

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 929

Short Title: Domestic Violence Changes.

(Public)

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Sponsors: Representatives Morris; Adams, Alexander, Arnold, Baker, Bowie, Brawley, Cansler, Capps, Clary, Culp, Davis, Earle, Esposito, Gardner, Goodwin, Gulley, Howard, Hurley, Insko, Ives, Jarrell, Jeffus, Kinney, Luebke, McAllister, Moore, Mosley, Neely, Russell, Sexton, Sherrill, Shubert, Warner, Watson, C. Wilson, and G. Wilson.

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Referred to: Human Resources, if favorable, Judiciary II.

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April 14, 1997

A BILL TO BE ENTITLED

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2 AN ACT TO CLARIFY AND EXPAND THE CLASSIFICATION OF PERSONS WHO  
3 MAY OBTAIN A PROTECTIVE ORDER; TO CLARIFY THE CIRCUMSTANCES  
4 UNDER WHICH MAGISTRATES MAY ISSUE PROTECTIVE ORDERS; AND  
5 TO IMPOSE A CRIMINAL PENALTY FOR VIOLATION OF A PROTECTIVE  
6 ORDER.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 50B-1(b) reads as rewritten:

9 "(b) For purposes of this section, the term 'familial relationship' means a  
10 relationship wherein the parties involved:

11 (1) Are current or former spouses;

12 (2) Are persons of opposite sex who live together or have lived together;

13 (3) Are parents, grandparents, or others acting in loco parentis to a minor child, or  
14 children and grandchildren; are related as parents and children, including  
15 others acting in loco parentis to a minor child, or as grandparents and  
16 grandchildren. For purposes of this subdivision, an aggrieved party may

1           not obtain an order of protection against a child or grandchild under the  
2           age of 16;

3           (4)   Have a child in ~~common~~-common;

4           (5)   Are current or former household members;

5           (6)   Are dating or have dated. For purposes of this subdivision, a dating  
6           relationship is one wherein the parties are romantically involved over  
7           time and on a continuous basis during the course of the relationship. A  
8           casual acquaintance or ordinary fraternization between persons in a  
9           business or social context is not a dating relationship."

10          Section 2. G.S. 50B-2(c1) reads as rewritten:

11          "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may  
12 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte.  
13 Prior to the hearing, if the magistrate determines that at the time the party is seeking  
14 emergency relief ex parte ~~the clerk of superior court is not available,~~ the district court is not  
15 in ~~session,~~-session and a district court judge is not and will not be available to hear the  
16 motion for a period of four or more hours, the motion may be heard by the magistrate. If  
17 it clearly appears to the magistrate from specific facts shown that there is a danger of acts  
18 of domestic violence against the aggrieved party or a minor child, the magistrate may  
19 enter such orders as it deems necessary to protect the aggrieved party or minor children  
20 from such acts, except that a temporary order for custody ex parte and prior to service of  
21 process and notice shall not be entered unless the magistrate finds that the child is  
22 exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered  
23 under this subsection shall expire and the magistrate shall schedule an ex parte hearing  
24 before a district court judge within 72 hours of the filing for relief under this subsection,  
25 or by the end of the next day on which the district court is in session in the county in  
26 which the action was filed, whichever occurs first. A party who has paid court costs due  
27 for seeking an order from the magistrate under this subsection shall not be liable for court  
28 costs for a hearing before the district court judge scheduled and heard pursuant to an  
29 order entered by the magistrate under this subsection. Ex parte orders entered by the  
30 district court judge pursuant to this subsection shall be entered and scheduled in  
31 accordance with subsection (c) of this section."

32          Section 3. Chapter 50B is amended by adding the following new section to  
33 read:

34          "**§ 50B-4A. Violation of valid protective order a misdemeanor.**

35          A person who violates a valid protective order entered pursuant to this Chapter shall  
36 be guilty of a Class A1 misdemeanor."

37          Section 4. This act becomes effective December 1, 1997, and applies to  
38 offenses committed on or after that date.