

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 627

Short Title: Domestic Violence Changes.

(Public)

Sponsors: Senator Miller.

Referred to: Judiciary.

April 1, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND EXPAND THE CLASSIFICATION OF PERSONS WHO MAY OBTAIN A DOMESTIC VIOLENCE PROTECTIVE ORDER, AND TO CLARIFY THE CIRCUMSTANCES UNDER WHICH MAGISTRATES MAY ISSUE PROTECTIVE ORDERS.

The General Assembly of North Carolina enacts:

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

"(b) For purposes of this section, the term 'familial relationship' means a relationship wherein the parties involved:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are parents, grandparents, or others acting in loco parentis to a minor child, or children and grandchildren; Are related as parents and children, including parents acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
- (4) Have a child in ~~common~~-common;
- (5) Are current or former household members;

1 (6) Are dating or have dated. For purposes of this subdivision, a dating
2 relationship is one wherein the parties are romantically involved over
3 time and on a continuous basis during the course of the relationship. A
4 casual acquaintance or ordinary fraternization between persons in a
5 business or social context is not a dating relationship."

6 Section 2. G.S. 50B-2(c1) reads as rewritten:

7 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may
8 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte.
9 Prior to the hearing, if the magistrate determines that at the time the party is seeking
10 emergency relief ex parte ~~the clerk of superior court is not available,~~ the district court is not
11 in session, session and a district court judge is not and will not be available to hear the
12 motion for a period of four or more hours, the motion may be heard by the magistrate. If
13 it clearly appears to the magistrate from specific facts shown that there is a danger of acts
14 of domestic violence against the aggrieved party or a minor child, the magistrate may
15 enter such orders as it deems necessary to protect the aggrieved party or minor children
16 from such acts, except that a temporary order for custody ex parte and prior to service of
17 process and notice shall not be entered unless the magistrate finds that the child is
18 exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered
19 under this subsection shall expire and the magistrate shall schedule an ex parte hearing
20 before a district court judge within 72 hours of the filing for relief under this subsection,
21 or by the end of the next day on which the district court is in session in the county in
22 which the action was filed, whichever occurs first. A party who has paid court costs due
23 for seeking an order from the magistrate under this subsection shall not be liable for court
24 costs for a hearing before the district court judge scheduled and heard pursuant to an
25 order entered by the magistrate under this subsection. Ex parte orders entered by the
26 district court judge pursuant to this subsection shall be entered and scheduled in
27 accordance with subsection (c) of this section."

28 Section 3. This act becomes effective December 1, 1997, and applies to
29 offenses committed on or after that date.