

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 1057

Short Title: Amend DV Laws/Address Confidentiality. (Public)

Sponsors: Senators Hagan; Clodfelter, Foxx, Garrou, Kinnaird, and Lucas.

Referred to: Judiciary II.

April 5, 2001

A BILL TO BE ENTITLED

1
2 AN ACT PROHIBITING THE ASSESSMENT OF COURT COSTS AS RELATED
3 TO PROTECTIVE ORDERS IN DOMESTIC VIOLENCE CASES, AMENDING
4 THE LAWS RELATING TO DOMESTIC VIOLENCE, AND ESTABLISHING
5 AN ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF
6 DOMESTIC VIOLENCE, SEXUAL OFFENSES, AND STALKING.

7 The General Assembly of North Carolina enacts:

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

9 "(a) Any person residing in this State may seek relief under this Chapter by filing
10 a civil action or by filing a motion in any existing action filed under Chapter 50 of the
11 General Statutes alleging acts of domestic violence against himself or herself or a minor
12 child who resides with or is in the custody of such person. Any aggrieved party entitled
13 to relief under this Chapter may file a civil action and proceed pro se, without the
14 assistance of legal counsel. The district court division of the General Court of Justice
15 shall have original jurisdiction over actions instituted under this Chapter. No court costs
16 shall be assessed for the filing, issuance, registration, or service of a protective order or
17 petition for a protective order or witness subpoena in compliance with 42 U.S.C. §
18 3796gg-5."

19 **SECTION 2.** G.S. 1-110(a)(6) is repealed.

20 **SECTION 3.** G.S. 50B-2(c1) reads as rewritten:

21 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge
22 may authorize a magistrate or magistrates to hear any motions for emergency relief ex
23 parte. Prior to the hearing, if the magistrate determines that at the time the party is
24 seeking emergency relief ex parte the district court is not in session and a district court
25 judge is not and will not be available to hear the motion for a period of four or more
26 hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate
27 from specific facts shown that there is a danger of acts of domestic violence against the
28 aggrieved party or a minor child, the magistrate may enter such orders as it deems

1 necessary to protect the aggrieved party or minor children from such acts, except that a
2 temporary order for custody ex parte and prior to service of process and notice shall not
3 be entered unless the magistrate finds that the child is exposed to a substantial risk of
4 bodily injury or sexual abuse. An ex parte order entered under this subsection shall
5 expire and the magistrate shall schedule an ex parte hearing before a district court judge
6 ~~within 72 hours of the filing for relief under this subsection, or by the end of the next~~
7 ~~day on which the district court is in session in the county in which the action was filed,~~
8 ~~whichever occurs first.~~ filed. A party who has paid court costs due for seeking an order
9 from the magistrate under this subsection shall not be liable for court costs for a hearing
10 before the district court judge scheduled and heard pursuant to an order entered by the
11 magistrate under this subsection. Ex parte orders entered by the district court judge
12 pursuant to this subsection shall be entered and scheduled in accordance with subsection
13 (c) of this section."

14 **SECTION 4.** The General Statutes are amended by adding a new Chapter to
15 read:

16 "Chapter 15C.

17 "Address Confidentiality Program.

18 "**§ 15C-1. Purpose.**

19 The General Assembly establishes a program in the Secretary of State's Office to
20 protect the confidentiality of victims of actual or threatened violence. The purpose of
21 the program is to allow children and adult persons attempting to escape from actual or
22 threatened domestic violence, sexual offenses, or violence threatened by stalkers to
23 participate in the electoral process and other rights as citizens, including obtaining
24 drivers licenses, birth records, public utilities, school and employment records, without
25 placing them in fear of their assailants or potential assailants locating them. The
26 program will: (i) allow State and local agencies to respond to requests for public records
27 without disclosing the location of the victims; (ii) enable interagency cooperation in
28 providing address confidentiality for the victims; (iii) enable State and local agencies to
29 accept a program participant's use of an address designated by the Secretary of State's
30 Office as a substitute address; and (iv) allow newly relocated victims to keep their
31 addresses confidential from abusive individuals.

32 "**§ 15C-2. Definitions.**

33 The following definitions apply in this Chapter:

- 34 (1) Address. – A residential, work, or school street address as specified on
35 the individual's application to be a program participant under this
36 Chapter.
- 37 (2) Application assistant. – An employee of a State or local agency or
38 nonprofit program that provides counseling, referral, shelter, or other
39 specialized services to victims of domestic violence, sexual offenses,
40 or stalking and who has been designated by the Secretary of State to
41 assist individuals with the program participation applications.
- 42 (3) Person. – Any individual, corporation, limited liability company,
43 partnership, trust, estate, or other association or any state, the United
44 States, or any subdivision thereof.

- 1 (4) Program participant. – An individual accepted into the program in
2 accordance with G.S. 15C-3 of this Chapter.
3 (5) Secretary. – Office of the Secretary of State.
4 (6) Victim of domestic violence. – An individual against whom domestic
5 violence has been committed as defined in G.S. 50B-1.
6 (7) Victim of a sexual offense. – An individual against whom a sexual
7 offense has been committed pursuant to Article 7A of Chapter 14 of
8 the General Statutes.
9 (8) Victim of stalking. – An individual against whom stalking has been
10 committed as defined in G.S. 14-277.3.

11 **"§ 15C-3. Address confidentiality program.**

12 (a) Any of the following individuals may apply to the Secretary to have an
13 address designated by the Secretary to serve as the person's address:

- 14 (1) An adult who resides in this State and is a victim of domestic violence,
15 a victim of a sexual offense, or a victim of stalking.
16 (2) A parent or guardian acting on behalf of a minor when the minor
17 resides with the victim.
18 (3) A guardian acting on behalf of an incapacitated person who is a victim
19 of domestic violence, a victim of a sexual offense, or a victim of
20 stalking.

21 (b) The Secretary shall approve an application forwarded by an application
22 assistant if the application is filed in the manner and on the form prescribed by the
23 Secretary, and it contains:

- 24 (1) A statement by the applicant that the applicant is a victim of domestic
25 violence, a victim of a sexual offense, or a victim of stalking and that
26 the applicant fears for his or her safety or the safety of his or her child.
27 (2) A designation of the Secretary as an agent for purposes of service of
28 process and the receipt of first-class mail.
29 (3) The mailing address where the applicant can be contacted by the
30 Secretary and the telephone number where the applicant can be
31 reached by the Secretary.
32 (4) The mailing address that the applicant requests not to be disclosed by
33 the Secretary that directly relates to the increased risk of domestic
34 violence, sexual offense, or stalking.
35 (5) A statement that disclosure of the applicant's address would endanger
36 the applicant's safety or the safety of the applicant's child, and that to
37 the best of the applicant's knowledge, the information contained in the
38 application is true.
39 (6) A recommendation of an application assistant that the applicant have
40 an address designated by the Secretary to serve as the applicant's
41 address.

42 (c) The application shall be dated, signed, and verified by the applicant and shall
43 be signed by the application assistant who assisted in preparing the application.

44 **"§ 15C-4. Filing and certification of applications.**

1 Applications shall be filed with the Secretary. Upon filing a properly completed
2 application, the Secretary shall certify the applicant as a program participant. Applicants
3 shall be certified for four years following the date of filing unless the certification is
4 withdrawn or canceled prior to the end of the four-year period. A program participant
5 may withdraw the certification by filing a notarized request for withdrawal with the
6 Secretary. A certification may be renewed by filing an application containing the
7 information required by G.S. 15C-3 with the Secretary at least 30 days prior to
8 expiration of the current certification. The Secretary shall not be required to forward any
9 mail other than first-class mail to the program participant. The Secretary shall not be
10 required to track or otherwise maintain records of any mail received on behalf of a
11 program participant unless the mail is certified or registered mail.

12 **"§ 15C-5. Change of name or address.**

13 (a) A participant shall notify the Secretary within 30 days after the participant
14 has obtained a legal name change by providing the Secretary a certified copy of any
15 judgment or order evidencing the change or any other documentation the Secretary
16 deems to be sufficient evidence of the name change. If the participant fails to notify the
17 Secretary of a name change in the manner provided in this subsection, the participant
18 shall lose certification in the program.

19 (b) A participant shall notify the Secretary of a change in address or telephone
20 number from the address or telephone number listed for the participant on the
21 application at least seven days before the change occurs. If the participant fails to notify
22 the Secretary of a change in address or telephone number in the manner provided in this
23 subsection, the participant shall lose certification in the program.

24 **"§ 15C-6. Falsifying application information.**

25 A person who falsely attests in an application that disclosure of the applicant's
26 address would endanger the applicant's safety or the safety of the applicant's child or
27 who knowingly provides false information when applying for certification shall lose his
28 or her certification. The Attorney General shall investigate violations of this section and
29 upon finding that a violation has occurred, assess a civil penalty not to exceed five
30 hundred dollars (\$500.00).

31 **"§ 15C-7. Certification cancellation.**

32 (a) The Secretary shall cancel the certification of a program participant under any
33 of the following circumstances:

- 34 (1) The program participant files a notarized request for withdrawal of the
35 certification.
- 36 (2) The program participant fails to notify the Secretary of a change in the
37 participant's name, address, or telephone number listed on the
38 application pursuant to G.S. 15C-6.
- 39 (3) Mail forwarded to the program participant is returned as undeliverable.
- 40 (4) The program participant submitted false information in applying for
41 certification to the program.

42 (b) The provisions of Chapter 150B of the General Statutes shall not apply to any
43 cancellation by the Secretary pursuant to subsection (a) of this section.

44 **"§ 15C-8. Address use by State or local agencies.**

1 After a program participant demonstrates proof of his or her certification in the
2 program, State or local agencies shall accept the address designation by the Secretary as
3 a program participant's substitute address when creating a new public record for the
4 participant.

5 **"§ 15C-9. Disclosure of address prohibited.**

6 (a) The Secretary is prohibited from disclosing any address or telephone number
7 of a program participant other than the address designated by the Secretary, except
8 under the following circumstances:

9 (1) The information is requested by a law enforcement agency for official
10 use only.

11 (2) The information is required by direction of a court order. However,
12 any person to whom a program participant's address or telephone
13 number has been disclosed shall not disclose the address or telephone
14 number to any other person unless permitted to do so by order of the
15 court.

16 (b) Any person who discloses information in violation of this section shall be
17 guilty of a Class 1 misdemeanor and assessed a fine not to exceed five hundred dollars
18 (\$500.00).

19 (c) A program participant's address or telephone number maintained by the
20 Secretary or disclosed by the Secretary pursuant to this Chapter is not a public record
21 within the meaning of G.S. 132-1(a).

22 **"§ 15C-10. Limited liability.**

23 The Secretary and any agent or person employed by the Secretary shall be held
24 harmless from any liability in any action brought by or on behalf of any person injured
25 or harmed pursuant to this Chapter.

26 **"§ 15C-11. Rule-making authority.**

27 The Secretary is authorized to adopt any rules deemed necessary to carry out the
28 provisions of this Chapter.

29 **"§ 15C-12. Additional time for action.**

30 Whenever the laws of this State provide a program participant the right to do some
31 act or take some proceedings within a prescribed period of 10 days or less after the
32 service of a notice or other paper upon the participant, and the notice or paper is served
33 upon the participant by mail pursuant to this Chapter, five days shall be added to the
34 prescribed period."

35 **SECTION 5.** G.S. 1A-1, Rule 6 is amended by adding a new subsection to
36 read:

37 "(f) Additional Time for Address Confidentiality Program Participants. –
38 Whenever a person participating in the address confidentiality program pursuant to
39 Chapter 15C of the General Statutes has the right to do some act or take some
40 proceedings within a prescribed period after the service of a notice or other paper upon
41 him, and the notice or paper is served upon him by mail, five days shall be added to the
42 prescribed period."

43 **SECTION 6.** This act is effective when it becomes law.