

HOUSE BILL NO. 1077

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to create and enact a new section to chapter 14-07.1 of the North Dakota
2 Century Code, relating to recognition and enforcement of foreign domestic violence protection
3 orders; to amend and reenact section 14-07.1-06 of the North Dakota Century Code, relating to
4 violations of protection orders; and to provide a penalty.

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

6 **SECTION 1.** A new section to chapter 14-07.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Foreign domestic violence protection orders - Full faith and credit recognition**

9 **and enforcement.** Subject to subsection 1, a domestic violence protection order issued by a
10 court of competent jurisdiction of another state, Indian tribe, the District of Columbia, or a
11 commonwealth, territory, or possession of the United States must be accorded full faith and
12 credit by the courts of this state and enforced as if the order was issued by a court in this state.

13 1. A foreign domestic violence protection order is enforceable in this state if all of the
14 following are satisfied:

15 a. The respondent received notice of the order in compliance with requirements
16 of the issuing jurisdiction;

17 b. The order is in effect in the issuing jurisdiction;

18 c. The issuing court had jurisdiction over the parties and the subject matter;

19 d. The respondent was afforded reasonable notice and opportunity to be heard
20 sufficient to protect that person's right to due process. In the case of ex parte

21 orders, notice and opportunity to be heard must have been provided within the
22 time required by the law of the issuing jurisdiction, and in any event within a

23 reasonable time after the order was issued, sufficient to protect the

24 respondent's due process rights. Failure to provide reasonable notice and

1 opportunity to be heard is an affirmative defense to any prosecution for
2 violation of the foreign protection order or any process filed seeking
3 enforcement of the order; and

4 e. If the order is a dual protection order, a petition, application, or other written
5 pleading was filed with the issuing court seeking such an order and the
6 issuing court made specific findings that each party was entitled to the order.

7 2. A person entitled to protection under a foreign domestic violence protection order
8 may file the foreign order in the office of any clerk of district court in this state. The
9 person filing the order shall also file with the clerk of district court an affidavit
10 certifying the validity and status of the foreign order and attesting to the person's
11 belief that the order has not been amended, rescinded, or superseded by any
12 orders from a court of competent jurisdiction. If a foreign order is filed under this
13 subsection, the clerk of district court shall transmit a copy of the order to the
14 appropriate local law enforcement agency as provided under section 14-07.1-03.
15 Filing of a foreign order under this subsection is not a prerequisite to the order's
16 enforcement in this state. A fee for filing the foreign order may not be assessed.

17 3. A law enforcement officer may rely upon any foreign domestic violence protection
18 order that has been provided to the officer by any source. The officer may make
19 arrests for violation of the order in the same manner as for violation of a protection
20 order issued in this state. A law enforcement officer may rely on the statement of
21 the person protected by the order that the order is in effect and that the respondent
22 was personally served with a copy of the order. A law enforcement officer acting in
23 good faith and without malice in enforcing a foreign protection order under this
24 section is immune from civil or criminal liability for any action arising in connection
25 with the enforcement of the protection order.

26 4. Any person who intentionally provides a law enforcement officer with a copy of a
27 foreign domestic violence protection order known by that person to be false or
28 invalid, or who denies having been served with a protection order when that person
29 has been served with such an order, is guilty of a class A misdemeanor.

30 **SECTION 2. AMENDMENT.** Section 14-07.1-06 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **14-07.1-06. Penalty for violation of a protection order.** Whenever a protection order
2 is granted ~~pursuant to~~ under section 14-07.1-02 or 14-07.1-03 and the respondent or person to
3 be restrained has been served a copy of the order, a violation of the order is a class A
4 misdemeanor and also constitutes contempt of court. A second or subsequent violation of a
5 protection order is a class C felony ~~subject to the penalties therefor.~~ Violation of a foreign
6 protection order entitled to full faith and credit recognition under section 1 of this Act is a class A
7 misdemeanor. A second or subsequent violation of such an order is a class C felony.