

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

1 with a sufficient relationship to the abusing person as determined by the court  
2 under section 14-07.1-02.

3 5. "Health officer" means the state health officer of the department.

4 6. "Law enforcement officer" means a public servant authorized by law or by a  
5 government agency to enforce the law and to conduct or engage in investigations  
6 of violations of law.

7 7. "Predominant aggressor" means an individual who is the most significant, not  
8 necessarily the first, aggressor.

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

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

12 2. A law enforcement officer investigating a crime involving domestic violence may  
13 not threaten, suggest, or otherwise indicate, for the purpose of discouraging  
14 requests for law enforcement intervention, that family or household members will  
15 be arrested. When complaints are received from two or more family or household  
16 members, the officer shall evaluate each complaint separately to determine if either  
17 party acted in self-defense as defined in section 12.1-05-03. ~~If self-defense is not~~  
18 ~~a factor, to determine whether to seek an arrest warrant or to pursue further~~  
19 ~~investigation, the officer may determine which party has engaged in the most~~  
20 ~~immediately significant aggression was the predominant aggressor~~ by considering  
21 certain factors, including the comparative severity of injuries involved and the  
22 likelihood of future harm, the existence of corroborating evidence, the party  
23 exhibiting the most fear, and whether one party acted in self-defense as defined in  
24 section 12.1-05-03 while considering the intent of the law is to protect victims of  
25 domestic violence from continuing abuse. The officer shall look at the totality of the  
26 incident to determine whether to arrest, pursue further investigation, or seek an  
27 arrest warrant. Arrest is the preferred response only with respect to the  
28 predominant aggressor. The officer shall presume that arrest is not the appropriate  
29 response for a party who was not the predominant aggressor.

30 **SECTION 3. AMENDMENT.** Section 14-07.1-12 of the North Dakota Century Code is  
31 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.