



2021 South Dakota Legislature

House Bill 1081

Introduced by: **Representative Reed**

1 **An Act to increase the penalty for protection order violations.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 21-65-19 be AMENDED.

4 **21-65-19. Protection order--Violation--Penalty.**

5 If a temporary protection order or a protection order is granted ~~under~~ pursuant to
6 this chapter and the respondent or person restrained knows of the order, a violation of
7 the order is a Class 1 misdemeanor.

8 If the acts constituting a violation of this section also constitute an assault, as
9 defined ~~under~~ in § 22-18-1, the violation ~~under~~ of this section is a Class 6 felony.

10 If a respondent or person restrained has been convicted of, or entered a plea of
11 guilty to, two or more prior violations of this section, § 22-19A-16, or § 25-10-13, within
12 ten years of committing the current offense, and the factual basis for the current offense
13 occurred after the date of the second conviction or guilty plea, the respondent or person
14 restrained is guilty of a Class 6 felony for ~~any~~ a third offense, a Class 5 felony for a fourth
15 offense, and a Class 4 felony for a fifth or subsequent offense.

16 Any proceeding under this chapter is in addition to other civil or criminal remedies.

17 **Section 2.** That § 22-19A-16 be AMENDED.

18 **22-19A-16. Protection order--Violation--Penalty.**

19 If a temporary protection order or a protection order is granted pursuant to §§ 22-
20 19A-8 to 22-19A-16, inclusive, and the respondent or person restrained knows of the
21 order, a violation of the order is a Class 1 misdemeanor.

22 If the acts constituting a violation of this section also constitute an assault, as
23 defined ~~pursuant to~~ in § 22-18-1, the violation ~~under~~ of this section is a Class 6 felony.

24 If a respondent or person restrained has been convicted of, or entered a plea of
25 guilty to, two or more prior violations of this section, § 21-65-19, or § 25-10-13, within

1 ten years of committing the current offense, and the factual basis for the current offense
 2 occurred after the date of the second conviction or guilty plea, the respondent or person
 3 restrained is guilty of a Class 6 felony for ~~any~~ a third offense, a Class 5 felony for a fourth
 4 offense, and a Class 4 felony for a fifth or subsequent offense.

5 Any proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in addition to other
 6 civil or criminal remedies.

7 **Section 3.** That § 25-10-13 be AMENDED.

8 **25-10-13. Protection order--Violation--Penalty.**

9 If a temporary protection order or a protection order is granted pursuant to this
 10 chapter ~~or~~, if a foreign protection order is recognized pursuant to § 25-10-12.1 or 25-10-
 11 25 ~~or 25-10-12.1~~, or if a no contact order is issued pursuant to § 25-10-23 or 25-10-25,
 12 and if the respondent or person restrained knows of the order, a violation of the order is
 13 a Class 1 misdemeanor.

14 If the acts constituting a violation of this section also constitute a violation of § 22-
 15 18-1, 22-18-1.1, or 22-19A-1, the violation ~~under of~~ this section is a Class 6 felony.

16 If a respondent or person restrained has been convicted of, or entered a plea of
 17 guilty to, two or more prior violations of this section, § 21-65-19, or § 22-19A-16, within
 18 ten years of committing the current offense, and the factual basis for the current offense
 19 occurred after the date of the second conviction or guilty plea, the respondent or person
 20 restrained is guilty of a Class 6 felony for ~~any~~ a third offense, a Class 5 felony for a fourth
 21 offense, and a Class 4 felony for a fifth or subsequent offense.

22 Any proceeding under this chapter is in addition to other civil or criminal remedies.