

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1336

Introduced by

Representatives Griffin, Delmore, Klemin

Senators Lyson, Potter, Schneider

1 A BILL for an Act to create and enact a new section to chapter 12.1-31.2 of the North Dakota
2 Century Code, relating to the issuance of an order prohibiting contact; to amend and reenact
3 subsection 1 of section 29-06-15 of the North Dakota Century Code, relating to an arrest
4 without a warrant; to repeal section 14-07.1-13 of the North Dakota Century Code, relating to
5 an order prohibiting contact; and to provide a penalty.

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

7 **SECTION 1.** A new section to chapter 12.1-31.2 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Order prohibiting contact.**

- 10 1. If an individual who is charged with or arrested for a crime of violence or threat of
11 violence, stalking, harassment, or a sex offense is released from custody before
12 arraignment or trial, the court authorizing the release of the individual shall
13 consider and may issue, if there is no outstanding restraining or protection order
14 prohibiting the individual from having contact with the victim, an order prohibiting
15 the individual from having contact with the victim. The order must contain the
16 court's directives and must inform the individual that any violation of the order
17 constitutes a criminal offense. The state's attorney shall provide a copy of the
18 order to the victim. The court shall determine at the time of the individual's
19 arraignment whether an order issued pursuant to this section will be extended. If
20 the court issues an order pursuant to this section before the time the individual is
21 charged, the order expires at the individual's arraignment or within seventy-two
22 hours of issuance if charges against the individual are not filed.
- 23 2. If the court has probable cause to believe that the individual charged or arrested is
24 likely to use, display, or threaten to use a firearm or dangerous weapon as defined

1 in section 12.1-01-04 in any further act of violence, the court shall require that the
2 individual surrender for safekeeping any firearm or specified dangerous weapon in
3 or subject to the individual's immediate possession or control, to the sheriff of the
4 county or chief of police of the city in which the individual resides.

5 3. Whenever an order prohibiting contact is issued, modified, extended, or terminated
6 under this section, the clerk of court shall forward a copy of the order within one
7 business day to the appropriate law enforcement agency specified in the order.
8 Upon receipt of the copy of the order, the law enforcement agency shall enter the
9 order for one year or until the date of expiration specified by the order into any
10 information system available in the state that is used by law enforcement agencies
11 to list outstanding warrants. The order is enforceable in any jurisdiction in this
12 state.

13 4. An individual who violates a court order issued under this section is guilty of a
14 class A misdemeanor.

15 5. A law enforcement officer shall arrest an individual without a warrant if the officer
16 determines there is probable cause that the individual has committed the offense
17 of violating an order prohibiting contact under this section, whether or not the
18 violation was committed in the presence of the officer. A law enforcement officer
19 who acts in good faith on probable cause and without malice is immune from any
20 civil or criminal liability for making an arrest under this subsection.

21 **SECTION 2. AMENDMENT.** Subsection 1 of section 29-06-15 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 1. A law enforcement officer, without a warrant, may arrest a person:
- 24 a. For a public offense, committed or attempted in the officer's presence and for
25 the purpose of this subdivision, a crime must be deemed committed or
26 attempted in the officer's presence when what the officer observes through
27 the officer's senses reasonably indicates to the officer that a crime was in fact
28 committed or attempted in the officer's presence by the person arrested.
- 29 b. When the person arrested has committed a felony, although not in the
30 officer's presence.

- 1 c. When a felony in fact has been committed, and the officer has reasonable
2 cause to believe the person arrested to have committed it.
- 3 d. On a charge, made upon reasonable cause, of the commission of a felony by
4 the party arrested.
- 5 e. For the public offenses, not classified as felonies and not committed in the
6 officer's presence as provided for under section 29-06-15.1.
- 7 f. On a charge, made upon reasonable cause, of driving or being in actual
8 physical control of a vehicle while under the influence of alcoholic beverages.
- 9 g. For the offense of violating a protection order under section 14-07.1-06, an
10 order prohibiting contact under section ~~14-07.1-13~~ 1 of this Act, or for an
11 assault involving domestic violence under section 14-07.1-11.
- 12 h. On a charge, made upon reasonable cause, of being under the influence of
13 volatile chemical vapors in violation of section 19-03.1-22.1.

14 **SECTION 3. REPEAL.** Section 14-07.1-13 of the North Dakota Century Code is
15 repealed.