

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 627
Judiciary Committee Substitute Adopted 4/16/97
Third Edition Engrossed 4/23/97

Short Title: Domestic Violence Changes.

(Public)

Sponsors:

Referred to:

April 1, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY AND EXPAND THE CLASSIFICATION OF PERSONS WHO
3 MAY OBTAIN A DOMESTIC VIOLENCE PROTECTIVE ORDER, AND TO
4 CLARIFY THE CIRCUMSTANCES UNDER WHICH MAGISTRATES MAY
5 ISSUE PROTECTIVE ORDERS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 50B-1 reads as rewritten:

8 **"§ 50B-1. Domestic violence; definition.**

9 (a) Domestic violence means the commission of one or more of the following acts
10 upon an aggrieved party or upon a minor child residing with or in the custody of the
11 aggrieved party by a person with whom the aggrieved party has or has had a ~~familial~~
12 personal relationship, but does not include acts of self-defense:

- 13 (1) Attempting to cause bodily injury, or intentionally causing bodily
14 injury; or
15 (2) Placing the aggrieved party or a member of the aggrieved party's family
16 or household in fear of imminent serious bodily injury; or
17 (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

1 (b) For purposes of this section, the term '~~familial~~ personal relationship' means a
2 relationship wherein the parties involved:

3 (1) Are current or former spouses;

4 (2) Are persons of opposite sex who live together or have lived together;

5 (3) ~~Are parents, grandparents, or others acting in loco parentis to a minor child, or~~
6 ~~children and grandchildren;~~ Are related as parents and children, including
7 others acting in loco parentis to a minor child, or as grandparents and
8 grandchildren. For purposes of this subdivision, an aggrieved party may
9 not obtain an order of protection against a child or grandchild under the
10 age of 16;

11 (4) Have a child in ~~common~~ common;

12 (5) Are current or former household members;

13 (6) Are persons of the opposite sex who are in a dating relationship or have
14 been in a dating relationship. For purposes of this subdivision, a dating
15 relationship is one wherein the parties are romantically involved over
16 time and on a continuous basis during the course of the relationship. A
17 casual acquaintance or ordinary fraternization between persons in a
18 business or social context is not a dating relationship."

19 Section 2. G.S. 50B-2(c1) reads as rewritten:

20 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may
21 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte.
22 Prior to the hearing, if the magistrate determines that at the time the party is seeking
23 emergency relief ex parte ~~the clerk of superior court is not available,~~ the district court is not
24 in ~~session,~~ session and a district court judge is not and will not be available to hear the
25 motion for a period of four or more hours, the motion may be heard by the magistrate. If
26 it clearly appears to the magistrate from specific facts shown that there is a danger of acts
27 of domestic violence against the aggrieved party or a minor child, the magistrate may
28 enter such orders as it deems necessary to protect the aggrieved party or minor children
29 from such acts, except that a temporary order for custody ex parte and prior to service of
30 process and notice shall not be entered unless the magistrate finds that the child is
31 exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered
32 under this subsection shall expire and the magistrate shall schedule an ex parte hearing
33 before a district court judge within 72 hours of the filing for relief under this subsection,
34 or by the end of the next day on which the district court is in session in the county in
35 which the action was filed, whichever occurs first. A party who has paid court costs due
36 for seeking an order from the magistrate under this subsection shall not be liable for court
37 costs for a hearing before the district court judge scheduled and heard pursuant to an
38 order entered by the magistrate under this subsection. Ex parte orders entered by the
39 district court judge pursuant to this subsection shall be entered and scheduled in
40 accordance with subsection (c) of this section."

41 Section 3. This act becomes effective December 1, 1997, and applies to
42 offenses committed on or after that date.