

Introduced by

Senators Poolman, Kreun, Unruh, Nelson

Representatives Blum, O'Brien

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 the establishment of a domestic violence court pilot project; and to
3 amend and reenact section 12-60-23, subsection 9 of section 12.1-31.2-01, subsections 1 and
4 3 of section 12.1-31.2.-02, section 14-07.1-02, and subsections 4 and 5 of section 14-07.1-03 of
5 the North Dakota Century Code, relating to the issuance, transmittal, and registry of protection
6 orders and orders prohibiting contact.

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

8 **SECTION 1. AMENDMENT.** Section 12-60-23 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12-60-23. Bureau to maintain registry of protection orders, orders prohibiting contact,**
11 **and restraining orders.**

12 The bureau shall maintain a registry of all orders of which it receives notice under sections
13 11-15-32, 12.1-31.2-02, 14-07.1-02, and 14-07.1-03.

14 **SECTION 2. AMENDMENT.** Subsection 9 of section 12.1-31.2-01 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 9. ~~The clerk of court shall transmit a copy of a restraining order by the close of the~~
17 ~~business day on which the order was granted to the local law enforcement agency~~
18 ~~with jurisdiction over the residence of the alleged victim of disorderly conduct. Each~~
19 ~~appropriate law enforcement agency may make available to its officers current~~
20 ~~information as to the existence and status of any restraining order involving disorderly~~
21 ~~conduct.~~Whenever a restraining order is issued, extended, modified, or terminated
22 under this section, the court shall transmit the order electronically to the bureau.
23 Unless the order is a temporary order under subsection 4, the bureau shall enter the
24 order electronically in the national crime information center database provided by the

1 federal bureau of investigation, or its successor agency. The sheriff of the county in
2 which the order was issued shall maintain and respond to inquiries regarding the order
3 in the national crime information center database provided by the federal bureau of
4 investigation, or its successor agency, pursuant to bureau and federal requirements.
5 Whenever a restraining order is issued, the clerk of court shall forward a copy of the
6 order to the local law enforcement agency with jurisdiction over the residence of the
7 protected party by the close of business on the day the restraining order is issued.
8 Once the bureau, after consultation with the state court administrator, determines and
9 implements an electronic method to notify the sheriff of the county that issued the
10 order, the clerk of court's requirement to forward the order to a law enforcement
11 agency will be satisfied.

12 **SECTION 3. AMENDMENT.** Subsections 1 and 3 of section 12.1-31.2-02 of the North
13 Dakota Century Code are amended and reenacted as follows:

- 14 1. If an individual who is charged with or arrested for a crime of violence or threat of
15 violence, stalking, harassment, or a sex offense is released from custody before
16 arraignment or trial, the court authorizing the release of the individual shall consider
17 and may issue, ~~if there is no outstanding restraining or protection order prohibiting the~~
18 ~~individual from having contact with the victim,~~ an order prohibiting the individual from
19 having contact with the victim. The order must contain the court's directives and must
20 inform the individual that any violation of the order constitutes a criminal offense. The
21 state's attorney shall provide a copy of the order to the victim. The court shall
22 determine at the time of the individual's arraignment whether an order issued pursuant
23 to this section will be extended. If the court issues an order pursuant to this section
24 before the time the individual is charged, the order expires at the individual's
25 arraignment or within seventy-two hours of issuance if charges against the individual
26 are not filed.
- 27 3. Whenever an order prohibiting contact is issued, modified, extended, or terminated
28 under this section, the clerk of court shall forward a copy of the order within one
29 business day to the appropriate law enforcement agency specified in the order. Upon
30 receipt of the copy of the order, the law enforcement agency shall enter the order ~~for~~
31 ~~one year or until the date of expiration specified by the order into any information~~

1 system available in the state that is used by law enforcement agencies to list
2 outstanding warrants. The order is enforceable in any jurisdiction in this state in the
3 central warrant information system and the national crime information center database
4 provided by the federal bureau of investigation, or its successor agency.

5 a. Once the bureau, after consultation with the state court administrator, determines
6 and implements a method to transmit electronically to the bureau an order
7 prohibiting contact, the court electronically shall send the full text of the order as
8 issued, modified, extended, or terminated in accordance with this section and any
9 data fields identified by the bureau. This electronic submission will fulfill the law
10 enforcement agency's requirement to enter the order in the central warrant
11 information system, but will not fulfill its requirement to enter, maintain, and
12 respond to inquiries regarding the order in the national crime information center
13 database provided by the federal bureau of investigation, or its successor
14 agency.

15 b. Once the bureau, after consultation with the state court administrator, determines
16 and implements an electronic method to notify law enforcement about the order,
17 the clerk of court's requirement to forward the order to the law enforcement
18 agency will be satisfied.

19 c. Once the bureau, after consultation with the director of state radio, determines
20 and implements a method to enter the order into the national crime information
21 center database provided by the federal bureau of investigation, or its successor
22 agency, the bureau shall enter the order electronically in the national crime
23 information center database provided by the federal bureau of investigation, or its
24 successor agency. This electronic entry will fulfill the law enforcement agency's
25 requirement to enter the order in the national crime information center database
26 provided by the federal bureau of investigation, or its successor agency, but will
27 not fulfill its requirement to maintain and respond to inquiries regarding the order
28 in the national crime information center database provided by the federal bureau
29 of investigation, or its successor agency.

30 **SECTION 4.** A new section to chapter 14-07.1 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Domestic violence court.**

2 The district court may require an individual who has committed a crime involving domestic
3 violence, as defined in this chapter, or who has violated a domestic violence protection order to
4 complete domestic violence treatment under the direction of the domestic violence court
5 program as a condition of probation in accordance with rules adopted by the supreme court. If
6 the district court finds a defendant has failed to undergo an evaluation or complete treatment or
7 has violated any condition of probation, the district court shall revoke the defendant's probation
8 and shall sentence the defendant in accordance with chapter 12.1-32.

9 **SECTION 5. AMENDMENT.** Section 14-07.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **14-07.1-02. Domestic violence protection order.**

- 12 1. An action for a protection order commenced by a verified application alleging the
13 existence of domestic violence may be brought in district court by any family or
14 household member or by any other person if the court determines that the relationship
15 between that person and the alleged abusing person is sufficient to warrant the
16 issuance of a domestic violence protection order. An action may be brought under this
17 section, regardless of whether a petition for legal separation, annulment, or divorce
18 has been filed.
- 19 2. Upon receipt of the application, the court shall order a hearing to be held not later than
20 fourteen days from the date of the hearing order, or at a later date if good cause is
21 shown.
- 22 3. Service must be made upon the respondent at least five days prior to the hearing. If
23 service cannot be made, the court may set a new date.
- 24 4. Upon a showing of actual or imminent domestic violence, the court may enter a
25 protection order after due notice and full hearing. The relief provided by the court may
26 include any or all of the following:
 - 27 a. Restraining any party from threatening, molesting, injuring, harassing, or having
28 contact with any other person.
 - 29 b. Excluding either the respondent or any person with whom the respondent lives
30 from the dwelling they share, from the residence of another person against whom
31 the domestic violence is occurring, or from a domestic violence care facility, if this

- 1 exclusion is necessary to the physical or mental well-being of the applicant or
2 others.
- 3 c. Awarding temporary custody or establishing temporary visitation rights with
4 regard to minor children.
- 5 d. Recommending or requiring that either or both parties undergo counseling with a
6 domestic violence program or other agency that provides professional services
7 that the court deems appropriate. The court may request a report from the
8 designated agency within a time period established by the court. The costs of the
9 court-ordered initial counseling assessment and subsequent reports must be
10 borne by the parties or, if indigent, by the respondent's county of residence.
- 11 e. Requiring a party to pay such support as may be necessary for the support of a
12 party and any minor children of the parties and reasonable attorney's fees and
13 costs.
- 14 f. Awarding temporary use of personal property, including motor vehicles, to either
15 party.
- 16 g. Requiring the respondent to surrender for safekeeping any firearm or other
17 specified dangerous weapon, as defined in section 12.1-01-04, in the
18 respondent's immediate possession or control or subject to the respondent's
19 immediate control, if the court has probable cause to believe that the respondent
20 is likely to use, display, or threaten to use the firearm or other dangerous weapon
21 in any further acts of violence. If so ordered, the respondent shall surrender the
22 firearm or other dangerous weapon to the sheriff, or the sheriff's designee, of the
23 county in which the respondent resides or to the chief of police, or the chief's
24 designee, of the city in which the respondent resides.
- 25 5. A court of competent jurisdiction may issue a dual protection order restricting both
26 parties involved in a domestic violence dispute if each party has commenced an action
27 pursuant to subsection 1 and the court, after a hearing, has made specific written
28 findings of fact that both parties committed acts of domestic violence and that neither
29 party acted in self-defense. The order must clearly define the responsibilities and
30 restrictions placed upon each party so that a law enforcement officer may readily
31 determine which party has violated the order if a violation is alleged to have occurred.

- 1 6. The court may amend its order or agreement at any time upon subsequent petition
2 filed by either party.
- 3 7. No order or agreement under this section affects title to any real property in any
4 matter.
- 5 8. The petition for an order for protection must contain a statement listing each civil or
6 criminal action involving both parties.
- 7 9. Upon the application of an individual residing within the state, a court may issue a
8 domestic violence protection order or an ex parte temporary protection order under
9 this chapter even though the actions constituting domestic violence occurred
10 exclusively outside the state. In these cases, a respondent is subject to the personal
11 jurisdiction of this state upon entry into this state. If the domestic violence justifying the
12 issuance of a protection order under this chapter occurred exclusively outside the
13 state, the relief that may be granted is limited to an order restraining the party from
14 having contact with or committing acts of domestic violence on another person in this
15 state.
- 16 10. Whenever a protection order is issued, extended, modified, or terminated under this
17 section, the court shall transmit the order electronically to the bureau. The bureau shall
18 enter the order electronically in the national crime information center database
19 provided by the federal bureau of investigation, or its successor agency. The sheriff of
20 the county in which the order was issued shall maintain and respond to inquiries
21 regarding the record in the national crime information center database provided by the
22 federal bureau of investigation, or its successor agency, pursuant to bureau and
23 federal requirements. Whenever a protection order is issued, the clerk of court shall
24 forward a copy of the order to the local law enforcement agency with jurisdiction over
25 the residence of the protected party by the close of business on the day the protection
26 order is issued. Once the bureau, after consultation with the state court administrator,
27 determines and implements an electronic method to notify the sheriff of the county that
28 issued the order, the clerk of court's requirement to forward the order to a law
29 enforcement agency will be satisfied.

30 **SECTION 6. AMENDMENT.** Subsections 4 and 5 of section 14-07.1-03 of the North Dakota
31 Century Code are amended and reenacted as follows:

- 1 4. A full hearing as provided by section 14-07.1-02 must be set for not later than fourteen
2 days from the issuance of the temporary order, or at a later date if good cause is
3 shown. The respondent must be served forthwith with a copy of the ex parte order
4 along with a copy of the application and notice of the date set for the hearing.
- 5 5. ~~The clerk of court shall transmit a copy of each temporary protection order, or~~
6 ~~extension, modification, or termination thereof, by the close of the business day on~~
7 ~~which the order was granted to the local law enforcement agency with jurisdiction over~~
8 ~~the residence of the applicant or over the residence at which the actual domestic~~
9 ~~violence that is the subject of the temporary protection order has occurred, or is likely~~
10 ~~to occur, if requested by the applicant and approved by the court. Each appropriate~~
11 ~~law enforcement agency may make available information as to the existence and~~
12 ~~current status of any temporary protection order issued pursuant to this section,~~
13 ~~through an existing verification system, to any law enforcement officer responding to~~
14 ~~the scene of reported domestic violence~~Whenever a temporary protection order is
15 issued, extended, modified, or terminated under this section, the court shall transmit
16 the order electronically to the bureau. Whenever a temporary protection order is
17 issued, the clerk of court shall forward a copy of the order to the local law enforcement
18 agency with jurisdiction over the residence of the protected party by the close of
19 business on the day the order is issued. Once the bureau, after consultation with the
20 state court administrator, determines and implements an electronic method to notify
21 the sheriff of the county that issued the order, the clerk of court's requirement to
22 forward the order will be satisfied.