

2020 South Dakota Legislature
House Bill 1088

AMENDMENT 1088D 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~~ § 22-18-1, the violation under
10 this section is a Class 6 felony. If a respondent or person ~~to be~~ restrained has been
11 convicted of, or entered a plea of guilty to, two or more prior violations of this section,
12 § 22-19A-16, or § 25-10-13 within ten years of committing the current offense, and the
13 factual basis for ~~which the current offense~~ occurred after the date of the second conviction
14 ~~and occurred within ten years of committing the current offense or guilty plea~~, the
15 respondent or person ~~to be~~ restrained is guilty of a Class 6 felony for any third or
16 subsequent offense. Any proceeding under this chapter is in addition to other civil or
17 criminal remedies.

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

19 **22-19A-16. Violation of protection order--Penalties.**

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 ~~to be~~ restrained knows of
22 the order, violation of the order is a Class 1 misdemeanor. If ~~any the acts constituting a~~
23 violation of this section ~~constitutes~~ also constitute an assault as defined pursuant to ~~§ 22-~~
24 ~~18-1.1~~ § 22-18-1, the violation under this section is a Class 6 felony. If a respondent or

1 person ~~to be restrained~~ has been convicted of, or entered a plea of guilty to, two or more
2 prior violations of this section, § 21-65-19, or § 25-10-13 within ten years of committing
3 the current offense, and the factual basis for which ~~the current offense~~ occurred after the
4 date of the second conviction or guilty plea, ~~and occurred within ten years of committing~~
5 ~~the current offense~~, the respondent or person ~~to be restrained~~ is guilty of a Class 6 felony
6 for any third or subsequent offense. Any proceeding under §§ 22-19A-8 to 22-19A-16,
7 inclusive, is in addition to other civil or criminal remedies.

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

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

11 If a temporary protection order or a protection order is granted pursuant to this
12 chapter or a foreign protection order recognized pursuant to § 25-10-25 or 25-10-12.1,
13 or if a no contact order is issued pursuant to § 25-10-23 or 25-10-25, and the respondent
14 or person ~~to be restrained~~ knows of the order, ~~the violation of the order is a Class 1~~
15 ~~misdemeanor. If any the acts constituting a violation of this section constitutes also~~
16 ~~constitute a violation of § 22-18-1, 22-18-1.1, or 22-19A-1, the violation under this~~
17 ~~section is a Class 6 felony. If a respondent or person ~~to be restrained~~ has been convicted~~
18 ~~of, or entered a plea of guilty to, two or more prior violations of this section, § 21-65-19,~~
19 ~~or § 22-19A-16 within ten years of committing the current offense, and the factual basis~~
20 ~~for which the current offense occurred after the date of the second conviction or guilty~~
21 ~~plea, and occurred within ten years of committing the current offense~~, the respondent or
22 person ~~to be restrained~~ is guilty of a Class 6 felony for any third or subsequent offense.
23 Any proceeding under this chapter is in addition to other civil or criminal remedies.