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Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1193

Introduced by

Representatives Klemin, K. Koppelman, Maragos, Paur, Porter

Senator Armstrong

A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to prohibiting economic harm; to amend and reenact subsection 1 of section 12.1-31-01 of the North Dakota Century Code, relating to disorderly conduct; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
   a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
   b. Makes unreasonable noise;
   c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
   d. Obstructs vehicular or pedestrian traffic ~~or~~, the use of a public or private facility, or commercial activity or equipment;
   e. Persistently follows a person in or about a public place or places;
   f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
   g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose;
   h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or

i. Uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property; or uses a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person's dwelling or accessory structure before there is an offense.

SECTION 2. A new section to chapter 12.1-31 of the North Dakota Century Code is created and enacted as follows:

Economic harm prohibited - Penalty.

1. An individual may not commit a physical act constituting the commission of a misdemeanor offense, when done intentionally to cause direct or indirect economic harm in excess of one thousand dollars to the government or to an individual.
2. Economic harm under this section does not include court, prosecution, incarceration, or law enforcement costs. The prosecution must plead and prove an underlying misdemeanor offense the individual committed, and a jury must be instructed and make a special finding regarding the elements of this section before an individual may be found guilty. This section may not be used as a basis for a conspiracy, accomplice, or attempt charge.
3. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.
4. Violation of this section is a class C felony.