

2020 South Dakota Legislature
House Bill 1088

AMENDMENT 1088C FOR THE INTRODUCED BILL

1 **An Act to create a penalty for violation of a vulnerable adult protection order and to**
2 **revise certain provisions regarding protection orders.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **21-65-19. Violation of protection order--Penalties.**

6 If a temporary protection order or a protection order is granted under this chapter
7 and the respondent or person ~~to be~~ restrained knows of the order, violation of the order
8 is a Class 1 misdemeanor. If ~~any the acts constituting a~~ violation of this section ~~constitutes~~
9 ~~also constitute~~ an assault as defined under § 22-18-1.1, the violation under this section
10 is a Class 6 felony. If a respondent or person ~~to be~~ restrained has been convicted of, or
11 entered a plea of guilty to, two or more prior violations of this section, § 22-19A-16, or
12 § 25-10-13 within ten years of committing the current offense, and the factual basis for
13 ~~which the current offense~~ occurred after the date of the second conviction ~~and occurred~~
14 ~~within ten years of committing the current offense or guilty plea~~, the respondent or person
15 ~~to be~~ restrained is guilty of a Class 6 felony for any third or subsequent offense. Any
16 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. Violation of protection order--Penalties.**

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 ~~to be~~ restrained knows of
21 the order, violation of the order is a Class 1 misdemeanor. If ~~any the acts constituting a~~
22 violation of this section ~~constitutes also constitute~~ an assault as defined pursuant to § 22-
23 18-1.1, the violation under this section is a Class 6 felony. If a respondent or person ~~to~~
24 ~~be~~ restrained has been convicted of, or entered a plea of guilty to, two or more prior

1 violations of this section or § 25-10-13 within ten years of committing the current offense,
2 and the factual basis for ~~which~~ the current offense occurred after the date of the second
3 conviction or guilty plea, and ~~occurred within ten years of committing the current offense,~~
4 the respondent or person ~~to be restrained~~ is guilty of a Class 6 felony for any third or
5 subsequent offense. Any proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in
6 addition to other civil or criminal remedies.

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

8 **25-10-13. Violation of protection order or no contact order as misdemeanor**
9 **or felony.**

10 If a temporary protection order or a protection order is granted pursuant to this
11 chapter or a foreign protection order recognized pursuant to § 25-10-25 or 25-10-12.1,
12 or if a no contact order is issued pursuant to § 25-10-23 or 25-10-25, and the respondent
13 or person ~~to be restrained~~ knows of the order, ~~the violation of the order is a Class 1~~
14 ~~misdemeanor.~~ If any the acts constituting a violation of this section ~~constitutes also~~
15 constitute a violation of § 22-18-1, 22-18-1.1, or 22-19A-1, the violation under this
16 section is a Class 6 felony. If a respondent or person ~~to be restrained~~ has been convicted
17 of, or entered a plea of guilty to, two or more prior violations of this section or § 22-19A-
18 16 within ten years of committing the current offense, and the factual basis for ~~which~~ the
19 current offense occurred after the date of the second conviction or guilty plea, and
20 ~~occurred within ten years of committing the current offense,~~ the respondent or person ~~to~~
21 ~~be restrained~~ is guilty of a Class 6 felony for any third or subsequent offense. Any
22 proceeding under this chapter is in addition to other civil or criminal remedies.