

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1077
(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to create and enact a new section to chapter 14-07.1 of the North Dakota Century Code, relating to recognition and enforcement of foreign domestic violence protection orders; to amend and reenact section 14-07.1-06 of the North Dakota Century Code, relating to violations of protection orders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A foreign domestic violence protection order is enforceable in this state if all of the following are satisfied:
 - a. The respondent received notice of the order in compliance with requirements of the issuing jurisdiction;
 - b. The order is in effect in the issuing jurisdiction;
 - c. The issuing court had jurisdiction over the parties and the subject matter;
 - d. The respondent was afforded reasonable notice and opportunity to be heard sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must have been provided within the time required by the law of the issuing jurisdiction, and in any event within a reasonable time after the order was issued, sufficient to protect the respondent's due process rights. Failure to provide reasonable notice and opportunity to be heard is an affirmative defense to any prosecution for violation of the foreign protection order or any process filed seeking enforcement of the order; and
 - e. If the order also provides protection for the respondent, a petition, application, or other written pleading was filed with the issuing court seeking such an order and the issuing court made specific findings that the respondent was entitled to the order.
2. A person entitled to protection under a foreign domestic violence protection order may file the foreign order in the office of any clerk of district court in this state. The person filing the order shall also file with the clerk of district court an affidavit certifying the validity and status of the foreign order and attesting to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. If a foreign order is filed under this subsection, the clerk of district court shall transmit a copy of the order to the appropriate local law enforcement agency as provided under section 14-07.1-03. Filing of a foreign order under this subsection is not a prerequisite to the order's enforcement in this state. A fee for filing the foreign order may not be assessed.

3. A law enforcement officer may rely upon any foreign domestic violence protection order that has been provided to the officer by any source. The officer may make arrests for violation of the order in the same manner as for violation of a protection order issued in this state. A law enforcement officer may rely on the statement of the person protected by the order that the order is in effect and that the respondent was personally served with a copy of the order. A law enforcement officer acting in good faith and without malice in enforcing a foreign protection order under this section is immune from civil or criminal liability for any action arising in connection with the enforcement of the protection order.
4. Any person who intentionally provides a law enforcement officer with a copy of a foreign domestic violence protection order known by that person to be false or invalid, or who denies having been served with a protection order when that person has been served with such an order, is guilty of a class A misdemeanor.

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1077.

House Vote: Yeas 97 Nays 0 Absent 1

Senate Vote: Yeas 48 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State