Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1321
(Representatives Haak, Brabandt, Delmore, M. Johnson, Klemin)
(Senators Armstrong, Grabinger)

AN ACT to amend and reenact section 12.1-17-07.1 of the North Dakota Century Code, relating to stalking and the use of electronic communication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07.1. Stalking.

1. As used in this section:

   a. "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term does not include constitutionally protected activity.

   b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.

   c. "Stalk" means ~~to engage~~:

      (1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person~~,~~ and ~~that~~which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or

      (2) The unauthorized tracking of the person's movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.

2. ~~No~~A person may not intentionally stalk another person.

3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.

4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.

5. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

6. a. A person who violates this section is guilty of a class C felony if:

(1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court, involving the victim of the stalking;

(2) The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or

(3) The person previously has been convicted of violating this section.

b. If subdivision a does not apply, a person who violates this section is guilty of a class A misdemeanor.

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-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1321.

House Vote:	Yeas 88	Nays 0	Absent 6
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 3:02 P. M. on April 22, 2015.

Approved at 2:35 P. M. on April 23, 2015.

Governor

Filed in this office this 23rd day of April, 2015,

at 4:12 o'clock P M.

Secretary of State