

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 61
House Committee Substitute Favorable 7/28/05
House Committee Substitute #2 Favorable 8/30/05
House Committee Substitute #3 Favorable 8/31/05
Fifth Edition Engrossed 8/31/05**

Short Title: Felony Death by Vehicle/Sex Offender Amend.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

1 AN ACT TO STRENGTHEN THE LAWS AGAINST IMPAIRED DRIVING BY
2 INCREASING THE PUNISHMENT FOR FELONY DEATH BY VEHICLE AND
3 TO PROVIDE THAT A VICTIM OF A SEXUALLY VIOLENT OFFENSE OR
4 THE VICTIM'S FAMILY MAY OBTAIN A CIVIL NO-CONTACT ORDER
5 AGAINST A REGISTERED OFFENDER WHO RESIDES OR WORKS AT A
6 PLACE OF EMPLOYMENT WITHIN A QUARTER MILE OF THE VICTIM
7 AND TO FUND CERTAIN POSITIONS FROM THE DWI RESERVE FUND
8 AND TO CHANGE THE COUNTIES ELIGIBLE FOR TIER ONE
9 DESIGNATIONS UNDER THE BILL LEE ACT FOR LAST QUARTER OF
10 CALENDAR YEAR 2005.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 20-141.4 reads as rewritten:

13 **"§ 20-141.4. Felony and misdemeanor death by vehicle.**

14 (a) Repealed by Session Laws 1983, c. 435, s. 27.

15 (a1) Felony Death by Vehicle. – A person commits the offense of felony death by
16 vehicle if he unintentionally causes the death of another person while engaged in the
17 offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of
18 that offense is the proximate cause of the death.

19 (a2) Misdemeanor Death by Vehicle. – A person commits the offense of
20 misdemeanor death by vehicle if he unintentionally causes the death of another person
21 while engaged in the violation of any State law or local ordinance applying to the
22 operation or use of a vehicle or to the regulation of traffic, other than impaired driving
23 under G.S. 20-138.1, and commission of that violation is the proximate cause of the
24 death.
25

1 (b) Punishments. – Felony death by vehicle is a Class ~~G~~E felony. Misdemeanor
2 death by vehicle is a Class 1 misdemeanor.

3 (c) No Double Prosecutions. – No person who has been placed in jeopardy upon
4 a charge of death by vehicle may be prosecuted for the offense of manslaughter arising
5 out of the same death; and no person who has been placed in jeopardy upon a charge of
6 manslaughter may be prosecuted for death by vehicle arising out of the same death."

7 **SECTION 2.** G.S. 50C-1 is amended by adding the following new
8 subdivisions to read:

9 "(3a) Registered offender means a person who is required to register under
10 Article 27A of Chapter 14 of the General Statutes.

11 (4b) Sexually violent offense is as defined in G.S. 14-208.6."

12 **SECTION 3.** G.S. 50C-2(a) reads as rewritten:

13 "(a) An action is commenced under this Chapter by filing a verified complaint for
14 a civil no-contact order in district court or by filing a motion in any existing civil action,
15 by any of the following:

16 (1) A person who is a victim of unlawful conduct that occurs in this
17 State.State or who is a victim of a sexually violent offense.

18 (2) A competent adult who resides in this State on behalf of a minor child
19 or an incompetent adult who is a victim of unlawful conduct that
20 occurs in this State.State or who is a victim of a sexually violent
21 offense."

22 **SECTION 4.** Chapter 50C of the General Statutes is amended by adding a
23 new section to read:

24 "**§ 50C-5.1. Civil no-contact order for victim of sexually violent offense against**
25 **registered offender; remedy.**

26 (a) The court may also issue temporary or permanent civil no-contact orders as
27 authorized in this Chapter if it makes the following findings:

28 (1) The victim is the victim of a sexually violent offense committed by the
29 respondent.

30 (2) The respondent is a registered offender.

31 (3) The respondent resides or works at a place of employment located
32 within a quarter of a mile of the victim's residence, school, place of
33 employment, or other specified place.

34 (b) The court may grant one or more of the following forms of relief in its orders
35 under this section:

36 (1) Order the respondent to refrain from entering or remaining present at
37 the victim's residence, school, place of employment, or other specified
38 places at times when the victim is present.

39 (2) Order other relief deemed necessary and appropriate by the court.

40 (c) A civil no-contact order issued under this section shall include the following
41 notice, printed in conspicuous type: 'A knowing violation of a civil no-contact order
42 shall be punishable as contempt of court which may result in a fine or imprisonment'."

43 **SECTION 5.** G.S. 50C-7 reads as rewritten:

44 "**§ 50C-7. Permanent civil no-contact order.**

1 Upon a finding that the ~~victim~~-victim: (i) has suffered unlawful conduct committed
 2 by the ~~respondent~~,-respondent, or (ii) is the victim of a sexually violent offense and the
 3 respondent is a registered offender who resides or works at a place of employment
 4 located within a quarter of a mile of the victim's residence, school, place of
 5 employment, or other specified place, a permanent civil no-contact order may issue if
 6 the court additionally finds that process was properly served on the respondent, the
 7 respondent has answered the complaint and notice of hearing was given, or the
 8 respondent is in default. No permanent civil no-contact order shall be issued without
 9 notice to the respondent."

10 **SECTION 6.(a)** Effective December 1, 2005, G.S. 7A-133(a) reads as
 11 rewritten:

12 "(a) Each district court district shall have the numbers of judges as set forth in the
 13 following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
3A	5	Washington
		Pitt
3B	5	Craven
		Pamlico
4	8	Carteret
		Sampson
		Duplin
		Jones
		Onslow
5	8	New Hanover
		Pender
6A	2	Halifax
6B	3	Northampton
		Bertie
		Hertford
7	7	Nash
		Edgecombe
		Wilson
8	6	Wayne

1			Greene
2			Lenoir
3	9	4	Granville
4			(part of Vance
5			see subsection (b))
6			Franklin
7	9A	2	Person
8			Caswell
9	9B	2	Warren
10			(part of Vance
11			see subsection (b))
12	10	15	Wake
13	11	8	Harnett
14			Johnston
15			Lee
16	12	9	Cumberland
17	13	6	Bladen
18			Brunswick
19			Columbus
20	14	6 7	Durham
21	15A	4	Alamance
22	15B	4	Orange
23			Chatham
24	16A	3	Scotland
25			Hoke
26	16B	5	Robeson
27	17A	2	Rockingham
28	17B	4	Stokes
29			Surry
30	18	12	Guilford
31	19A	4	Cabarrus
32	19B	6	Montgomery
33			Moore
34			Randolph
35	19C	4	Rowan
36	20	7	Stanly
37			Union
38			Anson
39			Richmond
40	21	9	Forsyth
41	22	9	Alexander
42			Davidson
43			Davie
44			Iredell

1	23	4	Alleghany
2			Ashe
3			Wilkes
4			Yadkin
5	24	4	Avery
6			Madison
7			Mitchell
8			Watauga
9			Yancey
10	25	8	Burke
11			Caldwell
12			Catawba
13	26	17	Mecklenburg
14	27A	6	Gaston
15	27B	4	Cleveland
16			Lincoln
17	28	6	Buncombe
18	29	7	Henderson
19			McDowell
20			Polk
21			Rutherford
22			Transylvania
23	30	5	Cherokee
24			Clay
25			Graham
26			Haywood
27			Jackson
28			Macon
29			Swain."

30 **SECTION 6.(b)** The Governor shall appoint the additional district court
 31 judge for District 14 authorized by subsection (a) of this section, and that judge's
 32 successor shall be elected in the 2006 general election for a four-year term commencing
 33 on the first Monday in December 2006.

34 **SECTION 6.(c)** Effective December 1, 2006, G.S. 7A-133(a), as amended
 35 by subsection (a) of this section, reads as rewritten:

36 "(a) Each district court district shall have the numbers of judges as set forth in the
 37 following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank

1			Perquimans
2	2	4	Martin
3			Beaufort
4			Tyrrell
5			Hyde
6			Washington
7	3A	5	Pitt
8	3B	5	Craven
9			Pamlico
10			Carteret
11	4	8	Sampson
12			Duplin
13			Jones
14			Onslow
15	5	8	New Hanover
16			Pender
17	6A	2	Halifax
18	6B	3	Northampton
19			Bertie
20			Hertford
21	7	7	Nash
22			Edgecombe
23			Wilson
24	8	6	Wayne
25			Greene
26			Lenoir
27	9	4	Granville
28			(part of Vance
29			see subsection (b))
30			Franklin
31	9A	2	Person
32			Caswell
33	9B	2	Warren
34			(part of Vance
35			see subsection (b))
36	10	15	Wake
37	11	8	Harnett
38			Johnston
39			Lee
40	12	9	Cumberland
41	13	6	Bladen
42			Brunswick
43			Columbus
44	14	7	Durham

1	15A	4	Alamance
2	15B	4- <u>5</u>	Orange
3			Chatham
4	16A	3	Scotland
5			Hoke
6	16B	5	Robeson
7	17A	2	Rockingham
8	17B	4	Stokes
9			Surry
10	18	12	Guilford
11	19A	4	Cabarrus
12	19B	6	Montgomery
13			Moore
14			Randolph
15	19C	4	Rowan
16	20	7	Stanly
17			Union
18			Anson
19			Richmond
20	21	9	Forsyth
21	22	9	Alexander
22			Davidson
23			Davie
24			Iredell
25	23	4	Alleghany
26			Ashe
27			Wilkes
28			Yadkin
29	24	4	Avery
30			Madison
31			Mitchell
32			Watauga
33			Yancey
34	25	8	Burke
35			Caldwell
36			Catawba
37	26	17	Mecklenburg
38	27A	6	Gaston
39	27B	4- <u>5</u>	Cleveland
40			Lincoln
41	28	6	Buncombe
42	29	7	Henderson
43			McDowell
44			Polk

Rutherford
 Transylvania
 Cherokee
 Clay
 Graham
 Haywood
 Jackson
 Macon
 Swain."

SECTION 6.(d) The additional district court judges for Districts 15B and 27B authorized by subsection (c) of this section shall be elected in the 2006 general election to serve a four-year term commencing on the first Monday in December 2006.

SECTION 6.(e) Effective December 1, 2005, G.S. 7A-60(a1) reads as rewritten:

"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and the number of full-time assistant district attorneys set forth in the following table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	10
2	Beaufort, Hyde, Martin, Tyrrell, Washington	6
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14
5	New Hanover, Pender	14
6A	Halifax	4
6B	Bertie, Hertford, Northampton	4
7	Edgecombe, Nash, Wilson	16
8	Greene, Lenoir, Wayne	11
9	Franklin, Granville, Vance, Warren	11
9A	Person, Caswell	<u>4</u> 5
10	Wake	31
11	Harnett, Johnston, Lee	14
12	Cumberland	18
13	Bladen, Brunswick, Columbus	11
14	Durham	13 <u>15</u>
15A	Alamance	<u>8</u> 9

1	15B	Orange, Chatham	7
2	16A	Scotland, Hoke	5
3	16B	Robeson	10
4	17A	Rockingham	5
5	17B	Stokes, Surry	<u>5</u> <u>6</u>
6	18	Guilford	27
7	19A	Cabarrus	6
8	19B	Montgomery, Moore, Randolph	11
9	19C	Rowan	5
10	20	Anson, Richmond,	15
11		Stanly, Union	
12	21	Forsyth	17
13	22	Alexander, Davidson, Davie,	16
14		Iredell	
15	23	Alleghany, Ashe, Wilkes,	5
16		Yadkin	
17	24	Avery, Madison, Mitchell,	<u>4</u> <u>5</u>
18		Watauga, Yancey	
19	25	Burke, Caldwell, Catawba	15
20	26	Mecklenburg	36
21	27A	Gaston	12
22	27B	Cleveland,	9
23		Lincoln	
24	28	Buncombe	11
25	29	Henderson, McDowell, Polk,	11
26		Rutherford, Transylvania	
27	30	Cherokee, Clay, Graham,	9
28		Haywood, Jackson, Macon,	
29		Swain."	

30 **SECTION 6.(f)** There is appropriated from the Reserve for DWI Task Force
31 Recommendations established in S.L. 2005-276 to the Judicial Department the sum of
32 three hundred eighty-one thousand nine hundred seventy-three dollars (\$381,973) for
33 the 2005-2006 fiscal year and the sum of seven hundred forty five thousand one
34 hundred seventy nine dollars (\$745,179) for the 2006-2007 fiscal year to establish the
35 additional district court judge for District 27B authorized by subsection (c) of this
36 section, the additional district court judge for District 14 authorized by subsection (a) of
37 this section, the additional district court judge for District 15B authorized by subsection
38 (c) of this section, the additional assistant district attorney positions established for
39 Districts 9A, 14, 15A, and 17B by subsection (e) of this section, a new deputy clerk
40 position for Durham County, and a new deputy clerk position for Orange County. There
41 is appropriated from the Reserve for DWI Task Force Recommendations established in
42 S.L. 2005-276 to the Judicial Department the sum of fifty four thousand eight hundred
43 fifty five dollars (\$54,855) for the 2005-2006 fiscal year and the sum of seventy eight
44 thousand one hundred fifty four dollars (\$78,154) for the 2006-2007 fiscal year to

1 establish the additional assistant district attorney position established for District 24 by
2 subsection (e) of this section.

3 **SECTION 6.(g)** Subsection (c) of this section becomes effective December
4 1, 2006. The remainder of this section becomes effective December 1, 2005.

5 **SECTION 7.(a)** The General Assembly finds that counties with high
6 unemployment need additional assistance to hasten their economic recovery. Therefore,
7 a county whose rank in a ranking of counties from highest to lowest by average rate of
8 unemployment for the applicable 12-month period is one of the 10 highest in the State is
9 designated an enterprise tier one area for the last quarter of calendar year 2005. The
10 applicable 12-month period is November 2003 to October 2004, based upon the
11 unemployment data available in December 2004. This section applies to letters of
12 commitment signed during that quarter and to business activities occurring during that
13 quarter. A county designated as an enterprise tier one area under this section is
14 considered to have the tier one designation for the 2005 calendar year for the purposes
15 of G.S. 105-129.3(c).

16 **SECTION 7.(b)** This section is effective when it becomes law.

17 **SECTION 8.** Section 1 of this act becomes effective December 1, 2005, and
18 applies to offenses committed on or after that date. Except as otherwise provided, the
19 remainder of this act becomes effective October 1, 2005.