

HOUSE BILL NO. 1348

Introduced by

Representatives Delmore, DeKrey, Hawken

Senators Nelson, Trenbeath

1 A BILL for an Act to amend and reenact sections 14-07.1-01, 14-07.1-10, and 14-07.1-12 of the
2 North Dakota Century Code, relating to domestic violence arrest procedures and reports.

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

4 **SECTION 1. AMENDMENT.** Section 14-07.1-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-07.1-01. Definitions.**

- 7 1. "Department" means the state department of health.
- 8 2. "Domestic violence" includes physical harm, bodily injury, sexual activity compelled
9 by physical force, assault, or the infliction of fear of imminent physical harm, bodily
10 injury, sexual activity compelled by physical force, or assault, not committed in
11 self-defense, on the complaining family or household members.
- 12 3. "Domestic violence sexual assault organization" means a private, nonprofit
13 organization whose primary purpose is to provide emergency housing,
14 twenty-four-hour crisis lines, advocacy, supportive peer counseling, community
15 education, and referral services for victims of domestic violence and sexual
16 assault.
- 17 4. "Family or household member" means a spouse, family member, former spouse,
18 parent, child, persons related by blood or marriage, persons who are in a dating
19 relationship, persons who are presently residing together or who have resided
20 together in the past, persons who have a child in common regardless of whether
21 they are or have been married or have lived together at any time, and, for the
22 purpose of the issuance of a domestic violence protection order, any other person
23 with a sufficient relationship to the abusing person as determined by the court
24 under section 14-07.1-02.

5. "Health officer" means the state health officer of the department.
6. "Law enforcement officer" means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigations of violations of law.
7. "Predominant aggressor" means the individual determined to be the most significant, but not necessarily the first, aggressor in a domestic violence incident.
8. "Willfully" means willfully as defined in section 12.1-02-02.

SECTION 2. AMENDMENT. Section 14-07.1-10 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-10. Arrest procedures.

1. If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic violence, whether the offense is a felony or misdemeanor, and whether or not the crime was committed in the presence of the officer, the law enforcement officer shall presume that arresting the person is the appropriate response.
2. A law enforcement officer investigating a crime involving domestic violence may not threaten, suggest, or otherwise indicate, for the purpose of discouraging requests for law enforcement intervention, that family or household members will be arrested. When complaints are received from two or more family or household members, the officer shall evaluate each complaint separately, including to determine if either party acted in self-defense as defined in section 12.1-05-03. If self-defense is not a factor, to determine whether to seek an arrest warrant or to pursue further investigation, the officer shall determine which party is the predominant aggressor by considering certain factors including the comparative severity of injuries involved, to determine whether to seek an arrest warrant the comparable size and strength of each party, and the likelihood of future harm.
3. An individual arrested for a crime involving domestic violence may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate pursuant to rule 5 of the North Dakota Rules of Criminal Procedure.

1 **SECTION 3. AMENDMENT.** Section 14-07.1-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **14-07.1-12. Reports.** A law enforcement officer shall make a written report of the
4 investigation of any allegation of domestic violence regardless of whether an arrest was made.
5 If an officer determines through the course of an investigation that one of the individuals was
6 the predominant aggressor, the report must include the name of the predominant aggressor
7 and a description of the evidence that supports the findings. The officer shall submit the report
8 to the officer's supervisor or to any other person to whom the officer is required to submit similar
9 reports.