

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Senate Amendments**

ENGROSSED HOUSE BILL NO. 1429

Introduced by

Representatives Holle, Dobervich, Headland, Henderson, Koppelman, Tveit, Brandenburg
Senators Lemm, Magrum

1 A BILL for an Act to amend and reenact sections 12.1-17-07 and 12.1-17-07.1 of the North
2 Dakota Century Code, relating to harassment and stalking with a robot; and to provide a
3 penalty.

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

5 **SECTION 1. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **12.1-17-07. Harassment.**

8 1. As used in this section "robot" means an artificial object or system that senses,
9 processes, and acts using technology, including the associated elements,
10 communication links, and artificial intelligence. The term includes remotely piloted
11 aircraft.

12 2. A person is guilty of an offense if, with intent to frighten or harass another, the person:
13 a. Communicates in writing or by electronic communication a threat to inflict injury
14 on any person, to any person's reputation, or to any property;
15 b. Makes a telephone call anonymously or in offensively coarse language;
16 c. Makes repeated telephone calls or other electronic communication, whether or
17 not a conversation ensues, with no purpose of legitimate communication; or
18 d. Communicates a falsehood in writing or by electronic communication and causes
19 mental anguish; or
20 e. Uses a robot to engage in offensive conduct with no legitimate purpose.

21 2-3. The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or
22 subsection 4. Otherwise it is a class B misdemeanor.

1 ~~3.4.~~ Any offense defined herein and committed by use of electronic communication may be
2 deemed to have been committed at either the place at which the electronic
3 communication was made or at the place where the electronic communication was
4 received.

5 ~~4.5.~~ A person is guilty of an offense if the person initiates communication with a
6 911 emergency line, public safety answering point, or an emergency responder
7 communication system with the intent to annoy or harass another person or a public
8 safety agency or who makes a false report to a public safety agency.

9 a. Intent to annoy or harass is established by proof of one or more calls with no
10 legitimate emergency purpose.

11 b. Upon conviction of a violation of this subsection, a person is also liable for all
12 costs incurred by any unnecessary emergency response.

13 ~~5.6.~~ Any offense defined herein is deemed communicated in writing if it is transmitted
14 electronically, by electronic mail, facsimile, or other similar means. Electronic
15 communication means transfer of signs, signals, writing, images, sounds, data, or
16 intelligence of any nature transmitted in whole or in part by a wire, radio,
17 electromagnetic, photo-electronic, or photo-optical system.

18 **SECTION 2. AMENDMENT.** Section 12.1-17-07.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **12.1-17-07.1. Stalking.**

21 1. As used in this section:

22 a. "Course of conduct" means a pattern of conduct consisting of two or more acts
23 evidencing a continuity of purpose. The term includes an act conducted with a
24 robot in the direct control of the person. The term does not include constitutionally
25 protected activity.

26 b. "Immediate family" means a spouse, parent, child, or sibling. The term also
27 includes any other individual who regularly resides in the household or who within
28 the prior six months regularly resided in the household.

29 c. "Robot" means an artificial object or system that senses, processes, and acts
30 using technology, including the associated elements, communication links, and
31 artificial intelligence. The term includes remotely piloted aircraft.

1 d. "Stalk" means:

- 2 (1) To engage in an intentional course of conduct directed at a specific person
3 which frightens, intimidates, or harasses that person and which serves no
4 legitimate purpose. The course of conduct may be directed toward that
5 person or a member of that person's immediate family and must cause a
6 reasonable person to experience fear, intimidation, or harassment; or
7 (2) The unauthorized tracking of the person's movements or location through
8 the use of a global positioning system, robot, or other electronic means that
9 would cause a reasonable person to be frightened, intimidated, or harassed
10 and which serves no legitimate purpose.

11 2. A person may not intentionally stalk another person.

12 3. In any prosecution under this section, it is not a defense that the actor was not given
13 actual notice that the person did not want the actor to contact or follow the person; nor
14 is it a defense that the actor did not intend to frighten, intimidate, or harass the person.
15 An attempt to contact or follow a person after being given actual notice that the person
16 does not want to be contacted or followed is prima facie evidence that the actor
17 intends to stalk that person.

18 4. In any prosecution under this section, it is a defense that a private investigator
19 licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was
20 acting within the scope of employment.

21 5. If a person claims to have been engaged in a constitutionally protected activity, the
22 court shall determine the validity of the claim as a matter of law and, if found valid,
23 shall exclude evidence of the activity.

24 6. a. A person who violates this section is guilty of a class C felony if:

25 (1) The person previously has been convicted of violating section 12.1-17-01,
26 12.1-17-01.1, 12.1-17-01.2, 12.1-17-02, 12.1-17-04, 12.1-17-05, or
27 12.1-17-07, or a similar offense from another court in North Dakota, a court
28 of record in the United States, or a tribal court, involving the victim of the
29 stalking;

30 (2) The stalking violates a court order issued under chapter 14-07.1 protecting
31 the victim of the stalking, if the person had notice of the court order; or

- 1 (3) The person previously has been convicted of violating this section.
- 2 b. If subdivision a does not apply, a person who violates this section is guilty of a
- 3 class A misdemeanor.