

HOUSE BILL NO. 1222

Introduced by

Representatives Delmore, Klemin, K. Koppelman, Maragos, Paur, Vetter

Senators D. Larson, Luick, Nelson

1 A BILL for an Act to create and enact section 12.1-31-01.2 of the North Dakota Century Code,
2 relating to the process for seeking a sexual assault restraining order; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Section 12.1-31-01.2 of the North Dakota Century Code is created and
5 enacted as follows:

6 **12.1-31-01.2. Sexual assault restraining order - Penalty.**

7 1. "Sexual assault" means nonconsensual sexual contact as defined in section
8 12.1-20-07.

9 2. An individual who is the victim of sexual assault or the parent, stepparent, or guardian
10 of a minor who reasonably believes the minor is a victim of sexual assault may seek a
11 sexual assault restraining order from a court of competent jurisdiction in the manner
12 provided in this section.

13 3. A petition for relief must allege facts sufficient to show the name of the alleged victim,
14 the name of the individual who committed the sexual assault, and that the individual
15 committed the sexual assault. An affidavit made under oath stating the specific facts
16 and circumstances supporting the relief sought must accompany the petition.

17 4. If the petition for relief alleges reasonable grounds to believe an individual has
18 committed sexual assault, the court, pending a full hearing, may grant a temporary
19 sexual assault restraining order.

20 a. A temporary restraining order may be entered only against the individual named
21 in the petition. The order must include prohibiting the individual from:

22 (1) Harassing, stalking, or threatening the individual requesting the order;

23 (2) Appearing at the individual's residence, school, and place of employment;

24 and

- 1 (3) Contacting the individual requesting the order.
- 2 b. The court may issue the temporary restraining order without giving notice to the
3 respondent. Unless otherwise terminated by the court, the temporary restraining
4 order is in effect until a restraining order issued under subsection 5 is served.
- 5 5. The court may grant a sexual assault restraining order prohibiting the respondent from
6 contacting, harassing, stalking, or threatening the applicant, and from appearing at the
7 applicant's residence, school, and place of employment if:
- 8 a. An individual files a petition under subsection 3;
- 9 b. The sheriff serves the respondent with a copy of the temporary restraining order
10 issued under subsection 4 and with notice of the time and place of the hearing;
- 11 c. The court sets a hearing for not later than fourteen days after issuance of the
12 temporary restraining order unless the time period is extended upon written
13 consent of the parties, or upon a showing the respondent has not been served
14 with a copy of the temporary restraining order despite the exercise of due
15 diligence; and
- 16 d. The court finds after the hearing there are reasonable grounds to believe the
17 respondent committed sexual assault.
- 18 6. A restraining order may be issued only against the individual named in the petition.
19 Relief granted by the restraining order may not exceed a period of two years. The
20 restraining order may be served on the respondent by publication pursuant to rule 4 of
21 the North Dakota Rules of Civil Procedure.
- 22 7. A sexual assault restraining order must contain a conspicuous notice to the
23 respondent providing:
- 24 a. The specific conduct that constitutes a violation of the order;
- 25 b. Notice that violation of the restraining order is punishable as a class A
26 misdemeanor by imprisonment of up to one year or a fine of up to three thousand
27 dollars or both; and
- 28 c. Notice that a peace officer may arrest the respondent without a warrant and take
29 the respondent into custody if the peace officer has probable cause to believe the
30 respondent has violated an order issued under this section.

- 1 8. If the respondent knows of an order issued under subsection 4 or 5, violation of the
2 order is a class A misdemeanor. If the existence of an order issued under subsection 3
3 or 4 can be verified by a peace officer, the officer, without a warrant, may arrest and
4 take into custody an individual whom the peace officer has probable cause to believe
5 has violated the order.
- 6 9. The clerk of court shall transmit a copy of a restraining order by the close of the
7 business day on which the order was granted to the local law enforcement agency
8 with jurisdiction over the residence of the alleged victim of sexual assault. Each
9 appropriate law enforcement agency may make available to its officers current
10 information as to the existence and status of any restraining order involving sexual
11 assault.
- 12 10. Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and
13 assist an individual in the preparation of documents necessary to secure a restraining
14 order under this section.
- 15 11. Fees for filing and service of process may not be charged to the petitioner in a
16 proceeding seeking relief due to sexual assault under section 12.1-20-07.