

Introduced by

Representatives Delmore, DeKrey, Koppelman

Senators Fischer, Lyson, Nelson

1 A BILL for an Act to amend and reenact section 14-07.1-01, subsection 2 of section 14-07.1-10,
2 and section 14-07.1-12 of the North Dakota Century Code, relating to law enforcement
3 procedures in crimes involving domestic violence.

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

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

7 **14-07.1-01. Definitions.**

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

with a sufficient relationship to the abusing person as determined by the court 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 an individual who is the most significant, not necessarily the first, aggressor.

8. "Willfully" means willfully as defined in section 12.1-02-02.

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

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 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 may determine which party has engaged in the most immediately significant aggression~~ was the predominant aggressor by considering certain factors, including the comparative severity of injuries involved and the likelihood of future harm, the existence of corroborating evidence, the party exhibiting the most fear, and whether one party acted in self-defense as defined in section 12.1-05-03 while considering the intent of the law is to protect victims of domestic violence from continuing abuse. The officer shall look at the totality of the incident to determine whether to arrest, pursue further investigation, or seek an arrest warrant. Arrest is the preferred response only with respect to the predominant aggressor. The officer shall presume that arrest is not the appropriate response for a party who was not the predominant aggressor.

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

1 **14-07.1-12. Reports.** A law enforcement officer shall make a written report of the
2 investigation of any allegation of domestic violence regardless of whether an arrest was made.
3 If an officer determines through the course of an investigation that one of the individuals ~~has~~
4 ~~engaged in the most immediately significant aggression~~ was the predominant aggressor, the
5 report must include the name of that individual and a description of the evidence that supports
6 the findings. The officer shall submit the report to the officer's supervisor or to any other person
7 to whom the officer is required to submit similar reports.