

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 42*
Committee Substitute Favorable 3/6/07

Short Title: Amend DV Laws/Homicide Reporting.

(Public)

Sponsors:

Referred to:

January 31, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND CRIMINAL PROCEDURE LAWS AFFECTING DOMESTIC
VIOLENCE VICTIMS AND TO REQUIRE DOMESTIC VIOLENCE HOMICIDE
REPORTING AS RECOMMENDED BY THE JOINT LEGISLATIVE
COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-534.1 reads as rewritten:

"§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.

(a) In all cases in which the defendant is charged with assault on, stalking, communicating a threat to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge, and the following provisions shall apply in addition to the provisions of G.S. 15A-534:

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

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

- a. That the defendant stay away from the home, school, business or place of employment of the alleged victim;
- b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;

- 1 c. That the defendant refrain from removing, damaging or injuring
2 specifically identified property;
3 d. That the defendant may visit his or her child or children at times
4 and places provided by the terms of any existing order entered
5 by a judge.

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

- 8 (3) Should the defendant be mentally ill and dangerous to himself or
9 others or a substance abuser and dangerous to himself or others, the
10 provisions of Article 5 of Chapter 122C of the General Statutes shall
11 apply.

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

16 **SECTION 2.** The Attorney General's Office, in consultation with the North
17 Carolina Council for Women/Domestic Violence Commission, the North Carolina
18 Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall
19 develop a reporting system and database that reflects the number of homicides in the
20 State where the offender and the victim had a personal relationship, as defined by
21 G.S. 50B-1(b). The information in the database shall also include the type of personal
22 relationship that existed between the offender and the victim, whether the victim had
23 obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for
24 which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and
25 local law enforcement agencies shall report information to the Attorney General's Office
26 upon making a determination that a homicide meets the reporting system's criteria. The
27 report shall be made in the format adopted by the Attorney General's Office. The
28 Attorney General's Office shall begin collecting data required by this act for offenses
29 occurring on or after July 1, 2007. The Attorney General's Office shall report to the
30 Joint Legislative Committee on Domestic Violence, no later than February 1 of each
31 year, with the data collected for the previous calendar year.

32 **SECTION 3.** Section 1 of this act becomes effective December 1, 2007, and
33 applies to offenses committed on or after that date. The remainder of this act is
34 effective when it becomes law.