

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1222
(Representatives Delmore, Klemin, K. Koppelman, Maragos, Paur, Vetter)
(Senators D. Larson, Luick, Nelson)

AN ACT to create and enact section 12.1-31-01.2 of the North Dakota Century Code, relating to the process for seeking a sexual assault restraining order; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. For purposes of this section:
 - a. "Second or subsequent violation of a protection order" means two or more violations of protection orders.
 - b. "Sexual assault" means nonconsensual sexual contact as defined in section 12.1-20-07.
2. An individual who is the victim of sexual assault or the parent, stepparent, or guardian of a minor who reasonably believes the minor is a victim of sexual assault may seek a sexual assault restraining order from a court of competent jurisdiction in the manner provided in this section.
3. A petition for relief must allege facts sufficient to show the name of the alleged victim, the name of the individual who committed the sexual assault, and that the individual committed the sexual assault. An affidavit made under oath stating the specific facts and circumstances supporting the relief sought must accompany the petition.
4. If the petition for relief alleges reasonable grounds to believe an individual has committed sexual assault, the court, pending a full hearing, may grant a temporary sexual assault restraining order.
5. A temporary restraining order may be entered only against the individual named in the petition. The order must include prohibiting the individual from:
 - a. Harassing, stalking, or threatening the individual requesting the order;
 - b. Appearing at the individual's residence, school, and place of employment; and
 - c. Contacting the individual requesting the order.
6. The court may grant a sexual assault restraining order prohibiting the respondent from contacting, harassing, stalking, or threatening the applicant, and from appearing at the applicant's residence, school, and place of employment if:
 - a. An individual files a petition under subsection 3;
 - b. The sheriff serves the respondent with a copy of the temporary restraining order issued under subsections 4 and 5, and with notice of the time and place of the hearing;
 - c. The court sets a hearing for not later than fourteen days after issuance of the temporary restraining order unless the time period is extended upon written consent of the parties.

or upon a showing the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence; and

- d. The court finds after the hearing there are reasonable grounds to believe the respondent committed sexual assault.
7. A restraining order may be issued only against the individual named in the petition. Relief granted by the restraining order may not exceed a period of two years. The restraining order may be served on the respondent by publication pursuant to rule 4 of the North Dakota Rules of Civil Procedure.
8. A sexual assault restraining order must contain a conspicuous notice to the respondent providing:
 - a. The specific conduct that constitutes a violation of the order;
 - b. Notice that violation of the restraining order is punishable as a class A misdemeanor; and
 - c. Notice that a peace officer may arrest the respondent without a warrant and take the respondent into custody if the peace officer has probable cause to believe the respondent has violated an order issued under this section.
9. If the respondent knows of an order issued under subsections 4 and 5, or subsection 6, 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. If the existence of an order issued under subsection 3, or subsections 4 and 5 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order.
10. The clerk of court shall transmit a copy of a restraining order by the close of the business day on which the order was granted to the local law enforcement agency with jurisdiction over the residence of the alleged victim of sexual assault. Each appropriate law enforcement agency may make available to its officers current information as to the existence and status of any restraining order involving sexual assault.
11. Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and assist an individual in the preparation of documents necessary to secure a restraining order under this section.
12. Fees for filing and service of process may not be charged to the petitioner in a proceeding seeking relief due to sexual assault under section 12.1-20-07.

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 Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1222.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State