

**FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1336**

Introduced by

Representatives Satrom, Grueneich, Ostlie

Senators Conley, Dwyer

1 A BILL for an Act to amend and reenact section 12.1-31.2-02, subsection 1 of section  
2 12.1-32-02, and subdivision h of subsection 5 of section 39-08-01 of the North Dakota Century  
3 Code, relating to orders prohibiting contact and use of orders prohibiting contact as an  
4 alternative to sentencing.

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

6 **SECTION 1. AMENDMENT.** Section 12.1-31.2-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **12.1-31.2-02. Order prohibiting contact.**

9 1. a. If an individual ~~who~~ is charged with ~~or~~, arrested for, or subject to a sentence or  
10 order deferring imposition of sentence 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, imposing a  
13 sentence, or issuing an order deferring imposition of sentence, shall consider and  
14 may issue an order prohibiting the individual from having contact with the victim.  
15 The order must contain the court's directives and must inform the individual that  
16 any violation of the order constitutes a criminal offense. The state's attorney shall  
17 provide a copy of the order to the victim. The court shall determine at the time of  
18 the individual's arraignment whether an order issued pursuant to this section will  
19 be extended. If the court issues an order pursuant to this section before the time  
20 the individual is charged, the order expires at the individual's arraignment or  
21 within seventy-two hours of issuance if charges against the individual are not  
22 filed.

- 1           b. A party or victim may file a written request with the court to modify or terminate  
2           an order issued under this section. If requested, the court may hold a hearing to  
3           determine whether to grant or deny the request to modify or terminate an order.
- 4           c. If an order prohibiting contact is issued upon a charge or arrest, the order  
5           terminates upon dismissal, acquittal, sentence, or order deferring imposition of  
6           sentence. Upon sentence or order deferring imposition of sentence, the court  
7           may issue a new order under this subsection.
- 8           2. If the court has probable cause to believe that the individual charged or  
9           ~~arrested~~ subject to an order under subsection 1 is likely to use, display, or threaten to  
10           use a firearm or dangerous weapon as defined in section 12.1-01-04 in any further act  
11           of violence, the court shall require that the individual surrender for safekeeping any  
12           firearm or specified dangerous weapon in or subject to the individual's immediate  
13           possession or control, to the sheriff of the county or chief of police of the city in which  
14           the individual resides.
- 15           3. ~~Whenever~~ If an order prohibiting contact is issued, modified, ~~extended~~, or terminated  
16           under this section, the clerk of court shall forward a copy of the order within one  
17           business day to the appropriate law enforcement agency specified in the order. Upon  
18           receipt of the copy of the order, the law enforcement agency shall enter the order in  
19           the central warrant information system and the national crime information center  
20           database provided by the federal bureau of investigation, or its successor agency.
- 21           a. Once the bureau, after consultation with the state court administrator, determines  
22           and implements a method to transmit electronically to the bureau an order  
23           prohibiting contact, the court electronically shall send the full text of the order as  
24           issued, modified, ~~extended~~, or terminated in accordance with this section and any  
25           data fields identified by the bureau. This electronic submission will fulfill the law  
26           enforcement agency's requirement to enter the order in the central warrant  
27           information system, but will not fulfill its requirement to enter, maintain, and  
28           respond to inquiries regarding the order in the national crime information center  
29           database provided by the federal bureau of investigation, or its successor  
30           agency.

- 1           b. Once the bureau, after consultation with the state court administrator, determines  
2           and implements an electronic method to notify law enforcement about the order,  
3           the clerk of court's requirement to forward the order to the law enforcement  
4           agency will be satisfied.
- 5           c. Once the bureau, after consultation with the director of state radio, determines  
6           and implements a method to enter the order into the national crime information  
7           center database provided by the federal bureau of investigation, or its successor  
8           agency, the bureau shall enter the order electronically in the national crime  
9           information center database provided by the federal bureau of investigation, or its  
10          successor agency. This electronic entry will fulfill the law enforcement agency's  
11          requirement to enter the order in the national crime information center database  
12          provided by the federal bureau of investigation, or its successor agency, but will  
13          not fulfill its requirement to maintain and respond to inquiries regarding the order  
14          in the national crime information center database provided by the federal bureau  
15          of investigation, or its successor agency.
- 16          4. An individual who violates a court order issued under this section is guilty of a class A  
17          misdemeanor.
- 18          5. A law enforcement officer shall arrest an individual without a warrant if the officer  
19          determines there is probable cause that the individual has committed the offense of  
20          violating an order prohibiting contact under this section, whether or not the violation  
21          was committed in the presence of the officer. A law enforcement officer who acts in  
22          good faith on probable cause and without malice is immune from any civil or criminal  
23          liability for making an arrest under this subsection.

24          **SECTION 2. AMENDMENT.** Subsection 1 of section 12.1-32-02 of the North Dakota  
25          Century Code is amended and reenacted as follows:

- 26          1. a. Every person convicted of an offense who is sentenced by the court must be  
27          sentenced to one or a combination of the following alternatives, unless the  
28          sentencing alternatives are otherwise specifically provided in the statute defining  
29          the offense or sentencing is deferred under subsection 4:
- 30          a. (1) Payment of the reasonable costs of the person's prosecution.
- 31          b. (2) Probation.

- 1 e. ~~(3)~~ A term of imprisonment, including intermittent imprisonment:
- 2 ~~(1)~~ (a) In a state correctional facility in accordance with section 29-27-07, in a
- 3 regional corrections center, or in a county jail, if convicted of a felony
- 4 or a class A misdemeanor.
- 5 ~~(2)~~ (b) In a county jail or in a regional corrections center, if convicted of a
- 6 class B misdemeanor.
- 7 ~~(3)~~ (c) In a facility or program deemed appropriate for the treatment of the
- 8 individual offender, including available community-based or
- 9 faith-based programs.
- 10 ~~(4)~~ (d) In the case of persons convicted of an offense who are under
- 11 eighteen years of age at the time of sentencing, the court is limited to
- 12 sentencing the minor defendant to a term of imprisonment in the
- 13 custody of the department of corrections and rehabilitation.
- 14 ~~d.~~ (4) A fine.
- 15 e. (5) Restitution for damages resulting from the commission of the offense.
- 16 f. (6) Restoration of damaged property or other appropriate work detail.
- 17 ~~g.~~ (7) Commitment to an appropriate licensed public or private institution for
- 18 treatment of alcoholism, drug addiction, or mental disease or defect.
- 19 ~~h.~~ (8) Commitment to a sexual offender treatment program.
- 20 i. (9) Drug court program. A drug court is a district court supervised treatment
- 21 program approved by the supreme court which combines judicial
- 22 supervision with alcohol and drug testing and substance use disorder
- 23 treatment in a licensed treatment program. The supreme court may adopt
- 24 rules, including rules of procedure, for drug court programs.
- 25 j. (10) Veterans treatment docket. A veterans treatment docket is a district court
- 26 supervised docket approved by the supreme court which combines judicial
- 27 supervision with licensed treatment programs to treat substance use
- 28 disorders, mental health conditions, behavioral health conditions, traumatic
- 29 brain injuries, military sexual trauma, and co-occurring disorders. The
- 30 supreme court may adopt rules, including rules of procedure, for veterans
- 31 treatment dockets.

- 1           k. (11) Completion of a restorative justice program. For purposes of this section,  
2                           "restorative justice program" means a system of justice which focuses on  
3                           the rehabilitation of offenders through reconciliation with victims and the  
4                           community at large.
- 5           f. (12) Mental health court program. A mental health court is a district court  
6                           supervised treatment program approved by the supreme court which  
7                           combines judicial supervision with mental health services and treatment in a  
8                           licensed treatment program. The supreme court may adopt rules, including  
9                           rules of procedure, for mental health court programs.

10           (13) An order prohibiting contact.

- 11           b. Except as provided ~~by~~in section 12.1-32-06.1, sentences imposed under this  
12                           subsection may not exceed in duration the maximum sentences of imprisonment  
13                           provided by section 12.1-32-01, section 12.1-32-09, or as provided specifically in  
14                           a statute defining an offense. This subsection does not permit the unconditional  
15                           discharge of an offender following conviction. A sentence under ~~subdivision~~  
16                           ~~paragraph 5~~ or §6 of subdivision a must be imposed in the manner provided in  
17                           section 12.1-32-08. If the person is sentenced to a term of imprisonment, the  
18                           court may prohibit the person from contacting the victim during the term of  
19                           imprisonment. For purposes of this subsection, "victim" means victim as defined  
20                           in section 12.1-34-01.

21           **SECTION 3. AMENDMENT.** Subdivision h of subsection 5 of section 39-08-01 of the North  
22           Dakota Century Code is amended and reenacted as follows:

- 23           h. If the penalty mandated by this section includes imprisonment or placement upon  
24                           conviction of a violation of this section or equivalent ordinance, and if an  
25                           addiction evaluation has indicated that the defendant needs treatment, the court  
26                           may order the defendant to undergo treatment at an appropriate licensed  
27                           addiction treatment program under ~~subdivision g~~ of subsection 1 of section  
28                           12.1-32-02 and the time spent by the defendant in the treatment must be credited  
29                           as a portion of a sentence of imprisonment or placement under this section. A  
30                           court may not order the department of corrections and rehabilitation to be  
31                           responsible for the costs of treatment in a private treatment facility.