

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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HOUSE BILL 42*

Short Title: Amend DV Laws/Homicide Reporting. (Public)

Sponsors: Representatives McLawhorn, Ross, Farmer-Butterfield, Jeffus (Primary Sponsors); Adams, Alexander, Blust, Bordsen, Brisson, Bryant, Coates, Coleman, Crawford, Dickson, Faison, Fisher, Folwell, Glazier, J. Harrell, Harrison, Holloway, Howard, Insko, Johnson, Lucas, Luebke, McAllister, McGee, Moore, Parmon, Pierce, Spear, Tarleton, Tolson, Tucker, Underhill, Wainwright, Walend, E. Warren, Weiss, Wiley, Williams, and Womble.

Referred to: Rules, Calendar, and Operations of the House.

January 31, 2007

A BILL TO BE ENTITLED
AN ACT TO AMEND CRIMINAL PROCEDURE LAWS AFFECTING DOMESTIC
VIOLENCE VICTIMS AND TO REQUIRE DOMESTIC VIOLENCE HOMICIDE
REPORTING AS RECOMMENDED BY THE JOINT LEGISLATIVE
COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-401(b)(2) reads as rewritten:

"(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:

- a. Has committed a felony; or
- b. Has committed a misdemeanor, and:
 1. Will not be apprehended unless immediately arrested, or
 2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
- c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
- d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), ~~or 14-34~~ 14-34, 14-277.1, or 14-277.3 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
- e. Has committed a misdemeanor under G.S. 50B-4.1(a); or

1 f. Has violated a pretrial release order entered under
2 G.S. 15A-534.1(a)(2)."

3 **SECTION 2.** G.S. 15A-534.1 reads as rewritten:

4 **"§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.**

5 (a) In all cases in which the defendant is charged with assault on, stalking,
6 communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15
7 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with
8 whom the defendant lives or has lived as if married, with domestic criminal trespass, or
9 with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the
10 General Statutes, the judicial official who determines the conditions of pretrial release
11 shall be a judge, and the following provisions shall apply in addition to the provisions of
12 G.S. 15A-534:

13 (1) Upon a determination by the judge that the immediate release of the
14 defendant will pose a danger of injury to the alleged victim or to any
15 other person or is likely to result in intimidation of the alleged victim
16 and upon a determination that the execution of an appearance bond as
17 required by G.S. 15A-534 will not reasonably assure that such injury
18 or intimidation will not occur, a judge may retain the defendant in
19 custody for a reasonable period of time while determining the
20 conditions of pretrial release.

21 (2) A judge may impose the following conditions on pretrial release:
22 a. That the defendant stay away from the home, school, business
23 or place of employment of the alleged victim;
24 b. That the defendant refrain from assaulting, beating, molesting,
25 or wounding the alleged victim;
26 c. That the defendant refrain from removing, damaging or injuring
27 specifically identified property;
28 d. That the defendant may visit his or her child or children at times
29 and places provided by the terms of any existing order entered
30 by a judge.

31 The conditions set forth above may be imposed in addition to requiring
32 that the defendant execute a secured appearance bond.

33 (3) Should the defendant be mentally ill and dangerous to himself or
34 others or a substance abuser and dangerous to himself or others, the
35 provisions of Article 5 of Chapter 122C of the General Statutes shall
36 apply.

37 (b) A defendant may be retained in custody not more than 48 hours from the time
38 of arrest without a determination being made under this section by a judge. If a judge
39 has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act
40 under the provisions of this section."

41 **SECTION 3.** The Attorney General's Office, in consultation with the North
42 Carolina Council for Women/Domestic Violence Commission, the North Carolina
43 Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall
44 develop a reporting system and database that reflects the number of homicides in the

1 state where the offender and the victim had a personal relationship, as defined by
2 G.S. 50B-1(b). The information in the database shall also include whether the victim
3 had obtained an order pursuant to G.S. 50B-3 and whether the offender was on pretrial
4 release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall
5 report information to the Attorney General's Office upon making a determination that a
6 homicide meets the reporting system's criteria. The report shall be made in the format
7 adopted by the Attorney General's Office. The Attorney General's Office shall begin
8 collecting data required by this act for offenses occurring on or after July 1, 2007. The
9 Attorney General's Office shall report to the Joint Legislative Committee on Domestic
10 Violence, no later than February 1 of each year, with the data collected for the previous
11 calendar year.

12 **SECTION 4.** Sections 1 and 2 of this act become effective December 1,
13 2007, and apply to offenses committed on or after that date. The remainder of this act is
14 effective when it becomes law.