your property because of bias, prejudice, or hatred, you may be able to recover punitive damages. Punitive damages are damages awarded in addition to typical compensatory damages and they are generally considered to be a form of punishment. In North Dakota, if a court finds that the defendant was “guilty by clear and convincing evidence of oppression, fraud, or actual malice,” the court or jury, in addition to the actual damages, may give damages in order to punish the defendant.²¹

Note: Private citizens can bring these civil tort claims.

12. I would like to explore bringing a case with a private attorney against the perpetrator (known as a “civil case”), but I do not know any private attorneys. How can I find someone to represent me?

You can contact the 844-9-NO-HATE hotline, or use the local attorney referral services listed below.

13. What are some local and state organizations working on hate crimes and incidents?

The following agencies are key providers of legal assistance for victims of hate crimes and discrimination:

North Dakota Attorney General's Office

Phone: (800) 472-2600

North Dakota Crime Victims Compensation Program

Phone: (701) 328-6195; (800) 445-2322

<https://www.nd.gov/docr/programs/victims/viccomp.html>

Your local State Attorney's Office

A directory of North Dakota's State's Attorneys can be found at:

http://www.ndcourts.gov/court/counties/st_attys/members

North Dakota Legal Self Help Center

Provides resources to people who represent themselves in North Dakota courts

<http://www.ndcourts.gov/ndlshc>

14. I need additional help. Where can I find additional information or get help?

If you would like additional information or need additional help, please visit the Communities Against Hate resource page at www.communitiesagainsthate.org. If the information you are seeking is not on the resource page or if you need immediate help, please contact 844-9-NO-HATE.

¹ Examples of underlying crimes include: assault, battery, destruction of property, threats, rape, murder, arson, robbery, and burglary. This list of criminal offenses is not exhaustive, however, and other criminal offenses may also be considered hate crimes.

² N.D. Cent. Code Ann. § 12.1-14-04; N.D. Cent. Code Ann. § 12.1-14-05.

³ N.D. Cent. Code Ann. § 12.1-14-05.

⁴ N.D. Cent. Code Ann. § 12.1-21-05.

⁵ N.D. Cent. Code Ann. § 32-03-09.2.

⁶ See *Tibert v. Slominski*, 2005 ND 34, 692 N.W.2d 133; *Tibert v. Slominski*, 2005 ND 34, ¶ 15, 692 N.W.2d 133, 137.

⁷ N.D. Cent. Code Ann. § 12.1-17-04.

⁸ N.D. Cent. Code Ann. § 12.1-17-05.

⁹ N.D. Cent. Code Ann. § 12.1-17-03.

¹⁰ N.D. Cent. Code Ann. § 32-03-09.2

¹¹ N.D. Cent. Code Ann. § 12.1-31-01.1.

¹² N.D. Cent. Code Ann. § 12.1-31-01.1.

¹³ N.D. Cent. Code Ann. § 12.1-31-15.

¹⁴ N.D. Cent. Code Ann. § 12.1-17-07.1.

¹⁵ N.D. Cent. Code Ann. § 12.1-31.2-02.

¹⁶ N.D. Cent. Code Ann. § 12.1-17-07; N.D. Cent. Code Ann. § 15.1-19-17.

¹⁷ N.D. Cent. Code Ann. § 12.1-17-01.1; N.D. Cent. Code Ann. § 12.1-17-01.

¹⁸ 10A Am. Jur. Pl. & Pr. Forms False Imprisonment § 121.

¹⁹ See *G.K.T. v. T.L.T.*, 2011 ND 115, ¶ 9, 798 N.W.2d 872, 874 relying on Restatement of Torts 2d § 46 (1965)).

²⁰ *Harwood State Bank v. Charon*, 466 N.W.2d 601, 603 (N.D. 1991); *Harwood State Bank v. Charon*, 466 N.W.2d 601, 603 (N.D. 1991).

²¹ N.D. Cent. Code Ann. § 32-03.2-11.