

**HOUSE BILL NO. 1222**

Introduced by

Representatives Delmore, Klemin, K. Koppelman, Maragos, Paur, Vetter

Senators D. Larson, Luick, Nelson

1 A BILL for an Act to create and enact section 12.1-31-01.2 of the North Dakota Century Code,  
2 relating to the process for seeking a sexual assault restraining order; and to provide a penalty.

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

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

6 **12.1-31-01.2. Sexual assault restraining order - Penalty.**

7 1. "Sexual assault" means nonconsensual sexual contact as defined in section  
8 12.1-20-07.

9 2. An individual who is the victim of sexual assault or the parent, stepparent, or guardian  
10 of a minor who reasonably believes the minor is a victim of sexual assault may seek a  
11 sexual assault restraining order from a court of competent jurisdiction in the manner  
12 provided in this section.

13 3. A petition for relief must allege facts sufficient to show the name of the alleged victim,  
14 the name of the individual who committed the sexual assault, and that the individual  
15 committed the sexual assault. An affidavit made under oath stating the specific facts  
16 and circumstances supporting the relief sought must accompany the petition.

17 4. If the petition for relief alleges reasonable grounds to believe an individual has  
18 committed sexual assault, the court, pending a full hearing, may grant a temporary  
19 sexual assault restraining order.

20 a. A temporary restraining order may be entered only against the individual named  
21 in the petition. The order must include prohibiting the individual from:

22 (1) Harassing, stalking, or threatening the individual requesting the order;

23 (2) Appearing at the individual's residence, school, and place of employment;

24 and

- 1           (3) Contacting the individual requesting the order.
- 2           b. The court may issue the temporary restraining order without giving notice to the  
3           respondent. Unless otherwise terminated by the court, the temporary restraining  
4           order is in effect until a restraining order issued under subsection 5 is served.
- 5           5. The court may grant a sexual assault restraining order prohibiting the respondent from  
6           contacting, harassing, stalking, or threatening the applicant, and from appearing at the  
7           applicant's residence, school, and place of employment if:
- 8           a. An individual files a petition under subsection 3;
- 9           b. The sheriff serves the respondent with a copy of the temporary restraining order  
10           issued under subsection 4 and with notice of the time and place of the hearing;
- 11           c. The court sets a hearing for not later than fourteen days after issuance of the  
12           temporary restraining order unless the time period is extended upon written  
13           consent of the parties, or upon a showing the respondent has not been served  
14           with a copy of the temporary restraining order despite the exercise of due  
15           diligence; and
- 16           d. The court finds after the hearing there are reasonable grounds to believe the  
17           respondent committed sexual assault.
- 18           6. A restraining order may be issued only against the individual named in the petition.  
19           Relief granted by the restraining order may not exceed a period of two years. The  
20           restraining order may be served on the respondent by publication pursuant to rule 4 of  
21           the North Dakota Rules of Civil Procedure.
- 22           7. A sexual assault restraining order must contain a conspicuous notice to the  
23           respondent providing:
- 24           a. The specific conduct that constitutes a violation of the order;
- 25           b. Notice that violation of the restraining order is punishable by imprisonment of up  
26           to one year or a fine of up to three thousand dollars or both; and
- 27           c. Notice that a peace officer may arrest the respondent without a warrant and take  
28           the respondent into custody if the peace officer has probable cause to believe the  
29           respondent has violated an order issued under this section.
- 30           8. If the respondent knows of an order issued under subsection 4 or 5, violation of the  
31           order is a class A misdemeanor. If the existence of an order issued under subsection 3

- 1           or 4 can be verified by a peace officer, the officer, without a warrant, may arrest and  
2           take into custody an individual whom the peace officer has probable cause to believe  
3           has violated the order.
- 4        9.   The clerk of court shall transmit a copy of a restraining order by the close of the  
5           business day on which the order was granted to the local law enforcement agency  
6           with jurisdiction over the residence of the alleged victim of sexual assault. Each  
7           appropriate law enforcement agency may make available to its officers current  
8           information as to the existence and status of any restraining order involving sexual  
9           assault.
- 10      10. Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and  
11           assist an individual in the preparation of documents necessary to secure a restraining  
12           order under this section.
- 13      11. Fees for filing and service of process may not be charged to the petitioner in a  
14           proceeding seeking relief due to sexual assault under section 12.1-20-07.