

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 140

Short Title: Amend Domestic Crim. Trespass. (Public)

Sponsors: Senators Snow; Atwater, Berger of Franklin, and Dorsett.

Referred to: Judiciary II.

February 12, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF DOMESTIC CRIMINAL TRESPASS BY MAKING IT A FELONY FOR A PERSON WHO IS THE SUBJECT OF A VALID PROTECTIVE ORDER TO TRESPASS ON PROPERTY WHERE THE PROTECTED PARTY RESIDES AND THAT IS OPERATED AS A SAFE HOUSE OR HAVEN FOR DOMESTIC VIOLENCE VICTIMS WITHOUT REGARD AS TO WHETHER THE PERSON COVERED BY THE PROTECTIVE ORDER IS PRESENT ON THE PREMISES AND TO PROVIDE THAT IT IS AN AGGRAVATING CIRCUMSTANCE FOR FIRST DEGREE MURDER IF A DEFENDANT WHO IS THE SUBJECT OF A VALID PROTECTIVE ORDER COMMITS A MURDER ON THE PREMISES OF A SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE WHERE THE PROTECTED PARTY IS RESIDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-134.3 reads as rewritten:

"§ 14-134.3. Domestic criminal trespass.

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

- (1) A judicial order of separation;
- (2) A court order directing the person charged to stay away from the premises occupied by the complainant;
- (3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or
- (4) Separate places of residence for the complainant and the person charged.

Except as provided in subsection (b) or (c) of this section, upon conviction, said person is guilty of a Class 1 misdemeanor.

(b) A person convicted of a violation of this section is guilty of a Class G felony if the person is trespassing upon property operated as a safe house or haven for victims of domestic violence and the person is armed with a deadly weapon at the time of the offense.

(c) It is unlawful for a person who is subject to a valid protective order that is enforceable under Chapter 50B of the General Statutes to enter property being operated as a



1 safe house or haven for victims of domestic violence where the protected party is residing after
2 being forbidden to do so or to remain on the premises after being ordered to leave by the lawful
3 occupant, unless the person enters upon the premises pursuant to a judicial order or written
4 separation agreement that gives the person the right to enter upon the premises for the purpose
5 of visiting with minor children. A person who violates this subsection is guilty of this offense
6 regardless of whether any of the parties protected by the protective order are present on the
7 property. A person who violates this subsection is guilty of a Class H felony."

8 **SECTION 2.** G.S. 15A-2000(e) is amended by adding a new subdivision to read:

9 "(12) The defendant was the subject of a valid protective order enforceable under
10 Chapter 50B of the General Statutes at the time of the commission of the
11 capital felony and committed the capital felony on the premises of a safe
12 house or haven for victims of domestic violence where the protected party
13 was residing."

14 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
15 offenses committed on or after that date.