

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 115*
Committee Substitute Favorable 3/25/09
Committee Substitute #2 Favorable 4/16/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H115-PCS30423-RK-66

Short Title: Joint DV Committee/Recommendations.

(Public)

Sponsors:

Referred to:

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO REVISE THE MEMBERSHIP AND STAFFING OF THE NORTH CAROLINA DOMESTIC VIOLENCE COMMISSION, TO AMEND THE PROCEDURE FOR OBTAINING A DOMESTIC VIOLENCE PROTECTIVE ORDER OR CIVIL NO-CONTACT ORDER, TO CLARIFY THE ENFORCEMENT AND APPLICATION OF A PENALTY ENHANCEMENT IF A DEFENDANT COMMITS AN OFFENSE WHILE UNDER A DOMESTIC VIOLENCE PROTECTIVE ORDER, TO SUPPORT A STATEWIDE DOMESTIC VIOLENCE PROTECTIVE ORDER NOTIFICATION SYSTEM AND INVESTIGATE THE COSTS, AND TO STUDY STATE OVERSIGHT AND COORDINATION OF SERVICES FOR VICTIMS OF SEXUAL VIOLENCE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-394.15 reads as rewritten:

"§ 143B-394.15. Commission established; purpose; membership; transaction of business.

(a) Establishment. – There is established the Domestic Violence Commission. The Commission shall be located within the Department of Administration for organizational, budgetary, and administrative purposes.

(b) Purpose. – The purpose of the Commission is to (i) assess statewide needs related to domestic violence, (ii) assure that necessary services, policies, and programs are provided to those in need, and (iii) ~~coordinate and collaborate with the North Carolina Council For Women in strengthening~~ strengthen the existing domestic violence programs which have been established pursuant to G.S. 50B-9 and are funded through the Domestic Violence Center ~~Fund~~ Fund, and (iv) recommend ~~in establishing~~ new domestic violence programs.

(c) Membership. – The Commission shall consist of 39 members, who reflect the geographic and cultural regions of the State, as follows:

...

(4) The following persons or their designees, ex officio:

- a. The Governor.
- b. The Lieutenant Governor.
- c. The Attorney General.
- d. The Secretary of the Department of Administration.



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- 1 e. The Secretary of the Department of Crime Control and Public Safety.
 2 f. The Superintendent of Public Instruction.
 3 g. The Secretary of the Department of Correction.
 4 h. The Secretary of the Department of Health and Human Services.
 5 i. The Director of the Office of State Personnel.
 6 j. The ~~Executive Director~~ Chair of the North Carolina Council for
 7 Women.
 8 k. The Dean of the School of Government at the University of North
 9 Carolina at Chapel Hill.
 10 l. The Chairman of the Governor's Crime Commission.

11 ...

12 (l) Staffing. – The Secretary of the Department of Administration shall be responsible
 13 for staffing the Commission. ~~To that end, the Secretary shall, at a minimum, assign an~~
 14 ~~employee to serve as a Deputy Director within the North Carolina Council for Women whose~~
 15 ~~primary duties shall be to staff the Commission. The person assigned as Deputy Director shall~~
 16 ~~have the education, experience, and any other qualifications necessary for the position."~~

17 **SECTION 2.** G.S. 50B-2(a) reads as rewritten:

18 "**§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders;**
 19 **temporary custody.**

20 (a) Any person residing in this State may seek relief under this Chapter by filing a civil
 21 action or by filing a motion in any existing action filed under Chapter 50 of the General
 22 Statutes alleging acts of domestic violence against himself or herself or a minor child who
 23 resides with or is in the custody of such person. Any aggrieved party entitled to relief under this
 24 Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The
 25 district court division of the General Court of Justice shall have original jurisdiction over
 26 actions instituted under this Chapter. Any action for a domestic violence protective order
 27 requires that a summons be issued and served. The summons issued pursuant to this Chapter
 28 shall require the defendant to answer within 10 days of the date of service. Attachments to the
 29 summons shall include the complaint, notice of hearing, any temporary or ex parte order that
 30 has been issued, and other papers through the appropriate law enforcement agency where the
 31 defendant is to be served. No court costs shall be assessed for the filing, issuance, registration,
 32 or service of a protective order or petition for a protective order or witness subpoena in
 33 compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5."

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

35 "**§ 50C-3. Process for action for no-contact order.**

36 (a) Any action for a civil no-contact order requires that a ~~separate~~ summons be issued
 37 and served. The summons issued pursuant to this Chapter shall require the respondent to
 38 answer within 10 days of the date of service. Attachments to the summons shall include the
 39 complaint for the civil no-contact order, and any temporary civil no-contact order that has been
 40 issued and the notice of hearing on the temporary civil no-contact order."

41 **SECTION 4.** G.S. 50B-4 is amended by adding a new subsection to read:

42 "(f) The term "valid protective order," as used in subsections (c) and (d) of this section,
 43 shall include an emergency or ex parte order entered under this Chapter."

44 **SECTION 5.** G.S. 50B-4.1 is amended by adding a new subsection to read:

45 "(h) For the purposes of this section, the term "valid protective order" shall include an
 46 emergency or ex parte order entered under this Chapter."

47 **SECTION 6.** The Joint Legislative Committee on Domestic Violence supports the
 48 adoption of an automated statewide domestic violence protective order notification system. In
 49 order to determine the financial and operational impact of developing the system, the
 50 Administrative Office of the Courts, in consultation with the Governor's Crime Commission
 51 and the North Carolina Attorney General's Office, shall (i) identify information in available

1 databases relating to civil domestic violence protective orders, criminal no-contact order
2 conditions, and postarrest conditions of release and (ii) determine the financial impact,
3 including personnel costs, for implementing a domestic violence protective order notification
4 system which interfaces with the North Carolina Statewide Automated Victim Assistance
5 Notification System. The Administrative Office of the Courts and the Governor's Crime
6 Commission shall jointly report the findings to the Joint Legislative Committee on Domestic
7 Violence and the Fiscal Research Division by February 1, 2010.

8 **SECTION 7.** The North Carolina Domestic Violence Commission, in consultation
9 with the North Carolina Coalition Against Domestic Violence and the North Carolina Coalition
10 Against Sexual Assault, shall study the issue of State oversight and coordination of services to
11 victims of sexual violence and whether sexual violence should be included as a focus area of
12 the Commission. The study shall include, but is not limited to, a review of the organization and
13 membership of entities in other states that provide (i) information and recommendations to state
14 legislatures on domestic and sexual violence and (ii) information and services to the public
15 regarding these issues. The Commission shall report its findings and recommendations to the
16 Joint Legislative Committee on Domestic Violence by February 1, 2010.

17 **SECTION 8.** Sections 2 and 3 of this act are effective for actions or motions filed
18 on or after December 1, 2009. The remainder of this act is effective when it becomes law.