

**FIRST ENGROSSMENT  
with House Amendments**

**ENGROSSED SENATE BILL NO. 2382**

Introduced by

Senators Sickler, Hogue

Representative Lefor

1 A BILL for an Act to create and enact a new chapter to title 28 of the North Dakota Century  
2 Code, relating to vexatious litigation; and to declare an emergency.

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

4 **SECTION 1.** A new chapter to title 28 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

- 8 1. "Litigation" means any civil or disciplinary action or proceeding, small claims action,  
9 appeal from an administrative agency, review of a referee order by the district court, or  
10 appeal to the supreme court. The term does not include criminal actions.
- 11 2. "Vexatious conduct" means conduct that:
- 12 a. Serves primarily to harass or maliciously injure another party in litigation;
- 13 b. Is not warranted under existing law and cannot be supported by a good faith  
14 argument for an extension, modification, or reversal of existing law;
- 15 c. Is imposed solely for delay;
- 16 d. Hinders the effective administration of justice;
- 17 e. Imposes an unacceptable burden on judicial personnel and resources; or
- 18 f. Impedes the normal and essential functioning of the judicial process.
- 19 3. "Vexatious litigant" means a litigant, either self-represented or represented by an  
20 attorney, who:

- 1           a. Has commenced, prosecuted, or maintained at least two litigations involving  
2           vexatious conduct, which were finally determined adversely to the litigant in the  
3           past seven years;
- 4           b. After litigation has been finally determined, relitigates or attempts to relitigate:
  - 5           (1) The validity of the determination against the same party as to whom the  
6           litigation was finally determined; or
  - 7           (2) The cause of action, claim, controversy, or any of the issues of fact or law,  
8           determined or concluded by the final determination against the same party  
9           as to whom the litigation was finally determined;
- 10          c. Repeatedly files unmeritorious motions, pleadings, or other papers, conducts  
11          unnecessary discovery, or engages in any other tactics frivolous or intended to  
12          cause unnecessary burden, expense, or delay; or
- 13          d. Has previously been declared a vexatious litigant by any state or federal court of  
14          record in any action or proceeding.

15           **Burden of proof - Entry of order restricting vexatious litigation.**

- 16          1. If the court finds by a preponderance of the evidence an individual is a vexatious  
17          litigant, the court shall enter a prefiling order restricting the vexatious litigant from filing  
18          new litigation or filing documents within existing litigation without prior approval of the  
19          court.
- 20          2. A prefiling order must:
  - 21          a. Impose all costs of the vexatious litigation against the filing party; and
  - 22          b. Award the opposing party reasonable attorney fees and costs associated with  
23          responding to the vexatious litigant, including the cost of seeking the prefiling  
24          order.

25           **Roster.**

26           The clerk of court shall provide a copy of any prefiling orders issued under this chapter to  
27           the state court administrator and each United States district court in the state. The state court  
28           administrator shall maintain a list of vexatious litigants subject to prefiling orders. Prefiling  
29           orders in effect under supreme court rule before August 1, 2025, remain in effect.

30           **Rules - Authority.**

31           The supreme court shall adopt rules to implement this chapter.

1        **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.