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SENATE BILL 83
Judiciary II (Criminal) Committee Substitute Adopted 4/30/07
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Short Title: Amend Domestic Crim. Trespass.

(Public)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF DOMESTIC CRIMINAL TRESPASS BY MAKING IT A FELONY FOR A PERSON WHO IS THE SUBJECT OF A VALID PROTECTIVE ORDER TO TRESPASS ON PROPERTY THAT IS OPERATED AS A SAFE HOUSE OR HAVEN FOR DOMESTIC VIOLENCE VICTIMS WITHOUT REGARD AS TO WHETHER THE PERSONS COVERED BY THE PROTECTIVE ORDER ARE PRESENT ON THE PREMISES AND TO PROVIDE THAT IT IS AN AGGRAVATING CIRCUMSTANCE FOR FIRST DEGREE MURDER IF A DEFENDANT WHO IS THE SUBJECT OF A VALID PROTECTIVE ORDER COMMITS A MURDER ON THE PREMISES OF A SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE, AND TO LIMIT THE LIABILITY OF DOMESTIC VIOLENCE SHELTERS AND PERSONS ASSOCIATED WITH THOSE SHELTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-134.3 reads as rewritten:

"§ 14-134.3. Domestic criminal trespass.

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

(1) A judicial order of separation;

(2) A court order directing the person charged to stay away from the premises occupied by the complainant;

1 (3) An agreement, whether verbal or written, between the complainant and
2 the person charged that they shall live separate and apart, and such
3 parties are in fact living separate and apart; or

4 (4) Separate places of residence for the complainant and the person
5 charged.

6 Except as provided in subsection (b) or (c) of this section, upon conviction, said person
7 is guilty of a Class 1 misdemeanor.

8 (b) A person convicted of a violation of this section is guilty of a Class G felony
9 if the person is trespassing upon property operated as a safe house or haven for victims
10 of domestic violence and the person is armed with a deadly weapon at the time of the
11 offense.

12 (c) It is unlawful for a person who is subject to a valid protective order that is
13 enforceable under Chapter 50B of the General Statutes to enter property being operated
14 as a safe house or haven for victims of domestic violence after being forbidden to do so
15 or to remain on the premises after being ordered to leave by the lawful occupant, unless
16 the person enters upon the premises pursuant to a judicial order or written separation
17 agreement that gives the person the right to enter upon the premises for the purpose of
18 visiting with minor children. A person who violates this subsection is guilty of this
19 offense regardless of whether any of the parties protected by the protective order are
20 present on the property. A person who violates this subsection is guilty of a Class H
21 felony."

22 **SECTION 2.** G.S. 15A-2000(e) is amended by adding a new subdivision to
23 read:

24 "(12) The defendant was the subject of a valid protective order enforceable
25 under Chapter 50B of the General Statutes at the time of the
26 commission of the capital felony and committed the capital felony on
27 the premises of a safe house or haven for victims of domestic
28 violence."

29 **SECTION 3.** Chapter 1 of the General Statutes is amended by adding a new
30 Article to read:

31 "Article 51.

32 "Limit Civil Liability of Domestic Violence Shelters and Persons Associated with the
33 Shelters.

34 **§ 1-610. Definitions.**

35 As used in this Article, the following terms mean:

36 (1) Client. – A person who is the victim of domestic violence, as defined
37 in Chapter 50B of the General Statutes, or of nonconsensual sexual
38 conduct or stalking, as defined in Chapter 50C of the General Statutes,
39 and is using services or facilities of a shelter.

40 (2) Conduct. – One or more actions or omissions.

41 (3) Domestic violence. – As defined in G.S. 50B-1(a).

42 (4) Harm. – Injury, death, or loss to person or property.

43 (5) Perpetrator. – A person who has committed domestic violence and
44 who bears one of the personal relationships specified in G.S. 50B-1(b)

1 to the victim of domestic violence, or a person who has committed
2 nonconsensual sexual conduct or stalking as defined in Chapter 50C of
3 the General Statutes.

4 (6) Shelter. – A facility that meets the criteria set forth in G.S. 50B-9 and
5 is funded through the Domestic Violence Center Fund providing
6 shelter to victims of domestic violence, nonconsensual sexual conduct,
7 or stalking.

8 (7) Victim advocate. – A person from a crime victim service organization
9 who provides support and assistance for a victim of a crime during
10 court proceedings and recovery efforts related to the crime.

11 (8) Volunteer. – An individual who provides any service at a shelter
12 without expectation of receiving and without receiving any
13 compensation or other form of remuneration, directly or indirectly, for
14 the provision of the service.

15 **"§ 1-611. Immunity of domestic violence shelters and associated persons**
16 **concerning torts committed on the shelter's premises.**

17 (a) Except as provided in subsection (b) of this section, a shelter and a director,
18 owner, trustee, officer, employee, victim advocate, or volunteer are not liable in
19 damages in a tort action for harm that a client or other person who is on the premises of
20 the shelter sustains as a result of tortious conduct of a perpetrator that is committed on
21 the premises of the shelter if the perpetrator is not a director, owner, trustee, officer,
22 employee, victim advocate or volunteer and if any of the following situations apply:

23 (1) The perpetrator illegally entered and illegally remained on the
24 premises of the shelter at the time the perpetrator's tortious conduct
25 caused the harm sustained by a client or other person who was also on
26 the premises.

27 (2) The perpetrator legally entered the premises of the shelter and a
28 director, owner, trustees, officer, employee, victim advocate or
29 volunteer of the shelter instructed the perpetrator to leave the premises
30 before the perpetrator caused the harm sustained by a client or other
31 person who was also on the premises and despite those reasonable
32 steps, the perpetrator remained on the premises and committed the
33 tortious conduct that caused the harm sustained by a client or other
34 person who was on the premises.

35 (3) The perpetrator legally entered the premises of the shelter and a
36 director, owner, trustee, officer, employee, victim advocate, or
37 volunteer of the shelter granted the perpetrator permission to remain
38 on the premises after the director, owner, trustee, officer, employee,
39 victim advocate or volunteer in exercising the reasonable judgment
40 and discretion of a prudent person under similar circumstances,
41 determined that granting the person permission to remain on the
42 premises did not appear to pose a threat of harm to a client or other
43 person who was on the premises.

- 1 (b) The immunity established by this section does not extend to gross negligence,
2 wanton conduct, or intentional wrongdoing that would otherwise be actionable."
3 **SECTION 4.** This act becomes effective December 1, 2008, and applies to
4 offenses committed and causes of action arising on or after that date.