

Introduced by

Representatives Haak, Brabandt, Delmore, M. Johnson, Klemin

Senators Armstrong, Grabinger

1 A BILL for an Act to amend and reenact section 12.1-17-07.1 of the North Dakota Century
2 Code, relating to stalking and the use of electronic communication.

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

4 **SECTION 1. AMENDMENT.** Section 12.1-17-07.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-17-07.1. Stalking.**

7 1. As used in this section:

8 a. "Course of conduct" means a pattern of conduct consisting of two or more acts
9 evidencing a continuity of purpose. The term does not include constitutionally
10 protected activity.

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

14 c. (1) "Stalk" means ~~to engage~~:

15 (a) To engage in an intentional course of conduct directed:

16 ~~(a) Directed~~ at a specific person which frightens, intimidates, or harasses
17 that person; and ~~that~~ which serves no legitimate purpose; ~~or~~

18 ~~(b) To communicate, or cause to be communicated, to a specific~~

19 ~~individual, words, images, or language by or through the use of~~

20 ~~electronic mail or electronic communication, or to track that~~

21 ~~individual's movement by electronic means, which frightens,~~

22 ~~intimidates, or harasses that individual and which serves no legitimate~~

23 ~~purpose.~~

1 ~~_____ (2) —~~The course of conduct may be directed toward that person or a member of
2 that person's immediate family and must cause a reasonable person to
3 experience fear, intimidation, or harassment; or

4 (b) The unauthorized tracking of the person's movements or location
5 through the use of a global positioning system or other electronic
6 means that would cause a reasonable person to be frightened,
7 intimidated, or harassed and which serves no legitimate purpose.

8 2. ~~No~~A person may not intentionally stalk another person.

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

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

18 5. If a person claims to have been engaged in a constitutionally protected activity, the
19 court shall determine the validity of the claim as a matter of law and, if found valid,
20 shall exclude evidence of the activity.

21 6. a. A person who violates this section is guilty of a class C felony if:

22 (1) The person previously has been convicted of violating section 12.1-17-01,
23 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a
24 similar offense from another court in North Dakota, a court of record in the
25 United States, or a tribal court, involving the victim of the stalking;

26 (2) The stalking violates a court order issued under chapter 14-07.1 protecting
27 the victim of the stalking, if the person had notice of the court order; or

28 (3) The person previously has been convicted of violating this section.

29 b. If subdivision a does not apply, a person who violates this section is guilty of a
30 class A misdemeanor.