## GENERAL ASSEMBLY OF NORTH CAROLINA

#### **SESSION 1997**

S

### SENATE BILL 627 Judiciary Committee Substitute Adopted 4/16/97 Third Edition Engrossed 4/23/97 House Committee Substitute Favorable 7/31/97

Short Title: Domestic Violence Changes.

Sponsors:

Referred to:

# April 1, 1997

1	A BILL TO BE ENTITLED			
2	AN ACT TO CLARIFY AND EXPAND THE CLASSIFICATION OF PERSONS WHO			
3	MAY OBTAIN A DOMESTIC VIOLENCE PROTECTIVE ORDER; TO CLARIFY			
4	THE CIRCUMSTANCES UNDER WHICH MAGISTRATES MAY ISSUE			
5	PROTECTIVE ORDERS; AND TO IMPOSE A CRIMINAL PENALTY FOR			
6	VIOLATION OF A PROTECTIVE ORDER.			
7	The General Assembly of North Carolina enacts:			
8	Section 1. G.S. 50B-1 reads as rewritten:			
9	"§ 50B-1. Domestic violence; definition.			
10	(a) Domestic violence means the commission of one or more of the following acts			
11	upon an aggrieved party or upon a minor child residing with or in the custody of the			
12	aggrieved party by a person with whom the aggrieved party has or has had a familial			
13	personal relationship, but does not include acts of self-defense:			
14	(1) Attempting to cause bodily injury, or intentionally causing bodily			
15	injury; or			
16	(2) Placing the aggrieved party or a member of the aggrieved party's family			
17	or household in fear of imminent serious bodily injury; or			

4

(Public)

### GENERAL ASSEMBLY OF NORTH CAROLINA

1		(3)	Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.	
2	(b) For purposes of this section, the term 'familial personal relationship' means a			
3	relationship wherein the parties involved:			
4		(1)	Are current or former spouses;	
5		(2)	Are persons of opposite sex who live together or have lived together;	
6		(3)	Are parents, grandparents, or others acting in loco parentis to a minor child, or	
7			children and grandchildren; Are related as parents and children, including	
8			others acting in loco parentis to a minor child, or as grandparents and	
9			grandchildren. For purposes of this subdivision, an aggrieved party may	
10			not obtain an order of protection against a child or grandchild under the	
11			<u>age of 16;</u>	
12		(4)	Have a child in <del>commoncommon;</del>	
13		<u>(5)</u>	Are current or former household members;	
14		<u>(6)</u>	Are persons of the opposite sex who are in a dating relationship or have	
15			been in a dating relationship. For purposes of this subdivision, a dating	
16			relationship is one wherein the parties are romantically involved over	
17			time and on a continuous basis during the course of the relationship. A	
18			casual acquaintance or ordinary fraternization between persons in a	
19			business or social context is not a dating relationship."	
20			n 2. G.S. 50B-2(c1) reads as rewritten:	
21	"(c1)	Ex Pa	rte Orders by Authorized Magistrate. – The chief district court judge may	
22	authorize a magistrate or magistrates to hear any motions for emergency relief ex parte.			
23	Prior to the hearing, if the magistrate determines that at the time the party is seeking			
24	emergency relief ex parte the clerk of superior court is not available, the district court is not			
25	in session, session and a district court judge is not and will not be available to hear the			

26 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 27 of domestic violence against the aggrieved party or a minor child, the magistrate may 28 29 enter such orders as it deems necessary to protect the aggrieved party or minor children 30 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 31 exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered 32 33 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, 34 35 or by the end of the next day on which the district court is in session in the county in 36 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 37 38 costs for a hearing before the district court judge scheduled and heard pursuant to an 39 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 40 accordance with subsection (c) of this section." 41

42 Section 3. Chapter 50B is amended by adding the following new section to 43 read:

## GENERAL ASSEMBLY OF NORTH CAROLINA

### 1 "§ 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."
- 4 Section 4. This act becomes effective December 1, 1997, and applies to 5 offenses committed on or after that date.