

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 32*

Short Title: Amend DV Laws/Homicide Reporting. (Public)

Sponsors: Senators Boseman; Atwater, Cowell, Goodall, and Snow.

Referred to: Judiciary 1 (Civil).

February 12, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CRIMINAL PROCEDURE LAWS AFFECTING DOMESTIC
3 VIOLENCE VICTIMS AND TO REQUIRE DOMESTIC VIOLENCE HOMICIDE
4 REPORTING AS RECOMMENDED BY THE JOINT LEGISLATIVE
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 "(2) Offense Out of Presence of Officer. – An officer may arrest without a
9 warrant any person who the officer has probable cause to believe:

10 a. Has committed a felony; or

11 b. Has committed a misdemeanor, and:

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 c. 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 14-34-14-34~~, 14-277.1, or 14-277.3
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. Crimes of domestic violence; bail and pretrial release.**

27 (a) In all cases in which the defendant is charged with assault on, stalking,
28 communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15
29 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with

1 whom the defendant lives or has lived as if married, with domestic criminal trespass, or
2 with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the
3 General Statutes, the judicial official who determines the conditions of pretrial release
4 shall be a judge, and the following provisions shall apply in addition to the provisions of
5 G.S. 15A-534:

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

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

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

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

26 (3) Should the defendant be mentally ill and dangerous to himself or
27 others or a substance abuser and dangerous to himself or others, the
28 provisions of Article 5 of Chapter 122C of the General Statutes shall
29 apply.

30 (b) A defendant may be retained in custody not more than 48 hours from the time
31 of arrest without a determination being made under this section by a judge. If a judge
32 has not acted pursuant to this section within 48 hours of arrest, the magistrate shall act
33 under the provisions of this section."

34 **SECTION 3.** The Attorney General's Office, in consultation with the North
35 Carolina Council for Women/Domestic Violence Commission, the North Carolina
36 Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall
37 develop a reporting system and database that reflects the number of homicides in the
38 state where the offender and the victim had a personal relationship, as defined by
39 G.S. 50B-1(b). The information in the database shall also include whether the victim
40 had obtained an order pursuant to G.S. 50B-3 and whether the offender was on pretrial
41 release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall
42 report information to the Attorney General's Office upon making a determination that a
43 homicide meets the reporting system's criteria. The report shall be made in the format
44 adopted by the Attorney General's Office. The Attorney General's Office shall begin

1 collecting data required by this act for offenses occurring on or after July 1, 2007. The
2 Attorney General's Office shall report to the Joint Legislative Committee on Domestic
3 Violence, no later than February 1 of each year, with the data collected for the previous
4 calendar year.

5 **SECTION 4.** Sections 1 and 2 of this act become effective December 1,
6 2007, and apply to offenses committed on or after that date. The remainder of this act is
7 effective when it becomes law.