



2021 South Dakota Legislature

House Bill 1081

HOUSE JUDICIARY ENGROSSED

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, or the
12 comparable laws of any other state, within ten years of committing the current offense,
13 and the factual basis for the current offense occurred after the date of the second
14 conviction or guilty plea, the respondent or person restrained is guilty of a Class 6 felony
15 for ~~any~~ a third offense, a Class 5 felony for a fourth offense, and a Class 4 felony for a
16 fifth or subsequent offense.

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

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

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

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

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

1 If a respondent or person restrained has been convicted of, or entered a plea of
 2 guilty to, two or more prior violations of this section, § 21-65-19, or § 25-10-13, or the
 3 comparable laws of any other state, within ten years of committing the current offense,
 4 and the factual basis for the current offense occurred after the date of the second
 5 conviction or guilty plea, the respondent or person restrained is guilty of a Class 6 felony
 6 for ~~any~~ a third offense, a Class 5 felony for a fourth offense, and a Class 4 felony for a
 7 fifth or subsequent offense.

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

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

11 **25-10-13. Protection order--Violation--Penalty.**

12 If a temporary protection order or a protection order is granted pursuant to this
 13 chapter ~~or~~, if a foreign protection order is recognized pursuant to § ~~25-10-12.1~~ or 25-10-
 14 25 ~~or 25-10-12.1~~, or if a no contact order is issued pursuant to § 25-10-23 or 25-10-25,
 15 and if the respondent or person restrained knows of the order, a violation of the order is
 16 a Class 1 misdemeanor.

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

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

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