GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

SENATE DRS75015-RK-17A* (01/22)

Short Title: Amend DV Laws/Homicide Reporting.

Sponsors:Senator Boseman.Referred to:

1		A BILL TO BE ENTITLED
2	ΔΝ Δ<u>C</u>T ΤΟ ΔΜΕΝΙ	CRIMINAL PROCEDURE LAWS AFFECTING DOMESTIC
3		IMS AND TO REQUIRE DOMESTIC VIOLENCE HOMICIDE
4		S RECOMMENDED BY THE JOINT LEGISLATIVE
4 5		
	COMMITTEE ON DOMESTIC VIOLENCE.	
6	The General Assembly of North Carolina enacts:	
7	SECTION 1. G.S. $15A-401(b)(2)$ reads as rewritten:	
8		se Out of Presence of Officer. – An officer may arrest without a
9		ant any person who the officer has probable cause to believe:
10	a.	Has committed a felony; or
11	b.	
12		1. Will not be apprehended unless immediately arrested, or
13		2. May cause physical injury to himself or others, or
14		damage to property unless immediately arrested; or
15	с.	Has committed a misdemeanor under G.S. 14-72.1, 14-134.3,
16		20-138.1, or 20-138.2; or
17	d.	Has committed a misdemeanor under G.S. 14-33(a),
18		14-33(c)(1), 14-33(c)(2), or 14-34 - <u>14-34</u> , <u>14-277.1</u> , or <u>14-277.3</u>
19		when the offense was committed by a person with whom the
20		alleged victim has a personal relationship as defined in
21		G.S. 50B-1; or
22	e.	Has committed a misdemeanor under G.S. 50B-4.1(a); or
23	f.	Has violated a pretrial release order entered under
24		G.S. 15A-534.1(a)(2)."
25	SECTION	2. G.S. 15A-534.1 reads as rewritten:
26	"§ 15A-534.1. Crime	s of domestic violence; bail and pretrial release.
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1	(a) In all	cases in which the defendant is charged with assault on, stalking,	
2	communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15		
3	of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with		
4	whom the defendant lives or has lived as if married, with domestic criminal trespass, or		
5	with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the		
6	General Statutes, the judicial official who determines the conditions of pretrial release		
7	shall be a judge, and the following provisions shall apply in addition to the provisions of		
8	G.S. 15A-534:		
9	(1)	Upon a determination by the judge that the immediate release of the	
10		defendant will pose a danger of injury to the alleged victim or to any	
11		other person or is likely to result in intimidation of the alleged victim	
12		and upon a determination that the execution of an appearance bond as	
13		required by G.S. 15A-534 will not reasonably assure that such injury	
14		or intimidation will not occur, a judge may retain the defendant in	
15		custody for a reasonable period of time while determining the	
16		conditions of pretrial release.	
17	(2)	A judge may impose the following conditions on pretrial release:	
18		a. That the defendant stay away from the home, school, business	
19		or place of employment of the alleged victim;	
20		b. That the defendant refrain from assaulting, beating, molesting,	
21		or wounding the alleged victim;	
22		c. That the defendant refrain from removing, damaging or injuring	
23		specifically identified property;	
24		d. That the defendant may visit his or her child or children at times	
25		and places provided by the terms of any existing order entered	
26		by a judge.	
27		The conditions set forth above may be imposed in addition to requiring	
28		that the defendant execute a secured appearance bond.	
29	(3)	Should the defendant be mentally ill and dangerous to himself or	
30		others or a substance abuser and dangerous to himself or others, the	
31		provisions of Article 5 of Chapter 122C of the General Statutes shall	
32		apply.	
33	(b) A def	endant may be retained in custody not more than 48 hours from the time	
34	of arrest without a determination being made under this section by a judge. If a judge		
35	has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act		
36	under the provisions of this section."		
37	SECTION 3. The Attorney General's Office, in consultation with the North		
38	Carolina Council for Women/Domestic Violence Commission, the North Carolina		
39	Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall		
40	develop a reporting system and database that reflects the number of homicides in the		
41	state where the offender and the victim had a personal relationship, as defined by		
42	G.S. 50B-1(b). The information in the database shall also include whether the victim		
43	had obtained an order pursuant to G.S. 50B-3 and whether the offender was on pretrial		
44	release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall		

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report information to the Attorney General's Office upon making a determination that a 1 2 homicide meets the reporting system's criteria. The report shall be made in the format 3 adopted by the Attorney General's Office. The Attorney General's Office shall begin 4 collecting data required by this act for offenses occurring on or after July 1, 2007. The 5 Attorney General's Office shall report to the Joint Legislative Committee on Domestic 6 Violence, no later than February 1 of each year, with the data collected for the previous 7 calendar year. 8 SECTION 4. Sections 1 and 2 of this act become effective December 1, 9 2007, and apply to offenses committed on or after that date. The remainder of this act is

10 effective when it becomes law.