

SENATE BILL NO. 2266

Introduced by

Senators W. Stenehjem, Watne

Representatives Delmore, Hawken, Kretschmar

1 A BILL for an Act to create and enact a new subsection to section 14-07.1-13 of the North
2 Dakota Century Code, relating to domestic violence arrest procedures; and to amend and
3 reenact subsections 4 and 8 of section 14-07.1-02 and subsection 1 of section 29-06-15 of the
4 North Dakota Century Code, relating to domestic violence protection orders.

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

6 **SECTION 1. AMENDMENT.** Subsections 4 and 8 of section 14-07.1-02 of the 1995
7 Supplement to the North Dakota Century Code are amended and reenacted as follows:

8 4. Upon a showing of actual or imminent domestic violence, the court may enter a
9 protection order after due notice and full hearing. The relief provided by the court
10 may include any or all of the following:

- 11 a. Restraining any party from threatening, molesting, injuring, harassing, or
12 having contact with any other person.
- 13 b. Excluding either the respondent or any person with whom the respondent
14 lives from the dwelling they share, from the residence of another person
15 against whom the domestic violence is occurring, or from a domestic violence
16 care facility, if this exclusion is necessary to the physical or mental well-being
17 of the applicant or others.
- 18 c. Awarding temporary custody or establishing temporary visitation rights with
19 regard to minor children.
- 20 d. Recommending or requiring that either or both parties undergo counseling
21 with a domestic violence program or other agency that provides professional
22 services that the court deems appropriate. The court may request a report
23 from the designated agency within a time period established by the court.
- 24 The costs of the court-ordered initial counseling assessment and subsequent

reports must be borne by the parties or, if indigent, by the respondent's county of residence.

e. Requiring a party to pay such support as may be necessary for the support of a party and any minor children of the parties and reasonable attorneys' fees and costs.

f. Awarding temporary use of personal property, including motor vehicles, to either party.

8. The petition for an order for protection must contain a statement listing each civil or criminal action ~~to which~~ involving both parties ~~were a party~~.

SECTION 2. A new subsection to section 14-07.1-13 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

A law enforcement officer shall arrest a person without a warrant if the person has committed the offense of violating an order prohibiting contact under this section, whether or not the violation was committed in the presence of the officer. A law enforcement officer who acts in good faith on probable cause and without malice is immune from any civil or criminal liability for making an arrest under this subsection.

SECTION 3. AMENDMENT. Subsection 1 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

1. A law enforcement officer, without a warrant, may arrest a person:

a. For a public offense, committed or attempted in the officer's presence; and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.

b. When the person arrested has committed a felony, although not in the officer's presence.

c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.

d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.

- 1 e. For the public offenses, not classified as felonies and not committed in the
- 2 officer's presence as provided for under section 29-06-15.1.
- 3 f. On a charge, made upon reasonable cause, of driving or being in actual
- 4 physical control of a vehicle while under the influence of alcoholic beverages.
- 5 g. For the offense of violating a protection order under section 14-07.1-06, an
- 6 order prohibiting contact under section 14-07.1-13, or for an assault involving
- 7 domestic violence ~~pursuant to~~ under section 14-07.1-11.