2020 South Dakota Legislature

House Bill 1088

SENATE JUDICIARY ENGROSSED

Introduced by: The Committee on Judiciary at the request of the Chief Justice

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

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

Section 1. That a NEW SECTION be added:

21-65-19. Protection order--Violation as misdemeanor or felony.

If a temporary protection order or a protection order is granted under this chapter and the respondent or person restrained knows of the order, violation of the order is a Class 1 misdemeanor. If the acts constituting a violation of this section also constitute an assault as defined under § 22-18-1, the violation under this section is a Class 6 felony. If a respondent or person restrained has been convicted of, or entered a plea of guilty to, two or more prior violations of this section, § 22-19A-16, or § 25-10-13 within ten years of committing the current offense, and the factual basis for the current offense occurred after the date of the second conviction or guilty plea, the respondent or person restrained is guilty of a Class 6 felony for any third or subsequent offense. Any proceeding under this chapter is in addition to other civil or criminal remedies.

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

22-19A-16. Protection order--Violation as misdemeanor or felony.

If a temporary protection order or a protection order is granted pursuant to §§ 22-19A-8 to 22-19A-16, inclusive, and the respondent or person ~~to be~~ restrained knows of the order, violation of the order is a Class 1 misdemeanor. If ~~any~~ the acts constituting a violation of this section ~~constitutes~~ also constitute an assault as defined pursuant to ~~§ 22-18-1.1~~ § 22-18-1, the violation under this section is a Class 6 felony. If a respondent or person ~~to be~~ restrained has been convicted of, or entered a plea of guilty to, two or more prior violations of this section, § 21-65-19, or § 25-10-13 within ten years of committing the current offense, and the factual basis for ~~which~~ the current offense occurred after the

date of the second conviction or guilty plea, ~~and occurred within ten years of committing the current offense,~~ the respondent or person ~~to be~~ restrained is guilty of a Class 6 felony for any third or subsequent offense. Any proceeding under §§ 22-19A-8 to 22-19A-16, inclusive, is in addition to other civil or criminal remedies.

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

25-10-13. Protection order--No contact order--Violation as misdemeanor or felony.

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