

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 140
PROPOSED HOUSE COMMITTEE SUBSTITUTE S140-PCS85268-SA-66

Short Title: Amend Domestic Crim. Trespass.

(Public)

Sponsors:

Referred to:

February 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE OFFENSE OF DOMESTIC CRIMINAL TRESPASS BY
3 MAKING IT A FELONY FOR A PERSON WHO IS THE SUBJECT OF A VALID
4 PROTECTIVE ORDER TO TRESPASS ON PROPERTY WHERE THE PROTECTED
5 PARTY RESIDES AND THAT IS OPERATED AS A SAFE HOUSE OR HAVEN FOR
6 DOMESTIC VIOLENCE VICTIMS WITHOUT REGARD AS TO WHETHER THE
7 PERSON COVERED BY THE PROTECTIVE ORDER IS PRESENT ON THE
8 PREMISES AND TO PROVIDE THAT IT IS AN AGGRAVATING CIRCUMSTANCE
9 FOR FIRST DEGREE MURDER IF A DEFENDANT WHO IS THE SUBJECT OF A
10 VALID PROTECTIVE ORDER COMMITS A MURDER ON THE PREMISES OF A
11 SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE WHERE THE PROTECTED
12 PARTY IS RESIDING.

13 The General Assembly of North Carolina enacts:

14 SECTION 1. G.S. 14-134.3 reads as rewritten:

15 "§ 14-134.3. Domestic criminal trespass.

16 (a) Any person who enters after being forbidden to do so or remains after being ordered
17 to leave by the lawful occupant, upon the premises occupied by a present or former spouse or
18 by a person with whom the person charged has lived as if married, shall be guilty of a
19 misdemeanor if the complainant and the person charged are living apart; provided, however,
20 that no person shall be guilty if said person enters upon the premises pursuant to a judicial
21 order or written separation agreement which gives the person the right to enter upon said
22 premises for the purpose of visiting with minor children. Evidence that the parties are living
23 apart shall include but is not necessarily limited to:

- 24 (1) A judicial order of separation;
25 (2) A court order directing the person charged to stay away from the premises
26 occupied by the complainant;
27 (3) An agreement, whether verbal or written, between the complainant and the
28 person charged that they shall live separate and apart, and such parties are in
29 fact living separate and apart; or
30 (4) Separate places of residence for the complainant and the person charged.

31 Except as provided in subsection (b) or (c) of this section, upon conviction, said person is
32 guilty of a Class 1 misdemeanor.



1 (b) A person convicted of a violation of this section is guilty of a Class G felony if the
2 person is trespassing upon property operated as a safe house or haven for victims of domestic
3 violence and the person is armed with a deadly weapon at the time of the offense.

4 (c) It is unlawful for a person who is subject to a valid protective order that is
5 enforceable under Chapter 50B of the General Statutes to enter property being operated as a
6 safe house or haven for victims of domestic violence where the protected party is residing after
7 being forbidden to do so or to remain on the premises after being ordered to leave by the lawful
8 occupant. A person who violates this subsection is guilty of this offense regardless of whether
9 any of the parties protected by the protective order are present on the property. A person who
10 violates this subsection is guilty of a Class H felony."

11 **SECTION 2.** G.S. 15A-2000(e) is amended by adding a new subdivision to read:

12 "(12) The defendant was the subject of a valid protective order enforceable under
13 Chapter 50B of the General Statutes at the time of the commission of the
14 capital felony and committed the capital felony on the premises of a safe
15 house or haven for victims of domestic violence where the protected party
16 was residing."

17 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
18 offenses committed on or after that date.