

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE DRS75207-LD-54 (03/25)

Short Title: Workplace Violence.

(Public)

Sponsors: Senator Rand.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO CONTRIBUTE TO THE PREVENTION OF WORKPLACE  
3 VIOLENCE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 95 of the General Statutes is amended by adding a  
6 new Article to read:

7 "Article 23.

8 "Workplace Violence Prevention.

9 "§ 95-260. Definitions.

10 The following definitions apply in this Article:

11 (1) Unlawful conduct. – Unlawful conduct means the commission of one  
12 or more of the following acts upon an employee, but does not include  
13 acts of self-defense or defense of others:

14 a. Attempting to cause bodily injury or intentionally causing  
15 bodily injury.

16 b. Willfully, and on more than one occasion, following, being in  
17 the presence of, or otherwise harassing, as defined in  
18 G.S. 14-277.3, without legal purpose and with the intent to  
19 place the employee in reasonable fear for the employee's safety.

20 c. Willfully threatening, orally, in writing, or by any other means,  
21 to physically injure the employee in a manner and under  
22 circumstances that would cause a reasonable person to believe  
23 that the threat is likely to be carried out and that actually causes  
24 the employee to believe that the threat will be carried out.

25 (2) Employer. – Any person or entity that employs one or more  
26 employees. Employer also includes the State of North Carolina and its  
27 political subdivisions.

1 **"§ 95-261. Institution of civil action; temporary restraining orders.**

2 (a) Any employer whose employee has suffered unlawful conduct from any  
3 individual that can reasonably be construed to be carried out, or to have been carried  
4 out, at the employee's workplace may seek an injunction under this Article on behalf of  
5 the employee by filing a petition alleging unlawful conduct against the employee. The  
6 employee that is the subject of unlawful conduct shall be consulted prior to seeking an  
7 injunction under this section in order to determine whether any safety concerns exist in  
8 relation to their participation in the process. Employees who are targets of unlawful  
9 conduct who are unwilling to participate in the process under this section shall not face  
10 disciplinary action based on their level of participation or cooperation.

11 (b) Upon filing a petition with the court for an injunction, the petitioner may  
12 move the court for a temporary restraining order if the petitioner also files an affidavit  
13 that shows, to the satisfaction of the court, reasonable proof that an employee has  
14 suffered unlawful conduct by the respondent and that great or irreparable harm will  
15 result to the employee if the temporary restraining order is not granted. The affidavit  
16 shall further show that the petitioner has conducted a reasonable investigation into the  
17 underlying facts that are the subject of the petition. If it clearly appears to the court that  
18 there is a danger of further unlawful conduct against the employee, the court may enter  
19 ex parte orders as it deems necessary to protect the employee from unlawful conduct.  
20 Upon the issuance of a temporary restraining order under this subsection, a hearing shall  
21 be held within 10 days from the date of issuance of the order or within seven days from  
22 the date of service of process on the respondent, whichever occurs later. When no  
23 temporary restraining order is issued, a hearing shall be held after five days' notice of  
24 the hearing to the respondent or after five days from the date of service of process on  
25 the respondent, whichever occurs first.

26 (c) The district court division of the General Court of Justice shall have original  
27 jurisdiction over actions instituted under this Article. Except for proceedings involving a  
28 nonresident respondent, the court of competent jurisdiction of the county where the  
29 unlawful conduct occurred has jurisdiction over all proceedings under this Article. For  
30 proceedings under this Article involving a nonresident respondent, the court of  
31 competent jurisdiction where the petitioner's workplace is located has jurisdiction when  
32 the act involving unlawful conduct meets the elements for personal jurisdiction under  
33 G.S. 1-75.4.

34 **"§ 95-262. Relief.**

35 (a) The court may include any one or more of the following orders in its  
36 temporary restraining order or its injunction under this Article:

- 37 (1) Order the respondent not to visit, assault, molest, or otherwise interfere  
38 with the employer or the employer's operations, or the employer's  
39 employee at the employer's workplace.  
40 (2) Order the respondent to cease stalking the employer's employee at the  
41 employer's workplace.  
42 (3) Order the respondent to cease harassment of the employer or the  
43 employer's employee at the employer's workplace.

1           (4)    Order the respondent not to abuse or injure the employer, including the  
2                   employer's property, or the employer's employee at the employer's  
3                   workplace.

4           (5)    Order the respondent not to telephone the employer or the employer's  
5                   employee at the employer's workplace.

6           (6)    Order other relief deemed necessary and appropriate by the court.

7           (b)    An injunction issued pursuant to this Article shall be for a fixed period of  
8                   time not to exceed one year. Upon application of the petitioner, a judge may renew the  
9                   original or any succeeding order for up to one additional year.

10          (c)    A copy of any order entered and filed under this Article shall be issued to  
11                   each party. In addition, a copy of the order shall be issued promptly to and retained by  
12                   the police department of the city where the petitioner's workplace is located. If the  
13                   petitioner's workplace is not located in a city, or is located in a city with no police  
14                   department, copies shall be issued promptly to and retained by the sheriff and the  
15                   county police department, if any, of the county in which the workplace is located.

16    **"§ 95-263. Enforcement of orders.**

17          (a)    A party may file a motion for contempt for violation of any order entered  
18                   pursuant to this Article.

19          (b)    A valid protective order entered pursuant to this Article shall be enforced by  
20                   all North Carolina law enforcement agencies without further order of the court.

21    **"§ 95-264. Limits on liability of employers.**

22          (a)    An employer and an employer's agents who act in accordance with this  
23                   Article shall be presumed to be acting in good faith and, unless lack of good faith is  
24                   shown by clear and convincing evidence, are immune from civil liability for actions  
25                   taken under this Article.

26          (b)    Any employer, or its employee or invitee, that does not utilize the procedures  
27                   of this Article shall not be liable for negligence, and evidence of the failure to utilize the  
28                   procedures of this Article shall not be admissible as evidence of negligence.

29    **"§ 95-265. Scope of Article; other remedies available.**

30           This Article does not expand, diminish, alter, or modify the duty of any employer to  
31                   provide a safe workplace for employees and other persons. This Article does not limit  
32                   the ability of an employer or employee to pursue any other civil or criminal remedy  
33                   provided by law. This Article does not apply in circumstances where an employee or  
34                   representative of employees is engaged in union organizing, union activity, a labor  
35                   dispute, or any activity or action protected by the National Labor Relations Act,  
36                   29 U.S.C. § 151, et seq. Nothing in this Article is intended to change the National Labor  
37                   Relations Act's preemptive regulation of legally protected activities, nor to change the  
38                   right of the State and its courts to regulate activities not protected by the National Labor  
39                   Relations Act."

40           **SECTION 2.** There is appropriated from the General Fund to the Attorney  
41           General's Office of the Department of Justice the sum of one thousand five hundred  
42           dollars (\$1,500) for the 2003-2004 fiscal year to be used to educate the public about  
43           workplace violence.

1           **SECTION 3.** Section 1 of this act becomes effective January 1, 2004. The  
2 remainder of this act becomes effective July 1, 2003.