

NORTH CAROLINA GENERAL ASSEMBLY



JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE

REPORT TO THE 2010 SESSION of the 2009 GENERAL ASSEMBLY

MAY 2010

TRANSMITTAL LETTER

The Joint Legislative Committee on Domestic Violence submits to you for your consideration the following report pursuant to G.S. 120-266(b).

Respectfully submitted,

Representative Marian N. McLawhorn
Co-Chair

Senator Malcolm Graham
Co-Chair

COMMITTEE PROCEEDINGS

Below is a brief summary of the Committee's proceedings. A more detailed record of the Committee's work can be found in the Committee's notebook, located in the Legislative Library.

November 16, 2009

The Committee met on Monday, November 16, 2009, in Room 544 of the Legislative Office Building at 3:00 PM. Hal Pell, staff member with the Legislative Research Division, gave a brief report on domestic violence legislation that was addressed in the 2009 Session. Next, June Michaux, Deputy Secretary of the North Carolina Department of Administration, gave a history of the Council for Women/Domestic Violence Commission and provided the Committee with an update on the grant awards for the year. The final speaker was Beth Froehling, Interim Co-Executive Director of the North Carolina Coalition Against Domestic Violence, who gave a report on the history of the Coalition and provided background information on domestic violence in North Carolina. Ms. Froehling also discussed funding recommendations for 2010.

January 11, 2010

The Committee met on Monday, January 11, 2010, in Room 544 of the Legislative Office Building at 3:00 PM. Hal Pell, staff member with the Legislative Research Division, gave a brief report on domestic violence legislation that passed in the 2007-2009 Sessions and were recommended by this Committee. The Committee then heard from Chief John Guard, Community Operations Division, Pitt County Sheriff's Office, who reported on the Domestic Violence and Pre-trial Release Conditions. Next, Deanna Manning, Director, Alamance County Family Justice Center; Judge Jim Roberson, Chief District Court Judge, District 15A; and Sheriff Terry Johnson, Alamance County, discussed the Alamance County Family Justice Center. Afterward, Leah Perkinson, Prevention Specialist, NC Coalition against Domestic Violence, reported on North Carolina's 10-Year Plan to Prevent Intimate Partner Violence.

March 15, 2010

The Committee met on Monday, March 15, 2010, in Room 544 of the Legislative Office Building at 10:00 AM. Jean Sandaire, staff member with the Fiscal Research Division, gave a presentation on domestic violence and sexual assault state and federal funding sources. Next, Jill Dinwiddie, Executive Director of the North Carolina Council for Women/Domestic Violence Commission gave a presentation on the state oversight and coordination of the services to victims of domestic violence. Ms. Dinwiddie also gave a report on the Domestic Violence Commission's activities.

April 12, 2010

The Committee met on Monday, April 12, 2010 in Room 643 of the Legislative Office Building at 10:00 AM. Janet Hesmer, Executive Director of Wesley Shelter of Wilson, gave a local perspective on domestic violence services for women and children in Wilson. Next, Beth Froehling, Executive Director, North Carolina Coalition Against Domestic Violence, presented the Coalition's 2010 legislative recommendations. The Chair then recognized Jill Dinwiddie, Executive Director, North Carolina Council for Women/Domestic Violence Commission, who gave a report on the Commission's activities. Next, Greg McLeod, Legislative Counsel, Attorney General's Office, presented the 2009 Domestic Violence Fatality Report. The final speaker was Gregg Stahl, Senior Deputy Director, Administrative Office of the Courts, who presented a report on the domestic violence notification system.

April 29, 2010

The Committee met on Thursday, April 29, 2010 in Room 421 of the Legislative Office Building at 10:00 AM. The Committee discussed proposed recommendations and legislation.

May 12, 2010

The Committee met on Wednesday, May 12, 2010 in Room 421 of the Legislative Office Building at 2:30 PM. The Committee discussed proposed legislation and approved a final report.

RECOMMENDATIONS

At its final meeting of the 2009-2010 Interim, the Committee approved for transmittal to the 2010 Session of the 2009 General Assembly the following proposals:

RECOMMENDATION 1

Funding for Domestic Violence Services

The Committee recommends that the General Assembly make it a priority for the 2010-2011 fiscal year to preserve existing programs and funding levels for all domestic violence services in the State.

RECOMMENDATION 2

Support for Senate Bill 144 and Section 1 of Senate Bill 140

The Committee recommends that the General Assembly enact Senate Bill 144 (Limit Liability/Domestic Violence Shelters) and Section 1 of Senate Bill 140 (Amend Domestic Crim. Trespass). Each of these bills passed the Senate and crossed to the House before the crossover deadline during the 2009 Session, and they continue to be eligible in the 2010 Short Session.

RECOMMENDATION 3

Domestic Violence Training for District Court Judges and Magistrates

Draft # 2009-SUz-4 (attached)

The Committee recommends that the General Assembly enact legislation to request that the North Carolina Supreme Court adopt rules requiring training on the handling of domestic violence cases for district court judges; and that the University of North Carolina School of Government, through the Conference of District Court Judges and otherwise, provide training opportunities to district court judges and magistrates on the handling of domestic violence cases.

RECOMMENDATION 4

Consideration of a Defendant's Prior Criminal Record

Draft # 2009-RKz-22 (attached)

The Committee recommends that the General Assembly enact legislation that will enable the court to review a defendant's criminal record, if any, at the time that the court is determining whether to issue a domestic violence protective order or considering pretrial release.

RECOMMENDATION 5

Clarification of Fees in Chapter 50B

Draft # 2009-SAz-18 (attached)

The Committee recommends that the General Assembly clarify when court costs apply for amendments and counterclaims in 50B actions.

RECOMMENDATION 6**Establishment of Pilot Program for Electronic Filing in Domestic Violence Cases
Draft # 2009-RKz-23 (attached)**

The Committee recommends that the General Assembly establish a pilot program for electronic filing in domestic violence and civil no-contact cases in Alamance County.

RECOMMENDATION 7**Funding for Various Domestic Violence Purposes
Draft # 2009-SAz-19 (attached)**

The Committee recommends that the General Assembly appropriate the following:

- \$6,862,298 for the Domestic Violence Fund.
- \$2,000,000 in matching funds for domestic violence shelters.
- \$2,000,000 for visitation centers.
- \$1,000,000 in TANF funding for Domestic Violence Prevention and Awareness.

AUTHORIZING LEGISLATION

Article 30.

Joint Legislative Committee on Domestic Violence.

§ 120-265. Creation and membership of Joint Legislative Committee on Domestic Violence.

The Joint Legislative Committee on Domestic Violence is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate; and
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2007 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (2005-356, s. 1.)

§ 120-266. Purposes and powers of Committee.

(a) The Joint Legislative Committee on Domestic Violence shall examine, on a continuing basis, domestic violence issues in North Carolina in order to make ongoing recommendations to the General Assembly on ways to reduce incidences of domestic violence and to provide additional assistance to victims of domestic violence. In this examination, the Committee shall:

- (1) Study the budget, programs, and policies of the Domestic Violence Commission to determine ways in which the General Assembly may improve the effectiveness of the Commission;
- (2) Study and evaluate the funding sources and needs of domestic violence programs providing services to domestic violence victims and programs providing treatment to domestic violence abusers;
- (3) Study legal services funding for domestic violence victims and explore additional sources of funding;
- (4) Explore sources of additional funding for all domestic violence programs, including visitation centers;
- (5) Examine current programs and explore new programs to provide effective services to domestic violence victims and treatment to domestic violence abusers;
- (6) Examine law enforcement and judicial responses to domestic violence;
- (7) Review data collected on domestic violence cases pursuant to G.S. 15A-1382.1;

- (8) Study the effectiveness of the Crime Victims Rights Act as it relates to domestic violence; and
- (9) Conduct any other studies, evaluations, or assessments necessary for the Committee to carry out its purpose.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. (2005-356, s. 1.)

§ 120-267. Organization of the Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Committee on Domestic Violence. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The Committee cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties and may appoint non-Commission members to serve on each subcommittee as resource persons. Resource persons shall be voting member of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6. (2005-356, s. 1.)

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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D

BILL DRAFT 2009-SUz-4 [v.2] (04/23)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/26/2010 7:33:20 AM**

Short Title: Domestic Violence Training for Judges.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUEST THAT THE NORTH CAROLINA SUPREME COURT ESTABLISH
3 MINIMUM STANDARDS OF DOMESTIC VIOLENCE EDUCATION AND TRAINING
4 FOR DISTRICT COURT JUDGES, AND TO ENCOURAGE THE UNIVERSITY OF
5 NORTH CAROLINA SCHOOL OF GOVERNMENT TO PROVIDE DOMESTIC
6 VIOLENCE EDUCATION AND TRAINING FOR JUDGES AND MAGISTRATES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** The North Carolina Supreme Court is respectfully requested to adopt
9 rules establishing minimum standards of education and training for district court judges in
10 handling civil and criminal domestic violence cases.

11 **SECTION 2.** The University of North Carolina School of Government is
12 encouraged to provide education and training opportunities for district court judges and
13 magistrates in the handling of civil and criminal domestic violence cases.

14 **SECTION 3.** This act is effective when it becomes law.
15

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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D

BILL DRAFT 2009-RKz-22 [v.7] (04/23)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/11/2010 3:39:13 PM

Short Title: DV Cases/Review Criminal Record.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO ENSURE THAT A COURT, WHEN CONSIDERING WHETHER TO ISSUE A
DOMESTIC VIOLENCE PROTECTIVE ORDER, OR PRETRIAL RELEASE UNDER
THE DOMESTIC VIOLENCE CRIMES STATUTE, CONSIDERS THE DEFENDANT'S
CRIMINAL RECORD, AS RECOMMENDED BY THE JOINT LEGISLATIVE
COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-2(a) reads as rewritten:

"(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. Any action for a domestic violence protective order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. Upon receipt of the complaint and summons for service, the law enforcement agency shall provide the clerk of court with a State criminal background check of the defendant named in the complaint for inclusion in the court's file. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5."

SECTION 2. G.S. 50B-3(a) reads as rewritten:

"§ 50B-3. Relief.

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. The court, when considering whether to grant

1 relief, shall consider the defendant's criminal record as a factor in making its decision. A
2 protective order may include any of the following types of relief:

3 "

4 **SECTION 3.** G.S. 15A-534.1(a) reads as rewritten:

5 **""§ 15A-534.1. Crimes of domestic violence; bail and pretrial release.**

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

14 "

15 **SECTION 4.** This act becomes effective October 1, 2010.
16

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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D

BILL DRAFT 2009-SAz-18 [v.3] (04/26)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/11/2010 3:32:30 PM**

Short Title: 50B fee clarification.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO CLARIFY WHEN COURT COSTS APPLY FOR AMENDMENTS AND
COUNTERCLAIMS IN 50B ACTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-305(a1) reads as rewritten:

"(a1) Costs apply to any and all additional and subsequent actions filed by amendment or counterclaim to the original action brought under Chapter 50B of the General Statutes, unless such additional and subsequent amendment or counterclaim to the action is ~~also brought under~~ limited to requests for relief authorized by Chapter 50B of the General Statutes."

SECTION 2. This act becomes effective October 1, 2010.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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D

BILL DRAFT 2009-RKz-23 [v.3] (12/27)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/11/2010 1:55:48 PM**

Short Title: 50B and 50C/Electronic Filing Pilot.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PILOT PROGRAM FOR ELECTRONIC FILING IN
3 DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE
4 COUNTY AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON
5 DOMESTIC VIOLENCE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** A pilot program for electronic filing in domestic violence cases is
8 established in District Court District 15A. In order to implement the program, the chief district
9 court judge in District Court District 15A may adopt local rules that permit the clerk of superior
10 court for Alamance County to accept electronically-filed complaints requesting General
11 Statutes Chapter 50B ex parte domestic violence protective orders, and General Statutes
12 Chapter 50C ex parte civil no-contact orders, that are transmitted from the Alamance County
13 Family Justice Center.

14 **SECTION 2.** This act becomes effective July 1, 2010, and expires June 30, 2012.
15

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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D

BILL DRAFT 2009-SA~~z~~19 [v.3] (04/28)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/11/2010 3:31:49 PM**

Short Title: DV Funds.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO APPROPRIATE FUNDS FOR VARIOUS PURPOSES PURSUANT TO
RECOMMENDATIONS FROM THE JOINT LEGISLATIVE COMMITTEE ON
DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

DOMESTIC VIOLENCE CENTER FUND

SECTION 1. There is appropriated from the General Fund to the Department of Administration the sum of six million eight hundred sixty-two thousand two hundred ninety-eight dollars (\$6,862,298) for the 2010-2011 fiscal year to be allocated to the Domestic Violence Center Fund established under G.S. 50B-9.

FUNDS FOR DOMESTIC VIOLENCE SHELTERS

SECTION 2.(a) There is appropriated from the General Fund to the Department of Administration the sum of two million dollars (\$2,000,000) for the 2010-2011 fiscal year to be allocated to the North Carolina Council for Women and the Domestic Violence Commission to provide for matching grant funds. The Council shall make grants as follows:

- (1) For the construction of new shelters for victims of domestic violence. For purposes of this subdivision, "new construction" shall include additions to existing shelters if the additional construction increases the residential space for victims of domestic violence.
- (2) For the purchase of existing space for use as a domestic violence shelter.
- (3) To assist in the payment of construction debt for existing domestic violence shelters.

SECTION 2.(b) In determining grant awards, the Council shall establish grant criteria to include the following:

- (1) The availability of shelter facilities in the county where the shelter would be located or is currently located.
- (2) The number of persons currently served or the approximate number of persons to be served by the facility.
- (3) The requirements under G.S. 50B-9(2) and (3) for the receipt of funding.

1 **SECTION 2.(c)** Funds provided for under this section shall be matched one-for-
2 one by the applicant. The Council shall not provide more than fifty thousand dollars (\$50,000)
3 in a fiscal year to any applicant.

4 **SECTION 2.(d)** The Council shall distribute grants semiannually. The Council
5 must receive applications for grants by September 30 of each year for grant awards to be
6 distributed on or after November 1, and no later than March 31 of each year for grant awards to
7 be distributed on or after May 1.

8 **SECTION 2.(e)** Funds appropriated in this section shall not revert to the General
9 Fund but shall remain with the Council for the purposes described in this section.

10 **FUNDS FOR VISITATION CENTERS**

11 **SECTION 3.** There is appropriated from the General Fund to the Department of
12 Crime Control and Public Safety the sum of two million dollars (\$2,000,000) for the 2010-2011
13 fiscal year to be allocated to the Governor's Crime Commission to create new supervised
14 visitation and exchange centers and to continue funding existing supervised visitation and
15 exchange centers in this State. The Commission shall distribute the funds through its grant
16 process.

17 **TANF FUNDING**

18 **SECTION 4.** The sum of one million dollars (\$1,000,000) appropriated in the
19 TANF Block Grant to the Department of Health and Human Services, Division of Social
20 Services, for the 2010-2011 fiscal year shall be used for Domestic Violence Prevention and
21 Awareness and shall be used for grants to support initiatives by local domestic violence
22 programs to prevent domestic violence. Prevention activities shall include efforts to reach
23 underserved populations and shall be culturally sensitive and multilingual. The Department
24 shall award grants to community-based organizations that demonstrate the ability to collaborate
25 and coordinate services with other local human services agencies and organizations in order to
26 serve children and families where domestic violence has occurred or is occurring. The
27 Department shall report on the use of these funds no later than May 1, 2011, to the Senate
28 Appropriations Committee on Health and Human Services, the House of Representatives
29 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
30 Division.

31 **SECTION 5.** This act becomes effective July 1, 2010.