

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 199

Short Title: Safe Families Act.

(Public)

Sponsors: Representatives Hackney; Alexander, Baddour, Barefoot, Easterling, Insko, Jarrell, Luebke, Melton, Miller, Preston, Redwine, Sherrill, and Wainwright.

Referred to: Judiciary I.

March 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE GENERAL STATUTES TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50B-3(d) reads as rewritten:

"(d) The sheriff of the county where a domestic violence order is entered shall provide for immediate entry of the order onto the Division of Criminal Information Network into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications of the order shall also be entered."

Section 2. G.S. 50B-4 reads as rewritten:

"§ 50B-4. Enforcement of orders.

(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. ~~Said~~ This party may file and proceed with ~~such~~ that motion pro se, using forms provided by the clerk of superior court or a magistrate authorized under G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection, the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts of domestic violence against the aggrieved party or a minor child and the motion is made

1 at a time when the clerk is not available, shall schedule and issue notice of a show cause
2 hearing with the district court division of the General Court of Justice at the earliest
3 possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice
4 issued by the magistrate pursuant to this subsection, shall effect service of the motion,
5 notice, and other papers through the appropriate law enforcement agency where the
6 defendant is to be served, upon payment of the required service fees.

7 ~~(b) A law enforcement officer shall arrest and take a person into custody without a~~
8 ~~warrant or other process if the officer has probable cause to believe that the person has~~
9 ~~violated a court order excluding the person from the residence or household occupied by~~
10 ~~a victim of domestic violence or directing the person to refrain from doing any or all of~~
11 ~~the acts specified in G.S. 50B-3(a)(9), and if the victim, or someone acting on the victim's~~
12 ~~behalf, presents the law enforcement officer with a copy of the order or the officer~~
13 ~~determines that such an order exists, and can ascertain the contents thereof, through~~
14 ~~phone, radio or other communication with appropriate authorities. Nothing in this section~~
15 ~~shall prohibit a law enforcement officer from securing a warrant for the arrest of a person~~
16 ~~who is subject to warrantless arrest. The person arrested shall be brought before the~~
17 ~~appropriate district court judge at the earliest time possible to show cause why he or she~~
18 ~~should not be held in civil or criminal contempt for violation of the order. The person~~
19 ~~arrested shall be entitled to be released under the provisions of Article 26, Bail, of~~
20 ~~Chapter 15A of the General Statutes.~~

21 (c) ~~Valid~~ A valid protective orders order entered pursuant to this section shall be
22 enforced by all North Carolina law-enforcement agencies without further order of the
23 court.

24 (d) ~~Valid~~ A valid protective orders order entered by the courts of another state or
25 Indian tribe shall be accorded full faith and credit by the courts of North Carolina
26 whether or not the order has been registered and shall be enforced by the courts and the
27 law-enforcement agencies of North Carolina-Carolina as if it were an order issued by a
28 North Carolina court. In determining the validity of an out-of-state order for purposes of
29 enforcement, a law enforcement officer may rely upon a copy of the protective order
30 issued by another state or Indian tribe that is provided to the officer and on the statement
31 of a person protected by the order that the order remains in effect. Even though
32 registration is not required, a copy of a protective order may be registered in North
33 Carolina by filing with the clerk of superior court in any county a copy of the order and
34 an affidavit by a person protected by the order that to the best of that person's knowledge
35 the order is presently in effect as written. Notice of the registration shall not be given to
36 the defendant. Upon registration of the order, the clerk shall forward a copy to the sheriff
37 of that county for entry into the National Crime Information Center registry pursuant to
38 G.S. 50B-3(d)."

39 Section 3. G.S. 1C-1702 reads as rewritten:

40 "**§ 1C-1702. Definitions.**

41 As used in this Article, unless the context requires otherwise:

- 42 (1) "Foreign Judgment" means any judgment, decree, or order of a court of
43 the United States or a court of any other state which is entitled to full

1 faith and credit in this State, except a "~~support~~" child support order," as
2 defined in G.S. 52A-3(14) (The Uniform Reciprocal Enforcement of Support
3 Act) or G.S. 52C-1-101 (The Uniform Interstate Family Support Act), a
4 "custody decree," as defined in G.S. 50A-2(4) (The Uniform Child
5 Custody Jurisdiction Act)-Act), or a domestic violence protective order
6 as provided in G.S. 50B-4(d).

7 (2) "Judgment Debtor" means the party against whom a foreign judgment
8 has been rendered.

9 (3) "Judgment Creditor" means the party in whose favor a foreign judgment
10 has been rendered."

11 Section 4. G.S. 50B-4.1 reads as rewritten:

12 **"§ 50B-4.1. Violation of valid protective order a misdemeanor.**

13 A person who knowingly violates a valid protective order entered pursuant to this
14 Chapter or by the courts of another state or Indian tribe shall be guilty of a Class A1
15 misdemeanor."

16 Section 5. G.S. 50B-5(a) reads as rewritten:

17 "(a) A person who alleges that he or she or a minor child has been the victim of
18 domestic violence may request the assistance of a local law-enforcement agency. The
19 local law-enforcement agency shall respond to the request for assistance as soon as
20 practicable; ~~provided, however, a local law-enforcement agency shall not be required to respond~~
21 ~~in instances of multiple complaints from the same complainant if the multiple complaints are~~
22 ~~made within a 48-hour period and the local law-enforcement agency has reasonable cause to~~
23 ~~believe that immediate assistance is not needed.~~ practicable. The local law-enforcement
24 officer responding to the request for assistance ~~is authorized to~~ may take whatever steps
25 are reasonably necessary to protect the complainant from harm and ~~is authorized to~~ may
26 advise the complainant of sources of shelter, medical care, counseling and other services.
27 Upon request by the complainant and where feasible, the law-enforcement officer ~~is~~
28 ~~authorized to~~ may transport the complainant to appropriate facilities such as hospitals,
29 magistrates' offices, or public or private facilities for shelter and accompany the
30 complainant to his or her residence, within the jurisdiction in which the request for
31 assistance was made, so that the complainant may remove food, clothing, medication and
32 such other personal property as is reasonably necessary to enable the complainant and
33 any minor children who are presently in the care of the complainant to remain elsewhere
34 pending further proceedings."

35 Section 6. G.S. 15A-401(b) reads as rewritten:

36 "(b) Arrest by Officer Without a Warrant. –

37 (1) Offense in Presence of Officer. – An officer may arrest without a
38 warrant any person who the officer has probable cause to believe has
39 committed a criminal offense in the officer's presence.

40 (2) Offense Out of Presence of Officer. – An officer may arrest without a
41 warrant any person who the officer has probable cause to believe:

42 a. Has committed a felony; or

43 b. Has committed a misdemeanor, and:

- 1 1. Will not be apprehended unless immediately arrested, or
2 2. May cause physical injury to himself or others, or damage
3 to property unless immediately arrested; or
4 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-
5 138.1, or 20-138.2; or
6 d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1),
7 ~~or 14-33(e)(2)–14-33(c)(2), or 14-34~~ when the offense was
8 committed by a person ~~who is the spouse or former spouse of the~~
9 ~~alleged victim or by a person with whom the alleged victim is living or~~
10 ~~has lived as if married.~~ with whom the alleged victim has a familial
11 relationship as defined in G.S. 50B-1; or
12 e. Has committed a misdemeanor under G.S. 50B-4.1.
13 (3) Repealed by Session Laws 1991, c. 150."

14 Section 7. Sections 4 and 6 of this act become effective December 1, 1999,
15 and apply to offenses committed on or after that date. The remainder of this act becomes
16 effective October 1, 1999.