

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1447\*

Short Title: Prevent Workplace Violence.

(Public)

Sponsors: Senator Rand.

Referred to: Judiciary I.

June 18, 2002

1 A BILL TO BE ENTITLED  
2 AN ACT TO CONTRIBUTE TO THE PREVENTION OF WORKPLACE  
3 VIOLENCE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 95 of the General Statutes is amended by adding a  
6 new Article to read:

7 "Article 23.

8 "Workplace Violence Prevention.

9 "§ 95-260. Definitions.

10 The following definitions apply in this Article:

- 11 (1) Course of conduct. – A pattern of conduct composed of a series of acts  
12 over a period of time, however short, evidencing a continuity of  
13 purpose, including: following or stalking an employee to or from the  
14 employee's place of work; entering the workplace of an employee;  
15 following an employee during hours of employment; making  
16 telephone calls to an employee; and corresponding with an employee,  
17 including correspondence through the use of the public or private  
18 mails, interoffice mail, facsimile, or computer e-mail.
- 19 (2) Credible threat of violence. – A knowing and willful statement or  
20 course of conduct that would cause a reasonable person to believe that  
21 he or she is under threat of death or serious bodily injury and that is  
22 intended to, and that actually causes, a person to believe that he or she  
23 is under threat of death or serious bodily injury.
- 24 (3) Employer. – Any person or entity that employs one or more employees  
25 and includes the State of North Carolina and its political subdivisions.
- 26 (4) Unlawful violence. – Maliciously assaulting in a secret manner under  
27 G.S. 14-31; felonious assault with a deadly weapon under G.S. 14-32;  
28 assault on a handicapped person under G.S. 14-32.1; assault inflicting  
29 serious bodily injury under G.S. 14-32.4; misdemeanor assaults,

1           batteries, and affrays under G.S. 14-33; habitual misdemeanor assault  
2           under G.S. 14-33.2; or stalking under G.S. 14-277.3. Unlawful  
3           violence does not include acts of self-defense or defense of others.

4    **"§ 95-261. Employers may seek protection of employees from workplace violence**  
5           **by filing petition.**

6           (a)   Any employer whose employee has suffered unlawful violence or a credible  
7           threat of violence from any individual that can reasonably be construed to have been  
8           carried out at the employee's workplace may seek a temporary restraining order and an  
9           injunction on behalf of the employer prohibiting further unlawful violence or threats of  
10           violence by that individual at the employee's workplace or while the employee is acting  
11           within the course and scope of employment with the employer.

12           (b)   Upon filing a petition with the court for an injunction pursuant to this section,  
13           the petitioner may obtain a temporary restraining order if the petitioner also files an  
14           affidavit that shows, to the satisfaction of the court, reasonable proof that an employee  
15           has suffered unlawful violence or a credible threat of violence by the respondent and  
16           that great or irreparable harm will result to an employee if the injunction is not granted.  
17           The affidavit shall further show that the petitioner has conducted a reasonable  
18           investigation into the underlying facts that are the subject of the petition. A temporary  
19           restraining order granted under this section shall remain in effect, at the court's  
20           discretion, for a period not to exceed 15 days, unless otherwise modified or terminated  
21           by the court.

22           (c)   Except for proceedings involving a nonresident respondent, the court of  
23           competent jurisdiction of the county where the unlawful violence or credible threat of  
24           violence occurred has jurisdiction over all proceedings under this Article. For  
25           proceedings under this Article involving a nonresident respondent, the court of  
26           competent jurisdiction where the petitioner's workplace is located has jurisdiction, when  
27           the act involving unlawful violence or a credible threat of unlawful violence meets the  
28           elements for personal jurisdiction under G.S. 1-75.4.

29           (d)   Upon the filing of a petition for an injunction under the provisions of this  
30           section, the respondent shall be personally served with a copy of the petition, temporary  
31           restraining order, if any, and notice of hearing on the petition.

32           (e)   All orders and injunctions issued under this Article have statewide validity,  
33           unless specifically modified or terminated by the issuing judge, and may be enforced by  
34           the issuing court for any violation anywhere in the State, and by any court of competent  
35           jurisdiction within the State for violations that may occur within that court's jurisdiction.

36    **"§ 95-262. Hearing to follow filing of petition.**

37           (a)   Within 10 days of filing of the petition under this Article or as soon as  
38           practical thereafter, but in no case later than 30 days after the filing of the petition, a  
39           hearing shall be held on the petition for an injunction. In the event a hearing cannot be  
40           scheduled within the county where the case is pending within the 30-day period, it shall  
41           be scheduled and heard as soon as possible. The respondent may file a response that  
42           explains, excuses, justifies, or denies the alleged unlawful violence or credible threat of  
43           violence or may file a counterclaim under this Article. At the hearing, the judge shall  
44           receive any testimony that is relevant and may make an independent inquiry. If the

1 judge finds by clear and convincing evidence that the respondent engaged in unlawful  
2 violence or made a credible threat of violence, an injunction shall be issued prohibiting  
3 further unlawful violence or threat of violence at the employee's workplace or while the  
4 employee is acting within the course and scope of employment with the employer.

5 (b) An injunction issued pursuant to this Article shall have a duration of not more  
6 than three years. At any time within three months before the expiration of the  
7 injunction, the petitioner may apply for a renewal of the injunction by filing a new  
8 petition for an injunction pursuant to this Article.

9 **"§ 95-263. Temporary restraining orders; injunctions.**

10 (a) The court may include any one or more of the following orders in its  
11 temporary restraining order or its injunction under this Article:

12 (1) Order the respondent not to visit, assault, molest, or otherwise interfere  
13 with the employer or the employer's operations, or the employer's  
14 employee or invitee at the employer's workplace.

15 (2) Order the respondent to cease stalking the employer's employee or  
16 invitee at the employer's workplace.

17 (3) Order the respondent to cease harassment of the employer or the  
18 employer's employee or invitee at the employer's workplace.

19 (4) Order the respondent not to abuse or injure the employer, including the  
20 employer's property, or the employer's employee or invitee at the  
21 employer's workplace.

22 (5) Order the respondent not to telephone the employer or the employer's  
23 employee or invitee at the employer's workplace.

24 (6) Order other relief deemed necessary and appropriate by the court.

25 (b) The court shall order the petitioner or the attorney for the petitioner to deliver  
26 a copy of each temporary restraining order or injunction, or modification or termination  
27 thereof, granted under this Article, by the close of the business day on which the order  
28 was granted, to the law enforcement agencies within the court's discretion as are  
29 requested by the petitioner. Each appropriate law enforcement agency shall make  
30 available information as to the existence and current status of these orders to law  
31 enforcement officers responding to the scene of reported unlawful violence or a credible  
32 threat of violence. When necessary to protect the employer or the employer's employee,  
33 invitee, or property, and when authorized by the court, temporary restraining orders and  
34 injunctions granted under this Article may be served upon the respondent by a peace  
35 officer, sheriff, constable, or policeman, or other law enforcement officer whose duty it  
36 is to preserve the peace, or by any other person authorized by law to serve process, with  
37 appropriate orders to the officials to enforce the court's order.

38 **"§ 95-264. Limits on liability of employers.**

39 (a) An employer and an employer's agents who act in accordance with this  
40 Article shall be presumed to be acting in good faith and, unless lack of good faith is  
41 shown by clear and convincing evidence, are immune from civil liability for actions  
42 taken under this Article.

1       (b) Any employer, or its employee or invitee, that does not utilize the procedures  
2 of this Article shall not be liable for negligence, and evidence of the failure to utilize the  
3 procedures of this Article shall not be admissible as evidence of negligence.

4 **"§ 95-265. Scope of Article; other remedies available.**

5       This Article does not expand, diminish, alter, or modify the duty of any employer to  
6 provide a safe workplace for employees and other persons. This Article does not limit  
7 the ability of an employer or employee to pursue any other civil or criminal remedy  
8 provided by law."

9       **SECTION 2.** There is appropriated from the General Fund to the Attorney  
10 General's Office of the Department of Justice, the sum of one thousand five hundred  
11 dollars (\$1,500) for the 2002-2003 fiscal year to be used to educate the public about  
12 domestic violence.

13       **SECTION 3.** Section 1 of this act becomes effective January 1, 2003. The  
14 remainder of this act becomes effective July 1, 2002.