

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the  
Capitol in the City of Bismarck, on Monday, the sixth day of January,  
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2221  
(Senators Christmann, Andrist, Cook)  
(Representatives Boehm, Brusegaard, Clark)

AN ACT to create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to barring perpetrators of certain crimes from recovering for injuries sustained during criminal conduct.

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

**SECTION 1.** A new chapter to title 12.1 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this section, unless the context otherwise requires:

1. "Convicted" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no contest plea, a judgment of conviction, an adjudication as a delinquent child, or an admission to a juvenile delinquency petition.
2. "Course of criminal conduct" includes the acts or omissions of a victim in resisting criminal conduct.
3. "Crime" includes an offense named in section 12.1-16-01, 12.1-16-02, 12.1-16-03, 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, chapter 12.1-18, section 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-07, chapter 12.1-21, section 12.1-22-01, 12.1-22-02, or 12.1-22-03, or an attempt to commit any of these offenses. The term includes a crime in other states which would have been within this definition if the crime had been committed in this state.
4. "Perpetrator" means a person who has engaged in criminal conduct and includes a person convicted of a crime.
5. "Victim" means a person who was the object of another's criminal conduct and includes a person at the scene of an emergency who gives reasonable assistance to another person who is exposed to or has suffered grave physical harm.

**Perpetrator's assumption of the risk.** A perpetrator assumes the risk of loss, injury, or death resulting from or arising out of a course of criminal conduct involving a crime, as defined in this Act, engaged in by the perpetrator or an accomplice, as defined in section 12.1-03-01, and the crime victim is immune from and not liable for any damages as a result of acts or omissions of the victim if the victim used reasonable force as authorized in section 12.1-05-03 or 12.1-05-04. However, the perpetrator's assumption of risk does not eliminate the crime victim's duty to protect against conditions upon the premises which the crime victim knows or has reason to know may create an unreasonable risk of harm or which may cause a foreseeable trespass by minors, nor does the assumption of risk apply to perpetrators who are mentally incompetent or deficient.

**Evidence.** Notwithstanding other evidence that the victim may adduce relating to the perpetrator's conviction of the crime involving the parties to a claim for relief, a certified copy of a guilty plea, a court judgment of guilt, a court record of conviction, or an adjudication as a delinquent child is conclusive proof of the perpetrator's assumption of the risk.

**Attorney's fees to victim.** If the perpetrator does not prevail in a claim for relief that is subject to this chapter, the court may award reasonable expenses, including attorney's fees and disbursements, to the victim.

**Stay of claim for relief.** Except to the extent needed to preserve evidence, any claim for relief in which the defense set forth in this chapter is raised must be stayed by the court on the motion of the defendant during the pendency of any criminal action against the plaintiff based on the alleged crime.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2221.

Senate Vote:      Yeas    46          Nays    0          Absent    3

House Vote:      Yeas    96          Nays    0          Absent    1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State