

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 197
Judiciary I Committee Substitute Adopted 3/9/99
Third Edition Engrossed 3/10/99

Short Title: Safe Families Act.

(Public)

Sponsors:

Referred to:

March 1, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE GENERAL STATUTES TO IMPLEMENT CERTAIN
3 RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DOMESTIC
4 VIOLENCE.

5 The General Assembly of North Carolina enacts:

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

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

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

13 "**§ 50B-4. Enforcement of orders.**

14 (a) A party may file a motion for contempt for violation of any order entered
15 pursuant to this Chapter. ~~Said~~This party may file and proceed with ~~such that~~ motion pro
16 se, using forms provided by the clerk of superior court or a magistrate authorized under
17 G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection,

1 the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts
2 of domestic violence against the aggrieved party or a minor child and the motion is made
3 at a time when the clerk is not available, shall schedule and issue notice of a show cause
4 hearing with the district court division of the General Court of Justice at the earliest
5 possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice
6 issued by the magistrate pursuant to this subsection, shall effect service of the motion,
7 notice, and other papers through the appropriate law enforcement agency where the
8 defendant is to be served, upon payment of the required service fees.

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

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

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

41 Section 2.1. G.S. 50B-4 reads as rewritten:

42 "**§ 50B-4. Enforcement of orders.**

1 (a) A party may file a motion for contempt for violation of any order entered
2 pursuant to this Chapter. ~~Said~~ This party may file and proceed with such that motion pro
3 se, using forms provided by the clerk of superior court or a magistrate authorized under
4 G.S. 50B-2(c1). Upon the filing pro se of a motion for contempt under this subsection,
5 the clerk, or the authorized magistrate, if the facts show clearly that there is danger of acts
6 of domestic violence against the aggrieved party or a minor child and the motion is made
7 at a time when the clerk is not available, shall schedule and issue notice of a show cause
8 hearing with the district court division of the General Court of Justice at the earliest
9 possible date pursuant to G.S. 5A-23. The Clerk, or the magistrate in the case of notice
10 issued by the magistrate pursuant to this subsection, shall effect service of the motion,
11 notice, and other papers through the appropriate law enforcement agency where the
12 defendant is to be served, upon payment of the required service fees.

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

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

30 (d) ~~Valid~~ A valid protective orders order entered by the courts of another state or
31 the courts of an Indian tribe shall be accorded full faith and credit by the courts of North
32 Carolina whether or not the order has been registered and shall be enforced by the courts
33 and the law enforcement law enforcement agencies of North Carolina. Carolina as if it
34 were an order issued by a North Carolina court. In determining the validity of an out-of-
35 state order for purposes of enforcement, a law enforcement officer may rely upon a copy
36 of the protective order issued by another state or the courts of an Indian tribe that is
37 provided to the officer and on the statement of a person protected by the order that the
38 order remains in effect. Even though registration is not required, a copy of a protective
39 order may be registered in North Carolina by filing with the clerk of superior court in any
40 county a copy of the order and an affidavit by a person protected by the order that to the
41 best of that person's knowledge the order is presently in effect as written. Notice of the
42 registration shall not be given to the defendant. Upon registration of the order, the clerk

1 shall forward a copy to the sheriff of that county for entry into the Division of Criminal
2 Information Network pursuant to G.S. 50B-3(d)."

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

4 **"§ 1C-1702. Definitions.**

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

6 (1) "Foreign Judgment" means any judgment, decree, or order of a court of
7 the United States or a court of any other state which is entitled to full
8 faith and credit in this State, except a ~~"support-~~child support order," as
9 defined in ~~G.S. 52A-3(14) (The Uniform Reciprocal Enforcement of Support~~
10 ~~Act) or G.S. 52C-1-101 (The Uniform Interstate Family Support Act),~~ a
11 "custody decree," as defined in G.S. 50A-2(4) (The Uniform Child
12 Custody Jurisdiction Act)-~~Act), or a domestic violence protective order~~
13 as provided in G.S. 50B-4(d).

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

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

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

19 **"§ 50B-4.1. Violation of valid protective order a misdemeanor.**

20 (a) A person who knowingly violates a valid protective order entered pursuant to
21 this Chapter or by the courts of another state or the courts of an Indian tribe shall be
22 guilty of a Class A1 misdemeanor.

23 (b) A law enforcement officer shall arrest and take a person into custody without a
24 warrant or other process if the officer has probable cause to believe that the person has
25 violated a valid protective order excluding the person from the residence or household
26 occupied by a victim of domestic violence or directing the person to refrain from doing
27 any or all of the acts specified in G.S. 50B-3(a)(9)."

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

29 "(a) A person who alleges that he or she or a minor child has been the victim of
30 domestic violence may request the assistance of a local ~~law enforcement~~ law enforcement
31 agency. The local ~~law enforcement~~ law enforcement agency shall respond to the request
32 for assistance as soon as practicable; provided, however, a local law enforcement agency shall
33 not be required to respond in instances of multiple complaints from the same complainant if the
34 multiple complaints are made within a 48-hour period and the local law enforcement agency has
35 reasonable cause to believe that immediate assistance is not needed. ~~practicable.~~ The local ~~law~~
36 ~~enforcement~~ law enforcement officer responding to the request for assistance is ~~authorized~~
37 ~~to~~ may take whatever steps are reasonably necessary to protect the complainant from
38 harm and is ~~authorized to~~ may advise the complainant of sources of shelter, medical care,
39 counseling and other services. Upon request by the complainant and where feasible, the
40 ~~law enforcement~~ law enforcement officer is ~~authorized to~~ may transport the complainant to
41 appropriate facilities such as hospitals, magistrates' offices, or public or private facilities
42 for shelter and accompany the complainant to his or her residence, within the jurisdiction
43 in which the request for assistance was made, so that the complainant may remove food,

1 clothing, medication and such other personal property as is reasonably necessary to
2 enable the complainant and any minor children who are presently in the care of the
3 complainant to remain elsewhere pending further proceedings."

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

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

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

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

11 a. Has committed a felony; or

12 b. Has committed a misdemeanor, and:

13 1. Will not be apprehended unless immediately arrested, or

14 2. May cause physical injury to himself or others, or damage
15 to property unless immediately arrested; or

16 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-
17 138.1, or 20-138.2; or

18 d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1),
19 ~~or 14-33(e)(2)–14-33(c)(2), or 14-34~~ when the offense was
20 committed by a person ~~who is the spouse or former spouse of the~~
21 ~~alleged victim or by a person with whom the alleged victim is living or~~
22 ~~has lived as if married.~~ with whom the alleged victim has a
23 personal relationship as defined in G.S. 50B-1; or

24 e. Has committed a misdemeanor under G.S. 50B-4.1(a).

25 (3) Repealed by Session Laws 1991, c. 150."

26 Section 7. This act becomes effective December 1, 1999, and applies to
27 offenses committed on or after that date. Sections 1 and 2 of this act become effective
28 only if funds are appropriated or received by federal grant to implement those Sections on
29 or before December 1, 1999. Section 2.1 of this act becomes effective only if funds are
30 not appropriated or received by federal grant to implement Sections 1 and 2 of this act by
31 December 1, 1999.