

2025 SENATE JUDICIARY

SB 2382

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2382
2/11/2025

Relating to vexatious litigation; and to provide a penalty.

10:00 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Braunberger.
Senator Myrdal absent.

Discussion Topics:

- Misuse of litigation process
- Limit actions of litigants
- Notify federal courts
- Balanced legal process
- Existing statutes
- Adoption of rules into code

10:01 a.m. Senator Sickler, District 17, introduced the bill and submitted testimony in favor #36919 and #36920.

10:23 a.m. Sally Holewa, State Court Administrator, testified as neutral.

10:20 a.m. Chair Larson closed the hearing.

10:21 a.m. Senator Luick moved to adopt amendment LC# 25.0666.01001.

10:21 a.m. Senator Paulson seconded.

10:21 a.m. Voice Vote - Motion Passed.

10:21 a.m. Senator Luick moved a Do Pass as Amended.

10:22 a.m. Senator Paulson seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	A

Motion Passed 6-0-1.

10:27 a.m. Senator Luick will carry the bill.

10:28 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

February 11, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2382

Introduced by

Senators Sickler, Hogue

Representative Lefor

2-11-25

JMZ 10f5

- 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 provide a penalty.

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:

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- 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 ~~or the party's~~
6 ~~immediate family member~~ as to whom the litigation was finally determined;
7 or
 - 8 (2) The cause of action, claim, controversy, or any of the issues of fact or law,
9 determined or concluded by the final determination against the same party
10 ~~or the party's immediate family member~~ as to whom the litigation was finally
11 determined;
- 12 c. Repeatedly files unmeritorious motions, pleadings, or other papers, conducts
13 unnecessary discovery, or engages in any other tactics frivolous or intended to
14 cause unnecessary burden, expense, or delay; or
- 15 d. Has previously been declared a vexatious litigant by any state or federal court of
16 record in any action or proceeding.

17 **Procedure - Vexatious litigant.**

- 18 1. A presiding judge may designate a vexatious litigant upon motion by the court or at the
19 request of a party.
- 20 2. If the presiding judge finds there is a basis to conclude an individual is a vexatious
21 litigant and determines a prefiling order should be issued, the presiding judge shall
22 issue a proposed prefiling order and proposed findings in support of the order.
- 23 3. An individual determined by the presiding judge to be a vexatious litigant has fourteen
24 days to file a written response to the proposed order.
- 25 4. If a response is filed, the presiding judge may grant a hearing on the proposed order. If
26 no response is filed within fourteen days, or if the presiding judge concludes, following
27 a response or any subsequent hearings, and there is a basis for issuing the order, the
28 presiding judge may issue the prefiling order.

29 **Prefiling order - Contents - Penalty.**

- 30 1. The prefiling order may:

JD 305

- 1 a. Prohibit the vexatious litigant from filing any new litigation or any new documents
- 2 in existing litigation in this state without first obtaining leave of a judge of the court
- 3 where the litigation is proposed to be filed.
- 4 b. Require the vexatious litigant to furnish security to assure payment of the moving
- 5 party's reasonable expenses, costs, and attorney fees incurred in a pending
- 6 action.
- 7 c. Require the vexatious litigant to take any other action reasonably necessary.
- 8 2. A prefiling order must contain an exception to allow the subject of the order to file an
- 9 application seeking leave to file.
- 10 3. Failure to comply with the terms of a prefiling order may be punished as a contempt of
- 11 court.
- 12 4. If a vexatious litigant subject to a prefiling order files any new litigation without first
- 13 obtaining the leave of the court, the court may summarily dismiss the action without
- 14 notice.

15 **Procedure - New litigation and subsequent filings.**

- 16 1. A vexatious litigant shall file an application for leave to file using the form approved by
- 17 the state court administrator before filing new litigation or documents into existing
- 18 litigation.
- 19 2. A court may permit the filing of new litigation or documentation into existing litigation
- 20 only if it appears the litigation or document has merit and has not been filed for the
- 21 purpose of harassment or delay.
- 22 3. If the court issues an order granting leave to file a new litigation or a document into
- 23 existing litigation, a party's time to answer or respond will begin to run when the party
- 24 is served with the order of the court and a copy of the new litigation or document.
- 25 4. The clerk may not file any litigation presented by the vexatious litigant subject to a
- 26 prefiling order unless the vexatious litigant first obtains an order permitting the filing. If
- 27 the clerk mistakenly files the litigation without the order, any party may file a notice
- 28 stating the plaintiff or complaining party in a disciplinary proceeding is a vexatious
- 29 litigant subject to a prefiling order. The filing of the notice automatically stays the
- 30 litigation. The litigation must be dismissed or denied unless the plaintiff or complainant,
- 31 within ten days of the filing of the notice, obtains an order permitting the litigation to

JB 4 of 5

- 1 proceed. If a party is served with a new litigation but the action is not filed with the
- 2 clerk, the party served is not required to respond to the new litigation unless the
- 3 vexatious litigant obtains an order allowing the litigation to be filed and files and serves
- 4 the new litigation.
- 5 5. Upon receiving an application for leave to file, or upon notice from any party named in
- 6 the litigation, the court shall rule on the application before ruling on the merits of any
- 7 proposed filing.
- 8 6. The court may award reasonable attorney's fees and costs to the party filing the notice
- 9 under subsection 4.
- 10 7. An order granting leave to file is not required for an application for indigent defense
- 11 services.

12 **Appeals.**

- 13 1. A prefiling order entered by a presiding judge designating an individual as a vexatious
- 14 litigant may be appealed to the supreme court under section 28-27-02 and rule 4 of
- 15 the North Dakota Rules of Appellate Procedure.
- 16 2. A prefiling order entered by the supreme court is not appealable.
- 17 3. An order denying the application for leave to file by a vexatious litigant is not
- 18 appealable.

19 **Supreme court order.**

- 20 1. The supreme court may, by motion of the court or of any party to an appeal, enter a
- 21 prefiling order prohibiting a vexatious litigant from filing any new litigation in the courts
- 22 of this state as a self-represented party without first obtaining leave of a judge of the
- 23 court where the litigation is proposed to be filed.
- 24 2. If the supreme court finds there is a basis to conclude an individual is a vexatious
- 25 litigant and determines a prefiling order should be issued, the supreme court shall
- 26 issue a proposed prefiling order and proposed findings in support of the order.
- 27 3. An individual determined by the supreme court to be a vexatious litigant has fourteen
- 28 days to file a written response to the proposed order.
- 29 4. If a response is filed, the supreme court may grant a hearing on the proposed order. If
- 30 no response is filed within fourteen days, or if the supreme court concludes, following

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1 a response or any subsequent hearing there is a basis for issuing the order, the
2 supreme court may issue the prefiling order.

3 **Electronic filing.**

4 A self-represented party who has been declared a vexatious litigant may not file documents
5 electronically and may not be provided a user identification and password to access the state
6 court electronic filing system. A self-represented vexatious litigant shall file all documents in
7 paper format in compliance with all other rules of the court.

8 **Roster.**

9 The clerk of court shall provide a copy of any prefiling orders issued under this chapter to
10 the state court administrator and each United States district court in the state. The state court
11 administrator shall maintain a list of vexatious litigants subject to prefiling orders.

12 **Effect of prefiling order.**

13 A prefiling order entered under this chapter supersedes any other order limiting or enjoining
14 an individual's ability to file or serve papers or pleadings in any North Dakota state court
15 litigation.

**REPORT OF STANDING COMMITTEE
SB 2382**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0666.01001](#)) and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2382 was placed on the Sixth order on the calendar. This bill does not affect workforce development.



North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

**Senator Jonathan Sickler**

District 17
152 Christian Drive
Grand Forks, ND 58201-9304
jsickler@ndlegis.gov

COMMITTEES:

Appropriations
Appropriations - Government Operations Division

TESTIMONY IN SUPPORT OF SB 2382**Senate Judiciary Committee****February 11, 2025**

SB 2382 is an attempt to strike a more appropriate balance between an individual's right to seek redress in the courts for alleged harm weighed against protecting others from harassing or malicious litigation brought without a good faith basis in the law. The content of SB 2382 is largely similar to the version of N.D. Sup. Ct. Admin. R. 58, "Vexatious Litigation", that will take effect on March 1, 2025, with two proposed differences.

The first change at page 1, line 21 would decrease the number of required prior litigations involving vexatious conduct and determined adversely against the litigant from three to two. This change would further limit misuse of the litigation process and lessen costs incurred by individuals who must defend against multiple instances of vexatious litigation. This change would move the vexatious litigant standard closer to at least one other similar statutory requirement regarding misuse of the judicial system. Under NDCC 14-07.6, specific to intimate partner relationships, only one prior action may be sufficient to meet the definition of "abusive litigation".

The second change at page 5, line 8 would direct the state district clerk of court to send a copy of pre-filing orders issued under this standard to federal courts seated in North Dakota. This communication would provide federal courts with additional information to potentially limit actions of litigants who file claims in federal courts similar to those state court claims that were the basis for the vexatious litigation determination.

25.0666.01000

Sixty-ninth
Legislative Assembly
of North Dakota

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 provide a penalty.

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20 attorney, who:
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22 vexatious conduct, which were finally determined adversely to the litigant in the
23 past seven years;
24 b. After litigation has been finally determined, relitigates or attempts to relitigate:

(1) The validity of the determination against the same party ~~or the party's~~
~~immediate family member~~ as to whom the litigation was finally determined;
or

(2) The cause of action, claim, controversy, or any of the issues of fact or law,
determined or concluded by the final determination against the same party
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determined;

c. Repeatedly files unmeritorious motions, pleadings, or other papers, conducts
unnecessary discovery, or engages in any other tactics frivolous or intended to
cause unnecessary burden, expense, or delay; or

d. Has previously been declared a vexatious litigant by any state or federal court of
record in any action or proceeding.

Procedure - Vexatious litigant.

1. A presiding judge may designate a vexatious litigant upon motion by the court or at the
request of a party.

2. If the presiding judge finds there is a basis to conclude an individual is a vexatious
litigant and determines a prefiling order should be issued, the presiding judge shall
issue a proposed prefiling order and proposed findings in support of the order.

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days to file a written response to the proposed order.

4. If a response is filed, the presiding judge may grant a hearing on the proposed order. If
no response is filed within fourteen days, or if the presiding judge concludes, following
a response or any subsequent hearings, and there is a basis for issuing the order, the
presiding judge may issue the prefiling order.

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in existing litigation in this state without first obtaining leave of a judge of the court
where the litigation is proposed to be filed.

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2. A prefiling order must contain an exception to allow the subject of the order to file an application seeking leave to file.

3. Failure to comply with the terms of a prefiling order may be punished as a contempt of court.

4. If a vexatious litigant subject to a prefiling order files any new litigation without first obtaining the leave of the court, the court may summarily dismiss the action without notice.

Procedure - New litigation and subsequent filings.

1. A vexatious litigant shall file an application for leave to file using the form approved by the state court administrator before filing new litigation or documents into existing litigation.

2. A court may permit the filing of new litigation or documentation into existing litigation only if it appears the litigation or document has merit and has not been filed for the purpose of harassment or delay.

3. If the court issues an order granting leave to file a new litigation or a document into existing litigation, a party's time to answer or respond will begin to run when the party is served with the order of the court and a copy of the new litigation or document.

4. The clerk may not file any litigation presented by the vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order permitting the filing. If the clerk mistakenly files the litigation without the order, any party may file a notice stating the plaintiff or complaining party in a disciplinary proceeding is a vexatious litigant subject to a prefiling order. The filing of the notice automatically stays the litigation. The litigation must be dismissed or denied unless the plaintiff or complainant, within ten days of the filing of the notice, obtains an order permitting the litigation to proceed. If a party is served with a new litigation but the action is not filed with the clerk, the party served is not required to respond to the new litigation unless the

1 vexatious litigant obtains an order allowing the litigation to be filed and files and serves
2 the new litigation.

3 5. Upon receiving an application for leave to file, or upon notice from any party named in
4 the litigation, the court shall rule on the application before ruling on the merits of any
5 proposed filing.

6 6. The court may award reasonable attorney's fees and costs to the party filing the notice
7 under subsection 4.

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9 services.

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21 court where the litigation is proposed to be filed.

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5 paper format in compliance with all other rules of the court.

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9 administrator shall maintain a list of vexatious litigants subject to prefiling orders.

10 **Effect of prefiling order.**

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12 an individual's ability to file or serve papers or pleadings in any North Dakota state court
13 litigation.

2025 HOUSE JUDICIARY

SB 2382

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2382
3/5/2025

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

10:05 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representative Johnston

Discussion Topics:

- Misuse of North Dakota judicial systems
- Legal definition of vexatious
- North Dakota list of vexatious litigants

10:05 a.m. Senator Jonathan Sickler, North Dakota Senator for District 17, introduced the bill and provided testimony #38810.

10:21 a.m. Sara Behrens, Staff Attorney at the North Dakota Supreme Court, testified in opposition.

10:33 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk



North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Jonathan Sickler

District 17
152 Christian Drive
Grand Forks, ND 58201-9304
jsickler@ndlegis.gov

COMMITTEES:

Appropriations
Appropriations - Government Operations Division

TESTIMONY IN SUPPORT OF SB 2382

House Judiciary Committee

March 5, 2025

SB 2382 is an attempt to strike a more appropriate balance between an individual's right to seek redress in the courts for alleged harm weighed against protecting others from harassing or malicious litigation brought without a good faith basis in the law. The content of SB 2382 is largely similar to the version of N.D. Sup. Ct. Admin. R. 58, "Vexatious Litigation", that took effect on March 1, 2025, with two proposed differences.

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2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2382
3/5/2025

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

1:25 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Representatives Henderson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Vice-Chairman Vetter, Representatives Christianson, Hoverson

Discussion Topics:

- Number of vexatious litigants in North Dakota
- Committee action

1:32 p.m. Representative Wolff moved a Do Not Pass.

1:32 p.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	N
Representative Steve Vetter	A
Representative Nels Christianson	A
Representative Donna Henderson	Y
Representative Jeff Hoverson	A
Representative Daniel Johnston	Y
Representative Carrie McLeod	N
Representative SuAnn Olson	Y
Representative Bernie Satrom	N
Representative Mary Schneider	N
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

1:35 p.m. Motion passed 7-4-3

1:35 p.m. Representative Wolff will carry the bill.

1:35 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2382
3/17/2025

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

2:38 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, VanWinkle, Wolff, Schneider

Members Absent: Representative Tveit

Discussion Topics:

- Rules of civil procedure
- Actions that constitute vexatious litigation

2:39 p.m. Chairman Klemin proposed Amendment LC: 25.0666.02001, testimony #42487.

2:45 p.m. Representative S. Olson moved to Reconsider.

2:42 p.m. Representative Vetter seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	N
Representative Donna Henderson	N
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	N
Representative Christina Wolff	N

2:55 p.m. Motion passed 7-6-1.

2:56 p.m. Representative Vetter moved to adopt Amendments LC: 25.0666.02001, testimony #42487.

2:56 p.m. Representative Satrom seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	N
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	N
Representative Christina Wolff	Y

2:57 p.m. Motion passed 11-2-1.

2:58 p.m. Representative Vetter moved a Do Pass as Amended.

2:58 p.m. Representative Satrom seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	N
Representative Donna Henderson	N
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	A
Representative Lori VanWinkle	N
Representative Christina Wolff	N

2:59 p.m. Motion passed 7-6-1.

2:59 p.m. Representative Karls will carry the bill.

3:00 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

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 ~~provide a penalty~~ declare an emergency.

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

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5 enacted as follows:

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20 attorney, who:

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

Procedure – Vexatious litigant.

- ~~1. A presiding judge may designate a vexatious litigant upon motion by the court or at the request of a party.~~
- ~~2. If the presiding judge finds there is a basis to conclude an individual is a vexatious litigant and determines a prefiling order should be issued, the presiding judge shall issue a proposed prefiling order and proposed findings in support of the order.~~
- ~~3. An individual determined by the presiding judge to be a vexatious litigant has fourteen days to file a written response to the proposed order.~~
- ~~4. If a response is filed, the presiding judge may grant a hearing on the proposed order. If no response is filed within fourteen days, or if the presiding judge concludes, following a response or any subsequent hearings, and there is a basis for issuing the order, the presiding judge may issue the prefiling order.~~

Prefiling order – Contents – Penalty.

- ~~1. The prefiling order may:~~
 - ~~a. Prohibit the vexatious litigant from filing any new litigation or any new documents in existing litigation in this state without first obtaining leave of a judge of the court where the litigation is proposed to be filed.~~

- 1 ~~b. Require the vexatious litigant to furnish security to assure payment of the moving~~
- 2 ~~party's reasonable expenses, costs, and attorney fees incurred in a pending~~
- 3 ~~action.~~
- 4 ~~c. Require the vexatious litigant to take any other action reasonably necessary.~~
- 5 ~~2. A prefiling order must contain an exception to allow the subject of the order to file an~~
- 6 ~~application seeking leave to file.~~
- 7 ~~3. Failure to comply with the terms of a prefiling order may be punished as a contempt of~~
- 8 ~~court.~~
- 9 ~~4. If a vexatious litigant subject to a prefiling order files any new litigation without first~~
- 10 ~~obtaining the leave of the court, the court may summarily dismiss the action without~~
- 11 ~~notice.~~
- 12 ~~**Procedure - New litigation and subsequent filings.**~~
- 13 ~~1. A vexatious litigant shall file an application for leave to file using the form approved by~~
- 14 ~~the state court administrator before filing new litigation or documents into existing~~
- 15 ~~litigation.~~
- 16 ~~2. A court may permit the filing of new litigation or documentation into existing litigation~~
- 17 ~~only if it appears the litigation or document has merit and has not been filed for the~~
- 18 ~~purpose of harassment or delay.~~
- 19 ~~3. If the court issues an order granting leave to file a new litigation or a document into~~
- 20 ~~existing litigation, a party's time to answer or respond will begin to run when the party~~
- 21 ~~is served with the order of the court and a copy of the new litigation or document.~~
- 22 ~~4. The clerk may not file any litigation presented by the vexatious litigant subject to a~~
- 23 ~~prefiling order unless the vexatious litigant first obtains an order permitting the filing. If~~
- 24 ~~the clerk mistakenly files the litigation without the order, any party may file a notice~~
- 25 ~~stating the plaintiff or complaining party in a disciplinary proceeding is a vexatious~~
- 26 ~~litigant subject to a prefiling order. The filing of the notice automatically stays the~~
- 27 ~~litigation. The litigation must be dismissed or denied unless the plaintiff or complainant,~~
- 28 ~~within ten days of the filing of the notice, obtains an order permitting the litigation to~~
- 29 ~~proceed. If a party is served with a new litigation but the action is not filed with the~~
- 30 ~~clerk, the party served is not required to respond to the new litigation unless the~~

- 1 ~~vexatious litigant obtains an order allowing the litigation to be filed and files and serves~~
2 ~~the new litigation.~~
- 3 ~~5. Upon receiving an application for leave to file, or upon notice from any party named in~~
4 ~~the litigation, the court shall rule on the application before ruling on the merits of any~~
5 ~~proposed filing.~~
- 6 ~~6. The court may award reasonable attorney's fees and costs to the party filing the notice~~
7 ~~under subsection 4.~~
- 8 ~~7. An order granting leave to file is not required for an application for indigent defense~~
9 ~~services.~~
- 10 **Appeals.**
- 11 ~~1. A prefilling order entered by a presiding judge designating an individual as a vexatious~~
12 ~~litigant may be appealed to the supreme court under section 28-27-02 and rule 4 of~~
13 ~~the North Dakota Rules of Appellate Procedure.~~
- 14 ~~2. A prefilling order entered by the supreme court is not appealable.~~
- 15 ~~3. An order denying the application for leave to file by a vexatious litigant is not~~
16 ~~appealable.~~
- 17 **Supreme court order.**
- 18 ~~1. The supreme court may, by motion of the court or of any party to an appeal, enter a~~
19 ~~prefiling order prohibiting a vexatious litigant from filing any new litigation in the courts~~
20 ~~of this state as a self-represented party without first obtaining leave of a judge of the~~
21 ~~court where the litigation is proposed to be filed.~~
- 22 ~~2. If the supreme court finds there is a basis to conclude an individual is a vexatious~~
23 ~~litigant and determines a prefilling order should be issued, the supreme court shall~~
24 ~~issue a proposed prefilling order and proposed findings in support of the order.~~
- 25 ~~3. An individual determined by the supreme court to be a vexatious litigant has fourteen~~
26 ~~days to file a written response to the proposed order.~~
- 27 ~~4. If a response is filed, the supreme court may grant a hearing on the proposed order. If~~
28 ~~no response is filed within fourteen days, or if the supreme court concludes, following~~
29 ~~a response or any subsequent hearing there is a basis for issuing the order, the~~
30 ~~supreme court may issue the prefilling order.~~

~~Electronic filing.~~

~~A self-represented party who has been declared a vexatious litigant may not file documents electronically and may not be provided a user identification and password to access the state court electronic filing system. A self-represented vexatious litigant shall file all documents in paper format in compliance with all other rules of the court.~~

Burden of proof - Entry of order restricting vexatious litigation.

1. If the court finds by a preponderance of the evidence an individual is a vexatious litigant, the court shall enter a prefiling order restricting the vexatious litigant from filing new litigation or filing documents within existing litigation without prior approval of the court.

2. A prefiling order must:

a. Impose all costs of the vexatious litigation against the filing party; and

b. Award the opposing party reasonable attorney fees and costs associated with responding to the vexatious litigant, including the cost of seeking the prefiling order.

Roster.

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

~~Effect of prefiling order.~~

~~A prefiling order entered under this chapter supersedes any other order limiting or enjoining an individual's ability to file or serve papers or pleadings in any North Dakota state court litigation.~~

Rules - Authority.

The supreme court shall adopt rules to implement this chapter.

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

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2382**

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS** ([25.0666.02001](#)) and when so amended, recommends **DO PASS** (7 YEAS, 6 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2382 was placed on the Sixth order on the calendar.

25.0666.02001
Title.

Prepared by the Legislative Council
staff for Representative Klemin
March 7, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

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 provide a penalty; 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:

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

Procedure - Vexatious litigant:

- ~~1. A presiding judge may designate a vexatious litigant upon motion by the court or at the request of a party.~~
- ~~2. If the presiding judge finds there is a basis to conclude an individual is a vexatious litigant and determines a prefiling order should be issued, the presiding judge shall issue a proposed prefiling order and proposed findings in support of the order.~~
- ~~3. An individual determined by the presiding judge to be a vexatious litigant has fourteen days to file a written response to the proposed order.~~
- ~~4. If a response is filed, the presiding judge may grant a hearing on the proposed order. If no response is filed within fourteen days, or if the presiding judge concludes, following a response or any subsequent hearings, and there is a basis for issuing the order, the presiding judge may issue the prefiling order.~~

Prefiling order - Contents - Penalty:

- ~~1. The prefiling order may:~~
 - ~~a. Prohibit the vexatious litigant from filing any new litigation or any new documents in existing litigation in this state without first obtaining leave of a judge of the court where the litigation is proposed to be filed.~~

1 ~~b. Require the vexatious litigant to furnish security to assure payment of the moving-~~
2 ~~party's reasonable expenses, costs, and attorney fees incurred in a pending-~~
3 ~~action.~~

4 ~~c. Require the vexatious litigant to take any other action reasonably necessary.~~

5 ~~2. A prefiling order must contain an exception to allow the subject of the order to file an-~~
6 ~~application seeking leave to file.~~

7 ~~3. Failure to comply with the terms of a prefiling order may be punished as a contempt of-~~
8 ~~court.~~

9 ~~4. If a vexatious litigant subject to a prefiling order files any new litigation without first-~~
10 ~~obtaining the leave of the court, the court may summarily dismiss the action without-~~
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14 ~~the state court administrator before filing new litigation or documents into existing-~~
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29 ~~proceed. If a party is served with a new litigation but the action is not filed with the-~~
30 ~~clerk, the party served is not required to respond to the new litigation unless the-~~

~~vexatious litigant obtains an order allowing the litigation to be filed and files and serves the new litigation.~~

~~5. Upon receiving an application for leave to file, or upon notice from any party named in the litigation, the court shall rule on the application before ruling on the merits of any proposed filing.~~

~~6. The court may award reasonable attorney's fees and costs to the party filing the notice under subsection 4.~~

~~7. An order granting leave to file is not required for an application for indigent defense services.~~

~~**Appeals.**~~

~~1. A prefiling order entered by a presiding judge designating an individual as a vexatious litigant may be appealed to the supreme court under section 28-27-02 and rule 4 of the North Dakota Rules of Appellate Procedure.~~

~~2. A prefiling order entered by the supreme court is not appealable.~~

~~3. An order denying the application for leave to file by a vexatious litigant is not appealable.~~

~~**Supreme court order.**~~

~~1. The supreme court may, by motion of the court or of any party to an appeal, enter a prefiling order prohibiting a vexatious litigant from filing any new litigation in the courts of this state as a self-represented party without first obtaining leave of a judge of the court where the litigation is proposed to be filed.~~

~~2. If the supreme court finds there is a basis to conclude an individual is a vexatious litigant and determines a prefiling order should be issued, the supreme court shall issue a proposed prefiling order and proposed findings in support of the order.~~

~~3. An individual determined by the supreme court to be a vexatious litigant has fourteen days to file a written response to the proposed order.~~

~~4. If a response is filed, the supreme court may grant a hearing on the proposed order. If no response is filed within fourteen days, or if the supreme court concludes, following a response or any subsequent hearing there is a basis for issuing the order, the supreme court may issue the prefiling order.~~

~~Electronic filing.~~

~~A self-represented party who has been declared a vexatious litigant may not file documents electronically and may not be provided a user identification and password to access the state court electronic filing system. A self-represented vexatious litigant shall file all documents in paper format in compliance with all other rules of the court.~~

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