

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 346
Judiciary I Committee Substitute Adopted 4/25/01

Short Title: Amend Stalking/Domestic Violence Laws.

(Public)

Sponsors:

Referred to:

March 6, 2001

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAW REGARDING THE CRIMINAL OFFENSE OF
STALKING AND CERTAIN DOMESTIC VIOLENCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-277.3 reads as rewritten:

"§ 14-277.3. Stalking.

(a) Offense. – A person commits the offense of stalking if the person willfully on more than one occasion follows or is in the presence of ~~of~~, or otherwise harasses, another person without legal purpose and with the intent to ~~cause death or bodily injury or with the intent to cause emotional distress by placing that person in reasonable fear of death or bodily injury.~~ do any of the following:

- (1) Place that person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment, and that in fact causes that person substantial emotional distress.

(b) Classification. – A violation of this section is a Class ~~A1~~ misdemeanor. A person who commits the offense of stalking when there is a court order in effect prohibiting similar behavior is guilty of a Class ~~A1~~ misdemeanor. ~~A second or subsequent conviction for stalking occurring within five years of a prior conviction of the same defendant is punishable as a Class I felony.~~ H felony. A person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony.

(c) Definition. – For the purposes of this section, the term 'harasses' or 'harassment' means knowing conduct, including written or printed communication or transmission, telephone or cellular or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or

1 electronic transmissions, directed at a specific person that annoys, torments, terrorizes,
2 or terrifies that person and that serves no legitimate purpose."

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

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

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

20 (2) A judge may impose the following conditions on pretrial release:

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

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

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

36 **SECTION 3.** G.S. 50B-1(a) reads as rewritten:

37 "(a) Domestic violence means the commission of one or more of the following
38 acts upon an aggrieved party or upon a minor child residing with or in the custody of the
39 aggrieved party by a person with whom the aggrieved party has or has had a personal
40 relationship, but does not include acts of self-defense:

- 41 (1) Attempting to cause bodily injury, or intentionally causing bodily
42 injury; or

- 1 (2) Placing the aggrieved party or a member of the aggrieved party's
2 family or household in fear of imminent serious bodily ~~injury~~; injury
3 or continued harassment, as defined in G.S. 14-277.3, that rises to such
4 a level as to inflict substantial emotional distress; or
5 (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7."

6 **SECTION 4.** G.S. 50B-4.1 reads as rewritten:

7 "**§ 50B-4.1. Violation of valid protective ~~order a misdemeanor.~~ order.**

8 (a) A Except as otherwise provided by law, a person who knowingly violates a
9 valid protective order entered pursuant to this Chapter or who knowingly violates a
10 valid protective order entered by the courts of another state or the courts of an Indian
11 tribe shall be guilty of a Class A1 misdemeanor.

12 (b) A law enforcement officer shall arrest and take a person into custody without
13 a warrant or other process if the officer has probable cause to believe that the person
14 knowingly has violated a valid protective order excluding the person from the residence
15 or household occupied by a victim of domestic violence or directing the person to
16 refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

17 (c) When a law enforcement officer makes an arrest under this section without a
18 warrant, and the party arrested contests that the out-of-state order or the order issued by
19 an Indian court remains in full force and effect, the party arrested shall be promptly
20 provided with a copy of the information applicable to the party which appears on the
21 National Crime Information Center registry by the sheriff of the county in which the
22 arrest occurs.

23 (d) Unless covered under some other provision of law providing greater
24 punishment, a person who commits a felony at a time when the person knows the
25 behavior is prohibited by a valid protective order as provided in subsection (a) of this
26 section, the person shall be guilty of a felony one class higher than the principal felony
27 described in the charging document. This subsection shall not apply to a person who is
28 charged with or convicted of a Class A or B1 felony or to a person charged under
29 subsection (f) of this section.

30 (e) An indictment or information that charges a person with committing
31 felonious conduct as described in subsection (d) of this section shall also allege that the
32 person knowingly violated a valid protective order as described in subsection (a) of this
33 section in the course of the conduct constituting the underlying felony. In order for a
34 person to be punished as described in subsection (d) of this section, a finding shall be
35 made that the person knowingly violated the protective order in the course of conduct
36 constituting the underlying felony.

37 (f) Unless covered under some other provision of law providing greater
38 punishment, any person who knowingly violates a valid protective order as provided in
39 subsection (a) of this section, after having been previously convicted of three offenses
40 under this Chapter, shall be guilty of a Class H felony."

41 **SECTION 5.** This act becomes effective December 1, 2001, and applies to
42 offenses committed on or after that date.