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Prepared by the Legislative Council
staff for Senator Myrdal
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Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1429

Introduced by

Representatives Holle, Dobervich, Headland, Henderson, Koppelman, Tveit, Brandenburg

Senators Lemm, Magrum

1 A BILL ~~for an Act to create and enact a new chapter to title 12.1 of the North Dakota Century~~
2 ~~Code, relating to surveillance and animal harassment with a robot; and to provide a penalty for~~
3 an Act to amend and reenact sections 12.1-17-07 and 12.1-17-07.1 of the North Dakota
4 Century Code, relating to harassment and stalking with a robot; and to provide a penalty.

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

6 ~~SECTION 1. A new chapter to title 12.1 of the North Dakota Century Code is created and~~
7 ~~enacted as follows:~~

8 ~~Definitions:~~

9 ~~As used in this chapter:~~

10 ~~1. "Harass" means engaging in behavior that annoys, threatens, or intimidates an animal,~~
11 ~~causing a change in behavior due to stress or perceived harm;~~

12 ~~2. "Livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk,~~
13 ~~fur animals raised for their pelts, and any other animals that are raised, fed, or~~
14 ~~produced as a part of farming or ranching activities;~~

15 ~~3. "Robot" means an artificial object or system that senses, processes, and acts using~~
16 ~~technology, including the associated elements, communication links, and artificial~~
17 ~~intelligence. The term includes remotely piloted aircraft.~~

18 ~~Surveillance by robot - Penalty:~~

19 ~~1. An individual may not use a robot to:~~

- 1 ~~a. Conduct surveillance of another individual, a residence occupied by another~~
- 2 ~~individual, or any private real property, whether owned or rented.~~
- 3 ~~b. Photograph another individual under circumstances in which that individual has a~~
- 4 ~~reasonable expectation of privacy.~~
- 5 ~~2. This section does not apply to:~~
- 6 ~~a. Law enforcement activity in accordance with chapter 29-29.4.~~
- 7 ~~b. Surveillance conducted in accordance with the exceptions under section~~
- 8 ~~29-29.4-04.~~
- 9 ~~c. An individual conducting surveillance or photographing another individual or~~
- 10 ~~another individual's real property, whether owned or rented, with that individual's~~
- 11 ~~consent.~~
- 12 ~~d. An individual photographing an event open to the public.~~
- 13 ~~3. An individual who violates this section is guilty of a class A misdemeanor.~~
- 14 ~~Harassment by robot - Livestock and wildlife - Penalty.~~
- 15 ~~1. An individual may not intentionally or recklessly harass livestock with a robot. An~~
- 16 ~~individual who violates this subsection is guilty of a class B misdemeanor.~~
- 17 ~~2. An individual who harasses livestock with a robot, causing physical injury or death to~~
- 18 ~~livestock, is guilty of a class A misdemeanor.~~
- 19 ~~3. An individual may not intentionally harass wildlife with a robot. An individual who~~
- 20 ~~violates this subsection is guilty of a class B misdemeanor.~~

21 **SECTION 1. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **12.1-17-07. Harassment.**

- 24 1. As used in this section "robot" means an artificial object or system that senses,
- 25 processes, and acts using technology, including the associated elements,
- 26 communication links, and artificial intelligence. The term includes remotely piloted
- 27 aircraft.
- 28 2. A person is guilty of an offense if, with intent to frighten or harass another, the person:
- 29 a. Communicates in writing or by electronic communication a threat to inflict injury
- 30 on any person, to any person's reputation, or to any property;
- 31 b. Makes a telephone call anonymously or in offensively coarse language;

- 1 c. Makes repeated telephone calls or other electronic communication, whether or
2 not a conversation ensues, with no purpose of legitimate communication; ~~or~~
3 d. Communicates a falsehood in writing or by electronic communication and causes
4 mental anguish; ~~or~~
5 ~~e. Uses a robot to engage in offensive conduct with no legitimate purpose and~~
6 ~~causes mental anguish.~~
- 7 ~~2.3.~~ The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or
8 subsection 4. Otherwise it is a class B misdemeanor.
- 9 ~~3.4.~~ Any offense defined herein and committed by use of electronic communication may be
10 deemed to have been committed at either the place at which the electronic
11 communication was made or at the place where the electronic communication was
12 received.
- 13 ~~4.5.~~ A person is guilty of an offense if the person initiates communication with a
14 911 emergency line, public safety answering point, or an emergency responder
15 communication system with the intent to annoy or harass another person or a public
16 safety agency or who makes a false report to a public safety agency.
- 17 a. Intent to annoy or harass is established by proof of one or more calls with no
18 legitimate emergency purpose.
- 19 b. Upon conviction of a violation of this subsection, a person is also liable for all
20 costs incurred by any unnecessary emergency response.
- 21 ~~5.6.~~ Any offense defined herein is deemed communicated in writing if it is transmitted
22 electronically, by electronic mail, facsimile, or other similar means. Electronic
23 communication means transfer of signs, signals, writing, images, sounds, data, or
24 intelligence of any nature transmitted in whole or in part by a wire, radio,
25 electromagnetic, photo-electronic, or photo-optical system.
- 26 **SECTION 2. AMENDMENT.** Section 12.1-17-07.1 of the North Dakota Century Code is
27 amended and reenacted as follows:
- 28 **12.1-17-07.1. Stalking.**
- 29 1. As used in this section:
- 30 a. "Course of conduct" means a pattern of conduct consisting of two or more acts
31 evidencing a continuity of purpose. ~~The term includes an act conducted with a~~

robot in the direct control of the person The term does not include constitutionally protected activity.

b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.

c. "Robot" means an artificial object or system that senses, processes, and acts using technology, including the associated elements, communication links, and artificial intelligence. The term includes remotely piloted aircraft.

d. "Stalk" means:

- (1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or
- (2) The unauthorized tracking of the person's movements or location through the use of a global positioning system, robot, or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.

2. A person may not intentionally stalk another person.

3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.

4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.

5. If a person 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.

- 1 6. a. A person who violates this section is guilty of a class C felony if:
- 2 (1) The person previously has been convicted of violating section 12.1-17-01,
- 3 12.1-17-01.1, 12.1-17-01.2, 12.1-17-02, 12.1-17-04, 12.1-17-05, or
- 4 12.1-17-07, or a similar offense from another court in North Dakota, a court
- 5 of record in the United States, or a tribal court, involving the victim of the
- 6 stalking;
- 7 (2) The stalking violates a court order issued under chapter 14-07.1 protecting
- 8 the victim of the stalking, if the person had notice of the court order; or
- 9 (3) The person previously has been convicted of violating this section.
- 10 b. If subdivision a does not apply, a person who violates this section is guilty of a
- 11 class A misdemeanor.