

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-471
SENATE BILL 627

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

The General Assembly of North Carolina enacts:

Section 1. G.S. 50B-1 reads as rewritten:

"§ 50B-1. Domestic violence; definition.

(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a ~~familial~~ personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

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

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) ~~Are parents, grandparents, or others acting in loco parentis to a minor child, or children and grandchildren;~~ Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in ~~common~~ common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the

relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship."

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 21st day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:28 p.m. this 1st day of September, 1997