

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED 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. For purposes of this section:

8 a. "Second or subsequent violation of a protection order" means two or more
9 violations of protection orders.

10 b. "Sexual assault" means nonconsensual sexual contact as defined in section
11 12.1-20-07.

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

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

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

23 a.5. A temporary restraining order may be entered only against the individual named in the
24 petition. The order must include prohibiting the individual from:

1 ~~(1)~~a. Harassing, stalking, or threatening the individual requesting the order;

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

3 ~~(3)~~c. Contacting the individual requesting the order.

4 ~~b. The court may issue the temporary restraining order without giving notice to the~~
5 ~~respondent. Unless otherwise terminated by the court, the temporary restraining~~
6 ~~order is in effect until a restraining order issued under subsection 5 is served.~~

7 ~~5.6.~~ The court may grant a sexual assault restraining order prohibiting the respondent from
8 contacting, harassing, stalking, or threatening the applicant, and from appearing at the
9 applicant's residence, school, and place of employment if:

10 a. An individual files a petition under subsection 3;

11 b. The sheriff serves the respondent with a copy of the temporary restraining order
12 issued under ~~subsections~~subsections 4 and 5, and with notice of the time and
13 place of the hearing;

14 c. The court sets a hearing for not later than fourteen days after issuance of the
15 temporary restraining order unless the time period is extended upon written
16 consent of the parties, or upon a showing the respondent has not been served
17 with a copy of the temporary restraining order despite the exercise of due
18 diligence; and

19 d. The court finds after the hearing there are reasonable grounds to believe the
20 respondent committed sexual assault.

21 ~~6.7.~~ A restraining order may be issued only against the individual named in the petition.
22 Relief granted by the restraining order may not exceed a period of two years. The
23 restraining order may be served on the respondent by publication pursuant to rule 4 of
24 the North Dakota Rules of Civil Procedure.

25 ~~7.8.~~ A sexual assault restraining order must contain a conspicuous notice to the
26 respondent providing:

27 a. The specific conduct that constitutes a violation of the order;

28 b. Notice that violation of the restraining order is punishable as a class A
29 misdemeanor ~~by imprisonment of up to one year or a fine of up to three thousand~~
30 dollars or both; and

1 c. Notice that a peace officer may arrest the respondent without a warrant and take
2 the respondent into custody if the peace officer has probable cause to believe the
3 respondent has violated an order issued under this section.

4 ~~8.9.~~ If the respondent knows of an order issued under ~~subsection~~subsections 4 and 5, or
5 5subsection 6, violation of the order is a class A misdemeanor and also constitutes
6 contempt of court. A second or subsequent violation of a protection order is a class C
7 felony. If the existence of an order issued under subsection 3, or subsections 4 and 5
8 can be verified by a peace officer, the officer, without a warrant, may arrest and take
9 into custody an individual whom the peace officer has probable cause to believe has
10 violated the order.

11 ~~9.10.~~ The clerk of court shall transmit a copy of a restraining order by the close of the
12 business day on which the order was granted to the local law enforcement agency
13 with jurisdiction over the residence of the alleged victim of sexual assault. Each
14 appropriate law enforcement agency may make available to its officers current
15 information as to the existence and status of any restraining order involving sexual
16 assault.

17 ~~10.11.~~ Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and
18 assist an individual in the preparation of documents necessary to secure a restraining
19 order under this section.

20 ~~11.12.~~ Fees for filing and service of process may not be charged to the petitioner in a
21 proceeding seeking relief due to sexual assault under section 12.1-20-07.