



2020 South Dakota Legislature

House Bill 1148

Introduced by: **Representative** Pischke

1 **An Act to provide for protection orders.**

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

3 **Section 1.** That § 22-19A-8 be AMENDED:

4 **22-19A-8. Protection order--Petition--Content.**

5 ~~There exists an action known as a petition for a protection order in cases of~~
 6 ~~stalking, in cases of physical injury as a result of an assault, or in cases of a crime of~~
 7 ~~violence as defined in subdivision 22-1-2(9). Procedures for the action are as follows:~~

8 ~~(1)~~

9 A petition for a protection order under this section ~~may be made;~~

10 ~~(1)~~ May be filed with the court against any:

11 (a) Any person who ~~violates~~ is alleged by the petitioner to have violated § 22-
 12 19A-1 or against any other;

13 (b) Any person against whom stalking or who is alleged by the petitioner to have
 14 caused a physical injury to the petitioner or another person, as a result of
 15 an assault; or in cases where

16 (c) Any person who is alleged by the petitioner to have committed a crime of
 17 violence is alleged;

18 ~~(2) A petition shall allege the existence of (a) stalking or (b) physical injury as a result~~
 19 ~~of an assault or (c) a crime of violence, and shall~~ Must ~~be accompanied by an~~
 20 ~~affidavit made under oath stating the specific facts and circumstances in support of~~
 21 ~~the stalking or the physical injury as a result of an assault or crime of~~
 22 ~~violence~~ allegation;

23 ~~(3) A petition for relief may~~ Must ~~be accompanied by a police report; and~~

24 ~~(4) May be made filed~~ whether or not there is a pending lawsuit, complaint, petition, or
 25 other action between the parties.

1 The clerk of the circuit court shall make available standard ~~petition forms to be used~~
2 by a petitioner, together with instructions for completion ~~to be used by a petitioner~~. The
3 attorney general shall prepare the ~~standard petition form~~.

4 **Section 2.** That § 25-10-3 be AMENDED:

5 **25-10-3. Protection order--Petition--Content.**

6 ~~There exists an action known as a petition for a protection order in cases of~~
7 ~~domestic abuse. Procedures for the action are as follows:~~

8 ~~(1)~~

9 A petition ~~under this section for a protection order in a case of domestic abuse~~ may
10 be made ~~by any person in a relationship described as provided for in § 25-10-3.1 against~~
11 any ~~other person in such a relationship; who meets the requirements of § 25-10-3.1.~~

12 ~~(2)~~

13 A petition ~~shall for a protection order in a case of domestic abuse:~~

14 ~~(1) Must allege the existence of domestic abuse and shall;~~

15 ~~(2) Must be accompanied by an affidavit made under oath stating the specific facts~~
16 and circumstances in support of the domestic abuse allegation; and

17 ~~(3) A petition for relief may be made~~ Must be accompanied by a police report; and

18 ~~(4) May be filed~~ whether or not there is a pending lawsuit, complaint, petition, or other
19 action between the parties. ~~However; provided, if there is any other lawsuit,~~
20 ~~complaint, petition, or other such an action pending between the parties, any new,~~
21 a petition made pursuant to under this section shall must be made assigned to the
22 judge ~~previously assigned to handling~~ the pending lawsuit, petition, or other action,
23 unless good cause is shown for the assignment of a different judge.

24 The clerk of the circuit court shall make available standard ~~petition forms to be~~
25 used by a petitioner, together with instructions for completion ~~to be used by a petitioner.~~
26 The attorney general shall prepare the forms.