

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

FILED SENATE  
Apr 1, 2021  
S.B. 480  
PRINCIPAL CLERK

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SENATE BILL DRS45248-MV-19

Short Title: Expand Victim Services.

(Public)

Sponsors: Senators Britt, Galey, and Batch (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS MODIFICATIONS TO THE GENERAL STATUTES TO  
3 EXPAND PROTECTIONS FOR VICTIMS OF CERTAIN CRIMES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) G.S. 7B-1111 reads as rewritten:

6 "§ 7B-1111. Grounds for terminating parental rights.

7 (a) The court may terminate the parental rights upon a finding of one or more of the  
8 following:

9 ...

10 (11) The parent has been ~~convicted of~~ found, by clear and convincing evidence, to  
11 have committed a sexually related offense under Chapter 14 of the General  
12 Statutes that resulted in the conception of the juvenile.

13 (b) The burden in these proceedings is on the petitioner or movant to prove the facts  
14 justifying the termination by clear and convincing evidence."

15 SECTION 1.(b) G.S. 7B-1112 reads as rewritten:

16 "§ 7B-1112. Effects of termination order.

17 (a) An order terminating the parental rights completely and permanently terminates all  
18 rights and obligations of the parent to the juvenile and of the juvenile to the parent arising from  
19 the parental relationship, except that the juvenile's right of inheritance from the juvenile's parent  
20 shall not terminate until a final order of adoption is issued. The parent is not ~~thereafter~~ entitled  
21 to notice of proceedings to adopt the juvenile and may not object ~~thereto to~~ or otherwise  
22 participate ~~therein in the proceedings.~~

23 ~~(1)(b)~~ If the juvenile had been placed in the custody of or released for adoption by one parent  
24 to a county department of social services or licensed child-placing agency and is in the custody  
25 of the agency at the time of the filing of the petition or motion, including a petition or motion  
26 filed pursuant to G.S. 7B-1103(a)(6), that agency shall, upon entry of the order terminating  
27 parental rights, acquire all of the rights for placement of the juvenile, except as otherwise  
28 provided in G.S. 7B-908(d), as the agency would have acquired had the parent whose rights are  
29 terminated released the juvenile to that agency pursuant to the provisions of Part 7 of Article 3  
30 of Chapter 48 of the General Statutes, including the right to consent to the adoption of the  
31 juvenile.

32 ~~(2)(c)~~ Except as provided in ~~subdivision (1) above,~~ subsection (b) of this section, upon  
33 entering an order terminating the parental rights of one or both parents, the court may place the  
34 juvenile in the custody of the petitioner or movant, or some other suitable person, or in the  
35 custody of the department of social services or licensed child-placing agency, as may appear to  
36 be in the best interests of the juvenile.



1       (d) A parent whose parental rights are terminated pursuant to G.S. 7B-1111(a)(11) has  
2 no rights to custody of or rights of inheritance from any child born as a result of the commission  
3 of the sexually related offense, nor does the person have any rights related to the child under  
4 Chapter 48 of the General Statutes or Subchapter I of Chapter 7B of the General Statutes."

5       **SECTION 1.(c)** This section is effective when it becomes law and applies to  
6 proceedings commenced on or after that date.

7       **SECTION 2.(a)** Article 7 of Chapter 8 of the General Statutes is amended by adding  
8 a new section to read:

9 **"§ 8-53.12A. Communications with homicide victim advocates privileged.**

10       (a) Definitions. – The following definitions apply in this section:

11       (1) Agent. – An employee of a victim assistance center who has completed a  
12 minimum of 30 hours of training as required by the center or a volunteer under  
13 the direct supervision of the center who has completed a minimum of 30 hours  
14 of training as required by the center.

15       (2) Victim assistance center. – A nonprofit organization registered in this State  
16 whose primary purpose is to provide support and services to surviving loved  
17 ones of homicide victims and others harmed by violent crime in the State.

18       (3) Services. – The term includes, but is not limited to, assessment and intake,  
19 individual counseling, court accompaniment, homicide support groups,  
20 outreach, and family support services.

21       (4) Victim. – A person who does the following:

22       a. Alleges a homicide has been attempted against them or committed  
23 against a loved one or someone with whom they have a significant  
24 relationship. A homicide includes a violation of any of the following:  
25 G.S. 14-17, 14-18, 14-18.4, 14-23.2, 14-23.3, and 14-23.4.

26       b. Consults an agent of a victim assistance center for the purpose of  
27 obtaining for themselves services concerning mental, physical, or  
28 emotional injuries suffered as a result of the homicide.

29       (b) Privileged Communications. – No agent of a victim assistance center shall be required  
30 to disclose any information that the agent acquired during the provision of services to a victim  
31 and that was necessary to enable the agent to render the services, unless the victim waives the  
32 privilege conferred. The privilege afforded under this subsection terminates upon the death of  
33 the victim.

34       (c) Required Disclosure. – The court shall compel disclosure, either at the trial or prior  
35 to the trial, if the court finds, by a preponderance of the evidence, a good-faith, specific, and  
36 reasonable basis for all of the following:

37       (1) The records or testimony sought contain information that is relevant and  
38 material to factual issues to be determined in a civil proceeding or that is  
39 relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or  
40 sentencing in a criminal proceeding for the offense charged or any lesser  
41 included offense.

42       (2) The evidence is not sought merely for character impeachment purposes.

43       (3) The evidence sought is not merely cumulative of other evidence or  
44 information available or already obtained by the party seeking the disclosure.

45       (d) Duties of the Court Regarding Disclosure. – Before requiring production of records,  
46 the court shall find that the party seeking disclosure has made a sufficient showing that the  
47 records are likely to contain information subject to disclosure under this subsection. If the court  
48 finds a sufficient showing has been made, the court shall (i) order that the records be produced  
49 for the court under seal and (ii) examine the records in camera. The court shall allow disclosure  
50 only of those portions of the records that the court finds contain information subject to disclosure  
51 under this subsection. After all appeals in the action have been exhausted, any records received

1 by the court under seal shall be returned to the victim assistance center, unless otherwise ordered  
 2 by the court.

3 (e) Duty in Case of Abuse or Neglect. – Nothing in this section shall be construed to  
 4 relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as  
 5 required by law."

6 **SECTION 2.(b)** G.S. 42-40 reads as rewritten:

7 **"§ 42-40. Definitions.**

8 For the purpose of this Article, the following definitions shall apply:

9 (1) ~~"Action"~~ Action. – The term includes recoupment, counterclaim, defense,  
 10 setoff, and any other proceeding including an action for possession.

11 (2) ~~"Premises" means a~~ Premises. – A dwelling unit, including mobile homes or  
 12 mobile home spaces, and the structure of which it is a part and facilities and  
 13 appurtenances therein and grounds, areas, and facilities normally held out for  
 14 the use of residential tenants.

15 (3) ~~"Landlord" means any~~ Landlord. – Any owner and any rental management  
 16 company, rental agency, or any other person having the actual or apparent  
 17 authority of an agent to perform the duties imposed by this Article.

18 (4) ~~"Protected tenant" means a~~ Protected tenant. – A tenant or household member  
 19 who is a any of the following:

20 a. A victim of domestic violence under Chapter 50B of the General  
 21 Statutes or sexual assault or stalking under Chapter 14 of the General  
 22 Statutes.

23 b. A victim of attempted homicide or household member of a victim of  
 24 homicide under G.S. 14-17, 14-18, 14-18.4, 14-23.2, 14-23.3, or  
 25 14-23.4, where the premises was the location of the crime."

26 **SECTION 2.(c)** G.S. 42-45.1 reads as rewritten:

27 **"§ 42-45.1. Early termination of rental agreement by ~~victims of domestic violence, sexual~~**  
 28 **~~assault, or stalking~~ protected tenants.**

29 (a) Any protected tenant may terminate his or her rental agreement for a dwelling unit by  
 30 providing the landlord with a written notice of termination to be effective on a date stated in the  
 31 notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord  
 32 shall be accompanied by ~~either~~ any of the following: (i) a copy of a valid order of protection  
 33 issued by a court pursuant to Chapter 50B or 50C of the General Statutes, other than an ex parte  
 34 order, (ii) a criminal order that restrains a person from contact with a protected tenant, ~~or~~ (iii) a  
 35 valid Address Confidentiality Program card issued pursuant to G.S. 15C-4 to the victim or a  
 36 minor member of the tenant's ~~household~~ household, or (iv) if the protected tenant is a victim of  
 37 attempted homicide or household member of a victim of homicide, law enforcement, court, or  
 38 federal agency records or files. A victim of domestic violence or sexual assault must submit a  
 39 copy of a safety plan with the notice to terminate. The safety plan, dated during the term of the  
 40 tenancy to be terminated, must be provided by a domestic violence or sexual assault program  
 41 which substantially complies with the requirements set forth in G.S. 50B-9 and must recommend  
 42 relocation of the protected tenant.

43 ...."

44 **SECTION 2.(d)** G.S. 42-42.2 reads as rewritten:

45 **"§ 42-42.2. Victim protection – nondiscrimination.**

46 (a) A landlord shall not terminate a tenancy, fail to renew a tenancy, refuse to enter into  
 47 a rental agreement, or otherwise retaliate in the rental of a dwelling based substantially ~~on~~ on any  
 48 of the following:

49 (1) ~~(i) the~~ The tenant, applicant, or a household member's status as a any of the  
 50 following:

51 a. A victim of domestic violence, sexual assault, or ~~stalking~~ stalking.



1 domestic violence against the aggrieved party or a minor child, the magistrate may enter orders  
2 as it deems necessary to protect the aggrieved party or minor children from those acts, except  
3 that a temporary order for custody ex parte and prior to service of process and notice shall not be  
4 entered unless the magistrate finds that the child is exposed to a substantial risk of physical or  
5 emotional injury or sexual abuse. If the magistrate finds that the child is exposed to a substantial  
6 risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the  
7 magistrate shall consider and may order the other party to stay away from a minor child, or to  
8 return a minor child to, or not remove a minor child from, the physical care of a parent or person  
9 in loco parentis, if the magistrate finds that the order is in the best interest of the minor child and  
10 is necessary for the safety of the minor child. If the magistrate determines that it is in the best  
11 interest of the minor child for the other party to have contact with the minor child or children, the  
12 magistrate shall issue an order designed to protect the safety and well-being of the minor child  
13 and the aggrieved party. The order shall specify the terms of contact between the other party and  
14 the minor child and may include a specific schedule of time and location of exchange of the  
15 minor child, supervision by a third party or supervised visitation center, and any other conditions  
16 that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order  
17 entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing  
18 before a district court judge by the end of the next day on which the district court is in session in  
19 the county in which the action was filed. Ex parte orders entered by the district court judge  
20 pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of  
21 this section.

22 (e2) The authority granted to authorized magistrates to award temporary child custody  
23 pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to  
24 custody rules to be established by the supervising chief district judge of each judicial district.

25 ...

26 (e) Electronic Documents; Video Conference Hearings. – All documents filed, issued,  
27 registered, or served in an action under this Chapter relating to an ex parte, emergency, or  
28 permanent domestic violence protective order may be filed electronically. Hearings held to  
29 consider ex parte relief pursuant to subsection (e) of this section may be held via video  
30 conference. Hearings held to consider emergency or permanent relief pursuant to subsections (a)  
31 or (b) of this section shall not be held via video conference."

32 **SECTION 3.(b)** This section becomes effective October 1, 2021, and applies to  
33 hearings held on or after that date.

34 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
35 law.