Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

SENATE BILL NO. 2203
(Senators Myrdal, Bakke, Dwyer)
(Representatives Buffalo, Satrom, Vetter)

AN ACT to amend and reenact section 12.1-31-01.2 of the North Dakota Century Code, relating to sexual assault restraining orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-01.2 of the North Dakota Century Code is amended and reenacted 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 <u>any</u> nonconsensual <u>offense in chapter 12.1-20 for which sexual act or</u> sexual contact<u>,</u> as defined in section ~~12.1-20-07~~<u>12.1-20-02, is an element</u>.

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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2203.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 91	Nays 0	Absent 3

Secretary of the Senate

Received by the Governor at 3:06 P.M. on April 5, 2019.

Approved at 4:28 P.M. on April 8, 2019.

Governor

Filed in this office this 9th day of April, 2019,

at 9:48 o'clock A. M.

Secretary of State