

**2005**

**HOUSE SELECT  
COMMITTEE ON  
DOMESTIC VIOLENCE**

**MINUTES**

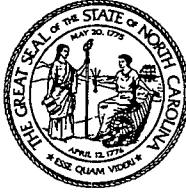
**HOUSE  
OF  
REPRESENTATIVES**

**DOMESTIC VIOLENCE  
COMMITTEE**

**2003-2004  
INTERIM**

*Minutes for 2005*

**James B. Black**  
Speaker



**Richard T. Morgan**  
Speaker

Office of the Speaker  
North Carolina House of Representatives  
Raleigh, North Carolina 27601-1096

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## **HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**

**To the Honorable Members of the North Carolina House of Representatives:**

**WHEREAS**, North Carolina lost 74 people as a result of domestic violence homicides in 2002, an average of one person every five days according to information collected by the N.C. Coalition Against Domestic Violence; and

**WHEREAS**, experts in the field of domestic violence recognize that misdemeanor domestic violence cases can quickly escalate from misdemeanors to homicide cases; and

**WHEREAS**, a study of 238,000 misdemeanor cases from January 1, 1997 to October 11, 2002, indicates that there is a wide disparity between North Carolina Judicial Districts as to the successful prosecution of misdemeanor domestic violence cases; and

**WHEREAS**, the public has an interest in addressing the problem of domestic violence due to the deleterious effects on families, children, places of employment, and our communities; and

**WHEREAS**, the state owes a duty to its citizens to provide adequate remedies for pervasive problems that impact the health and welfare of its citizens.

**NOW, THEREFORE;**

**Section 1.** The House Select Committee on Domestic Violence is established by the Speakers, effective August 12, 2003, as a select committee of the House under G.S. 120-19.6(a) and Rule 26(a) of the Rules of the House of Representatives of the 2003 General Assembly.

**Section 2.** The Select Committee consists of 24 members. The individuals listed below are appointed to the Select Committee. Members serve at the pleasure of the Speakers.

1. Representative Marian McLawhorn, Co-Chair
2. Representative Wilma Sherrill, Co-Chair
3. Representative Alma Adams
4. Representative Lucy Allen
5. Representative Joni Bowie
6. Representative Lorene Coates
7. Representative Margaret Dickson
8. Representative Beverly Earle
9. Representative Jean Farmer-Butterfield
10. Representative Michael Gorman
11. Representative Julia Howard
12. Representative Linda Johnson
13. Representative Carolyn Justice
14. Representative Carolyn Justus
15. Representative Mary McAllister
16. Representative Tim Moore
17. Representative Earline Parmon
18. Representative Karen Ray
19. Representative Deborah Ross
20. Representative Mitchell Setzer
21. Representative Paul Stam
22. Representative Edith Warren
23. Representative Jennifer Weiss
24. Representative Keith Williams.

**Section 3.** The Select Committee shall review the causes of domestic violence, the laws related to domestic violence in North Carolina, the law enforcement and judicial system responses to domestic violence cases, the severity of criminal penalties in domestic violence cases, the effectiveness of the



1999 Crime Victims' Rights Act, and the adequacy of the data collection systems tracking domestic violence cases and homicides.

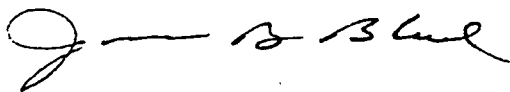
**Section 4.** The Select Committee shall report on the results of its study, including any proposed legislation, to the members of the House of Representatives, on or before April 15, 2004, by filing a report with the Speakers' offices, the House Principal Clerk, and the Legislative Library. The Select Committee terminates when the final report is filed.

**Section 5.** The Select Committee is authorized to meet during the interim period between regular sessions upon the call of its Co-Chairs.

**Section 6.** The Select Committee is vested with the authority contained in Article 5A of Chapter 120 of the General Statutes.

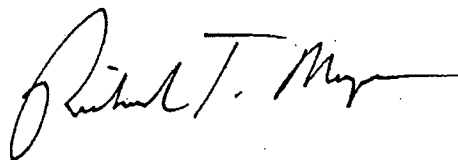
**Section 7.** Members of the Select Committee shall receive per diem, subsistence, and travel allowance at the rate established in G.S. 120-3.1.

**Section 8.** The expenses of the Select Committee shall be paid upon the written approval of the Speakers pursuant to G.S. 120-35 from funds available to the House of Representatives for its operation.



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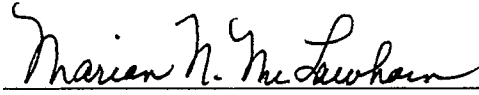
James B. Black  
Speaker



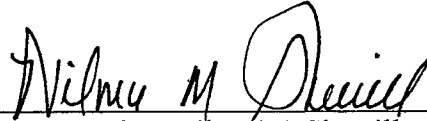
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Richard T. Morgan  
Speaker

**SECTION 2.** This resolution is effective upon adoption.



Representative Marian N. McLawhorn  
Committee Co-Chair



Representative Wilma M. Sherrill  
Committee Co-Chair

**House Select Committee on Domestic Violence Membership**

Representative Marian McLawhorn, Co-Chair, Pitt  
Representative Wilma Sherrill, Co-Chair, Buncombe  
Representative Alma Adams, Guilford  
Representative Lucy Allen, Franklin  
Representative Joni Bowie, Guilford  
Representative Lorene Coates, Rowan  
Representative Margaret Dickson, Cumberland  
Representative Beverly Earle, Mecklenberg  
Representative Jean Farmer-Butterfield, Wilson  
Representative Michael Gorman, Craven  
Representative Julia Howard, Davie  
Representative Linda Johnson, Cabarrus  
Representative Carolyn Justice (East), Pender  
Representative Carolyn Justus (West), Henderson  
Representative Mary McAllister, Cumberland  
Representative Tim Moore, Cleveland  
Representative Earline Parmon, Forsyth  
Representative Karen Ray, Iredell  
Representative Deborah Ross, Wake  
Representative Mitchell Setzer, Catawba  
Representative Paul Stam, Wake  
Representative Edith Warren, Pitt  
Representative Jennifer Weiss, Wake  
Representative Keith Williams, Onslow

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**

**RESOLUTION**

A RESOLUTION ENCOURAGING THE NORTH CAROLINA MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES TO SUPPORT INCREASED FUNDING OF VOCA.

Whereas, victim service programs are facing devastating funding cuts as a result of federal and state budget deficits.

Whereas, last year, changes in the way federal Victims of Crime Act (VOCA) funds were distributed resulted in a funding loss 8% to programs serving victims of crime.

Whereas, many programs depend on VOCA funding as a vital source to provide direct services to victims of crime.

Whereas, these services include rape crisis centers, battered women's programs, the Crime Victims Reparations program, programs assisting victims of drunk driving, child abuse, elder abuse, and more.

Whereas, the VOCA fund comes from fines and forfeitures from offenders in the federal court system, not from tax dollars.

Whereas, the United States Senate Appropriations Committee has recommended an increase of VOCA funding levels to \$675 million as part of a larger appropriations bill expected to pass the full Senate.

Whereas, the United States House of Representatives only proposed that \$625 million be appropriated from the fund.

Whereas, as a result of the difference between Senate and House in funding recommendations, a conference committee will be appointed.

Be it resolved by the House Select Committee on Domestic Violence:

**SECTION 1.** The House Select Committee on Domestic Violence encourages the North Carolina members of the United States House of Representatives to support the increase in VOCA funding to \$675 million as recommended by the United States Senate Appropriations Committee.

## **BULLET SUMMARY OF HOUSE BILL 1354**

**Part I** requires all domestic violence offenders to complete an abuser treatment program.

**Part II** requires domestic violence training for entry-level law enforcement officers, and also domestic violence in-service training for active law enforcement officers.

**Part III** directs the Department of Public Instruction to study the issue of anti-violence programs in the schools. The Department is also instructed to study training for school personnel dealing with students who are victims of abuse.

**Part IV** creates a new fund, administered by the State Bar, to provide legal services to domestic violence victims. A new fee of \$100 is created for out of state attorneys who wish to appear in a court case in North Carolina. This fee is estimated to raise \$1 Million/year.

**Part V** adds two domestic violence advocates to the Child Fatality Task Force.

**Part VI** directs the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs.

**Part VII** directs the State Bar to study the issue of providing CLE credit to active attorneys for pro bono legal representation.

**Part VIII** modifies an existing felony aggravating factor to clarify that a position of trust or confidence can include a domestic relationship.

**Part IX** creates a Class H felony for assault by strangulation inflicting physical injury.

**Part X** amends the Habitual Misdemeanor Assault Statute so that it becomes a Class H felony on the 3<sup>rd</sup> assault conviction, when that assault causes physical injury.

**Part XI** provides for a system of indicating on criminal judgments that an offense involves domestic violence. This part also clarifies that house arrest may be used for domestic violence offenders that receive community punishment.

**Part XII** directs the North Carolina Sentencing and Policy Advisory Commission to study misdemeanor assault and other misdemeanor offense classifications.

**Part XIII** authorizes warrantless arrest for violation of a pretrial release order.

**Part XIV** conforms state firearms law to federal law (possession of firearm by felon unlawful).

**Part XV** prohibits a judicial official from refusing to issue a warrant for arrest solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

**Part XVI** clarifies that written or printed records (as opposed to live testimony) is admissible in judicial proceedings, if not otherwise excluded by hearsay rules.

**Part XVII** expands the circumstances under which a temporary child custody award may be made as part of an ex parte domestic violence protective order and gives the court specific factors to consider in deciding custody in domestic violence cases.

**Part XVIII** prohibits employers from discriminating against an employee because the employee has taken time off work to seek relief under Chapter 50B.

**Part XIX** requires clerks, when feasible, to provide a private area for complainants in 50B cases to fill out forms and ask questions.

**Part XX** requests that the Supreme Court adopt rules establishing domestic violence training requirements for judges and requires AOC to study the issue of domestic violence training for other court personnel.

**Part XXI** is the effective date of the bill as a whole. Each part contains its own effective date for those changes.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**HOUSE BILL 1354  
RATIFIED BILL**

AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

**PART I. DOMESTIC VIOLENCE OFFENDER TREATMENT**

**SECTION 1.1. G.S. 15A-1343 reads as rewritten:**

**"§ 15A-1343. Conditions of probation.**

(a) In General. – The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.

(b) Regular Conditions. – As regular conditions of probation, a defendant must:

- (1) Commit no criminal offense in any jurisdiction.
- (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
- (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
- (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
- (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
- (6) Pay a supervision fee as specified in subsection (c1).
- (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.
- (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
- (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
- (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
- (11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.
- (12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a

program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11).

(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

- (1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.
- (2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15, 2002.
- (2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.
- (3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).
- (3a) Repealed by Session Laws 1997-57, s. 3.
- (3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.
- (3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.
- (4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.
- (5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed

by G.S. 143-215.3(a)(7).

- (6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.
- (7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.
- (8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.
- (8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.
- (9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.
- ~~(9a) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) the program is approved by the Domestic Violence Commission.~~
- (10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.
- (6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised



probation.

(b3) Screening and Assessing for Chemical Dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) operated by the Department of Correction must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

(c) Statement of Conditions. – A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which he is being released. If any modification of the terms of that probation is subsequently made, he must be given a written statement setting forth the modifications.

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of thirty dollars (\$30.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon ~~written~~ motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the factors set out in G.S. 15A-1340.35 and G.S. 15A-1340.36. As used herein, "reparation" shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein "aggrieved party" includes individuals, firms, corporations, associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.

(e) Costs of Court and Appointed Counsel. – Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The cost of appointed counsel or public defender services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount of those costs to be repaid and the method of payment.

(f) Repealed by Session Laws 1983, c. 561, s. 5.

(g) Probation Officer May Determine Payment Schedules. – If a person placed on supervised probation is required as a condition of that probation to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

**SECTION 1.2.** G.S. 143B-262 is amended by adding a new subsection to read:

"(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program."

**SECTION 1.3.** This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

## **PART II. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT**

**SECTION 2.1.** G.S. 17C-6(a)(2) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions."

**SECTION 2.2.** The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.1 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

**SECTION 2.3.** G.S. 17C-6(a)(14) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions."

**SECTION 2.4.** The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.3 of this part is available no later than March 1, 2005.

**SECTION 2.5.** G.S. 17C-6(a) is amended by adding a new subdivision to read:

- "(15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (14) of this subsection."

**SECTION 2.6.** The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.5 of this part are implemented no later than March 1, 2005.

**SECTION 2.7.** G.S. 17E-4(a)(2) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent ~~position~~, position. The standards for entry level employment of officers shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence

training requirement, the term 'officers' shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;"

**SECTION 2.8.** The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.7 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

**SECTION 2.9.** G.S. 17E-4(a)(10) reads as rewritten:

"(10) Enter into contracts incident to the administration of its authority pursuant to this ~~Chapter~~ Chapter;"

**SECTION 2.10.** G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term 'justice officer' shall include those defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;"

**SECTION 2.11.** The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.9 of this part is available no later than March 1, 2005.

**SECTION 2.12.** G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (11) of this subsection."

**SECTION 2.13.** The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.11 of this part are implemented no later than March 1, 2005.

**SECTION 2.14.** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the General Assembly on or before March 1, 2005, on the exact standards implemented and the dates they were implemented.

**SECTION 2.15.** This part is effective when it becomes law.

### **PART III. STUDY OF ANTIVIOLENCE EDUCATION IN SCHOOLS AND TRAINING FOR SCHOOL PERSONNEL**

**SECTION 3.1.** The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study the issue of antiviolence programs in the schools. In studying this issue, the Department shall answer the following:

- (1) How are schools currently addressing antiviolence in their curriculum;
- (2) How do current curriculums vary at each grade level, K-12;
- (3) Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence;
- (4) Should the State require every public school to have an antiviolence program of instruction incorporated into the curriculum;
- (5) Should an antiviolence program be required at every grade level;
- (6) What would be an appropriate curriculum for each grade level;
- (7) What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence;
- (8) Should the State implement a particular antiviolence curriculum or allow individual schools to choose an appropriate curriculum from an approved list; and
- (9) What is the fiscal impact of implementing an antiviolence program for all schools, including additional staffing needs, if any.

In studying this issue, the Department shall examine some of the antiviolence

programs that are in use throughout the country. In addition to any other specific programs examined, the Department shall review in detail the "Second Step" program developed by the Committee for Children.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than November 15, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly on or before January 15, 2005.

**SECTION 3.2.** The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence. In studying this issue, the Department shall answer the following:

- (1) What type of training is currently available and/or required for school personnel.
- (2) Should training be required for school personnel.
- (3) If training should be required, which school personnel should be required to receive the training.
- (4) What type of training should be required.
- (5) What is the fiscal impact of requiring school personnel to receive such training.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than November 15, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly on or before January 15, 2005.

**SECTION 3.3.** This part is effective when it becomes law.

#### **PART IV. LEGAL SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE**

**SECTION 4.1.** Chapter 7A of the General Statutes is amended by adding a new Article to read:

"Article 37B.

"Domestic Violence Victim Assistance Act.

**"§ 7A-474.6. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for domestic violence victims in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through established legal services programs in this State.

**"§ 7A-474.7. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- (1) "Domestic violence victim" means a resident of North Carolina that has been subjected to acts of domestic violence as defined in G.S. 50B-1. A resident is not required to seek a protective order under Chapter 50B of the General Statutes to qualify as a domestic violence victim under this Article.
- (2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.
- (3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities

providing substantially the same services in substantially the same service area.

**"§ 7A-474.8. Eligible activities and limitations.**

(a) Eligible Activities. – Funds appropriated under this Article shall be used only for the following purposes:

- (1) To provide legal assistance to domestic violence victims.
- (2) To provide education to domestic violence victims regarding their rights and duties under the law.
- (3) To involve the private bar in the representation of domestic violence victims pursuant to this Article.

(b) Eligible Cases. – The funds shall be prioritized by each legal services program to serve the greatest number of eligible clients, with emphasis placed on representation of clients needing legal assistance with proceedings pursuant to Chapter 50B of the General Statutes. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

- (1) Actions for protective orders issued pursuant to Chapter 50B of the General Statutes;
- (2) Child custody and visitation issues; and
- (3) Legal services which ensure the safety of the client and the client's children.

(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

- (1) To provide legal assistance with respect to any criminal proceeding; or
- (2) To provide legal assistance to any prisoner within the North Carolina Department of Correction with regard to the terms of that person's incarceration.

**"§ 7A-474.9. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, and Legal Aid Society of Northwest North Carolina receiving the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties. Funds shall be allocated to each program based on the counties served by that program using the following formula:

- (1) Twenty percent (20%) based on a fixed equal dollar amount for each county.
- (2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs.

**"§ 7A-474.10. Records and reports.**

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the General Assembly on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the General Assembly shall be made by January 15 of each year beginning January 15, 2006."

**SECTION 4.2.** G.S. 84-4.1 reads as rewritten:

**"§ 84-4.1. Limited practice of out-of-state attorneys.**

Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of that state and in good standing therein, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the litigation. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

- (1) The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.
- (2) A statement, signed by the client, setting forth the client's address and

declaring that the client has retained the attorney to represent the client in the proceeding.

- (3) A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until the final determination thereof, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.
- (4) A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing.
- (5) A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.
- (6) A statement accurately disclosing a record of all that attorney's disciplinary history. Discipline shall include (i) public discipline by any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.
- (7) A fee in the amount of one hundred dollars (\$100.00) for support of the General Court of Justice to be remitted to the State Treasurer.

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application."

**SECTION 4.3.** G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in cases heard before a magistrate, and the sum of sixteen dollars (\$16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of sixty-nine dollars (\$69.00) in the superior court, and the sum of fifty-four dollars (\$54.00) in the district court except that if the case is assigned to a magistrate the sum shall be forty-three dollars (\$43.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9."

**SECTION 4.4.** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed

by a municipality, the fee shall be paid to the municipality employing the officer.

- (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may, with the approval of the Administrative Officer of the Courts as to the amount, use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.
- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the General Statutes, with one dollar and twenty-five cents (\$1.25) being administered in accordance with the provisions of G.S. 143-166.50(e).
- (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-five cents (75¢) to be remitted to the Department of Justice and administered under the provisions of Article 12G of Chapter 143 of the General Statutes.
- (4) For support of the General Court of Justice, the sum of seventy-six dollars (\$76.00) in the district court, including cases before a magistrate, and the sum of eighty-three dollars (\$83.00) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9.
- (5) For using pretrial release services, the district or superior court judge shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be remitted to the county providing the pretrial release services. This cost shall be assessed and collected only if the defendant had been accepted and released to the supervision of the agency providing the pretrial release services.
- (6) For support of the General Court of Justice, for the issuance by the clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-24.2, the sum of fifty dollars (\$50.00), to be remitted to the State Treasurer. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive this fee.



- (7) For the services of the State Bureau of Investigation laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of three hundred dollars (\$300.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction."

**SECTION 4.5.** Section 4.2 of this part becomes effective October 1, 2004, and applies to all motions filed on or after that date. Sections 4.3 and 4.4 of this part become effective October 1, 2004, and apply to fees assessed or paid on or after that date. The remainder of this part is effective when it becomes law.

## **PART V. DOMESTIC VIOLENCE ADVOCATES ON CHILD FATALITY TASK FORCE**

**SECTION 5.1.** G.S. 7B-1402 reads as rewritten:

### **"§ 7B-1402. Task Force – creation; membership; vacancies.**

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

- (1) The Chief Medical Examiner;
- (2) The Attorney General;
- (3) The Director of the Division of Social Services;
- (4) The Director of the State Bureau of Investigation;
- (5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- (7) The Superintendent of Public Instruction;
- (8) The Chairman of the State Board of Education;
- (9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
- (10) The Secretary of the Department of Health and Human Services;
- (11) The Director of the Administrative Office of the Courts;
- (12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
- (13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
- (14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
- (15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
- (16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy



organizations;

- (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
- (18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
- (18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;
- (19) ~~Two public members,~~ One public member, appointed by the Speaker of the House of Representatives;
- (20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
- (21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;
- (22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;
- (22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;
- (23) ~~Two public members,~~ One public member, appointed by the President Pro Tempore of the Senate; and
- (24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

**SECTION 5.2.** The public members serving on the Child Fatality Task Force on the effective date of this act shall complete their current terms. The new appointments contained in Section 1 of this act shall take effect at the end of those terms.

**SECTION 5.3.** This part is effective when it becomes law.

## **PART VI. STUDY OF MENTAL HEALTH SERVICES FOR DOMESTIC VIOLENCE VICTIMS**

**SECTION 6.1.** The Department of Health and Human Services shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The plan will address providing diagnostic and referral services for any client suspected of having a mental illness or a substance abuse problem. The plan will also address the delivery of appropriate services to clients meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102. Services must be best practices, as determined by the Department. The Department will consult various stakeholders in the domestic violence network of organizations. The Department will also consider the delivery of services to children identified through domestic violence programs. The Department shall also consider the fiscal impact, if any, of implementing the plan developed pursuant to this study.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services no later than October 1, 2004, and a final report to the Joint Legislative Oversight Committee on Mental Health, Developmental

Disabilities and Substance Abuse Services and the General Assembly on or before January 15, 2005.

**SECTION 6.2.** This part is effective when it becomes law.

**PART VII. STUDY OF CLE CREDIT FOR PRO BONO LEGAL REPRESENTATION**

**SECTION 7.1.** The North Carolina State Bar, in cooperation with the North Carolina Bar Association, shall study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar shall consider what types of pro bono legal representation, if any, should qualify for CLE credit and what administrative requirements would be necessary to provide such credit. The Bar shall specifically look at the possible benefits of providing CLE credit for pro bono legal representation to domestic violence victims. The Bar shall also consider the fiscal impact, if any, of providing the credit.

The Bar shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

**SECTION 7.2.** This part is effective when it becomes law.

**PART VIII. DOMESTIC RELATIONSHIP AGGRAVATING FACTOR**

**SECTION 8.1.** G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.
- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.
- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- (7) The offense was especially heinous, atrocious, or cruel.
- (8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- (10) The defendant was armed with or used a deadly weapon at the time of the crime.
- (11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- (12) The defendant committed the offense while on pretrial release on another charge.
- (13) The defendant involved a person under the age of 16 in the commission of the

crime.

- (14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
- (15) The defendant took advantage of a position of trust or ~~confidence~~ confidence, including a domestic relationship, to commit the offense.
- (16) The offense involved the sale or delivery of a controlled substance to a minor.
- (17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- (18) The defendant does not support the defendant's family.
- (18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (19) The serious injury inflicted upon the victim is permanent and debilitating.
- (20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

**SECTION 8.2.** This part is effective December 1, 2004, and applies to offenses committed on or after that date.

#### **PART IX. CREATE STRANGULATION OFFENSE**

**SECTION 9.1.** G.S. 14-32.4 reads as rewritten:

**"§ 14-32.4. Assault inflicting serious bodily ~~injury~~ injury; strangulation; penalties.**

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony.

**SECTION 9.2.** This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

#### **PART X. AMEND HABITUAL MISDEMEANOR ASSAULT STATUTE**

**SECTION 10.1.** G.S. 14-33.2 reads as rewritten:

**"§ 14-33.2. Habitual misdemeanor assault.**

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of ~~G.S. 14-33(e) or G.S. 14-34~~ G.S. 14-33 and causes physical injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation. ~~been convicted of five or more prior misdemeanor convictions, two of which were assaults.~~ A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony."

**SECTION 10.2.** This part is effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

#### **PART XI. DOMESTIC VIOLENCE OFFENSE TRACKING**

**SECTION 11.1.** Article 86 of Chapter 15A of the General Statutes is amended by adding a new section to read:

**"§ 15A-1382.1. Reports of disposition; domestic violence; sentencing.**

(a) When a defendant is found guilty of an offense involving assault, or communicating a threat, the presiding judge shall determine whether the defendant and victim had a personal relationship. If the judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The clerk of court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

(b) If the presiding judge determines that there was a personal relationship between the defendant and the victim, and a sentence to community punishment is imposed, the judge shall determine whether the defendant shall comply with one or more of the special conditions of probation set forth at G.S. 15A-1343(b1), in addition to any other authorized punishment. Notwithstanding the provisions of G.S. 15A-1340.11(6)c, the court may require the defendant to comply with the provisions of G.S. 15A-1343(b1)(3c).

(c) The following definitions apply to this section:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.

(3) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals."

**SECTION 11.2.** This part is effective December 1, 2004, and applies to offenses committed on or after that date.

## **PART XII. STUDY OF MISDEMEANOR OFFENSE CLASSIFICATIONS**

**SECTION 12.1.** The General Assembly finds that the North Carolina Sentencing and Policy Advisory Commission has adopted formal criteria for classifying felony offenses. The Sentencing Commission has identified three general types of harms: harms to persons (including both physical and mental injury); harms to property; and harms to society. The degrees of harm are divided into three levels:

(1) Injury to person, property, or society;

(2) Significant injury to person, property, or society; and

(3) Serious injury to person, property, or society. The stated purpose of establishing the criteria was "to create a rational and consistent philosophical basis for classifying offenses; to assure proportionality in severity; and to provide a guidepost for classifying new crimes in the future."

In contrast to the felony classification criteria, the Commission did not create classification criteria for misdemeanors. However, the current misdemeanor sentencing laws include an assault offense that has serious injury as an element – even though "serious injury to a person" is a category of harm for felony offense classification. The General Assembly finds that the classification of assault offenses that involve serious injury as misdemeanors is inconsistent with the Sentencing Commission's classification of felonies based on harm.

The North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of the General Statutes, shall study the classification of misdemeanor offenses. In particular, the Commission shall examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. The Commission shall develop a system for classifying misdemeanor offenses on the basis of their severity. The Commission may consider reclassifying existing offenses and creating new offenses in order to insure proportionality and consistency. The Commission shall report its findings and recommendations to the 2005 General Assembly, 2005 Regular Session. The report shall describe the status of the Commission's work and shall include any completed policy recommendations and proposed legislation. The Commission shall make a final report to the 2005 General Assembly, 2006 Regular Session.

**SECTION 12.2.** This part is effective when it becomes law.

## **PART XIII. WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL RELEASE CONDITIONS**

**SECTION 13.1.** G.S. 15A-401 reads as rewritten:

**"§ 15A-401. Arrest by law-enforcement officer.****(a) Arrest by Officer Pursuant to a Warrant. –**

- (1) **Warrant in Possession of Officer. –** An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.
- (2) **Warrant Not in Possession of Officer. –** An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.

**(b) Arrest by Officer Without a Warrant. –**

- (1) **Offense in Presence of Officer. –** An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.
- (2) **Offense Out of Presence of Officer. –** An officer may arrest without a warrant any person who the officer has probable cause to believe:
  - a. Has committed a felony; or
  - b. Has committed a misdemeanor, and:
    1. Will not be apprehended unless immediately arrested, or
    2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or
  - c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or
  - d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or
  - e. Has committed a misdemeanor under ~~G.S. 50B-4.1(a)~~ G.S. 50B-4.1(a); or
  - f. Has violated a pretrial release order entered under G.S. 15A-534.1(a)(2).
- (3) Repealed by Session Laws 1991, c. 150.
- (4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.

**(c) How Arrest Made. –**

- (1) **An arrest is complete when:**
  - a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or
  - b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.
- (2) **Upon making an arrest, a law-enforcement officer must:**
  - a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,
  - b. Inform the arrested person that he is under arrest, and
  - c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

**(d) Use of Force in Arrest. –**

- (1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he

reasonably believes it necessary:

- a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or
- b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

- a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
- b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
- c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force. –

(1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:

- a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,
- b. The officer has reasonable cause to believe the person to be arrested is present, and
- c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.

(2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.

(f) Use of Deadly Weapon or Deadly Force to Resist Arrest. –

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any

civil action arising out of an arrest not authorized by this Article."

**SECTION 13.2.** This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

#### **PART XIV. CONFORM STATE FIREARMS LAW TO FEDERAL LAW**

**SECTION 14.1.** G.S. 14-415.1 reads as rewritten:

##### **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any ~~handgun or other firearm~~ firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer.

Every person violating the provisions of this section shall be punished as a Class G felon.

~~Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.~~

(b) Prior convictions which cause disenfranchisement under this section shall only include:

- (1) Felony convictions in North Carolina that occur before, on, or after December 1, 1995; and
- (2) Repealed by Session Laws 1995, c. 487, s. 3.
- (3) Violations of criminal laws of other states or of the United States that occur before, on, or after December 1, 1995, and that are substantially similar to the crimes covered in subdivision (1) which are punishable where committed by imprisonment for a term exceeding one year.

When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is permissible, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified to a superior court of this State from the custodian of records of any state or federal court shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type of offense and the penalty therefore, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein."

**SECTION 14.2.** This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

#### **PART XV. SPECIFICALLY ALLOW CROSS-WARRANTS**

**SECTION 15.1.** G.S. 15A-304 reads as rewritten:

##### **"§ 15A-304. Warrant for arrest.**

(a) Definition. – A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) When Issued. – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person



accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(c) **Statement of the Crime.** – The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(d) **Showing of Probable Cause.** – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by one or more of the following:

- (1) Affidavit;
- (2) Oral testimony under oath or affirmation before the issuing official; or
- (3) Oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other. Prior to the use of audio and video transmission pursuant to this subdivision, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge and the chief district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

If the information is insufficient to show probable cause, the warrant may not be issued. A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

(e) **Order for Arrest.** – The order for arrest must direct that a law-enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) **Who May Issue.** – A warrant for arrest, valid throughout the State, may be issued by:

- (1) A Justice of the Supreme Court.
- (2) A judge of the Court of Appeals.
- (3) A judge of the superior court.
- (4) A judge of the district court, as provided in G.S. 7A-291.
- (5) A clerk, as provided in G.S. 7A-180 and 7A-181.
- (6) A magistrate, as provided in G.S. 7A-273."

**SECTION 15.2.** This part is effective when it becomes law.

## **PART XVI. CLARIFY NURSE'S PRIVILEGE**

**SECTION 16.1.** G.S. 8-53.13 reads as rewritten:

### **"§ 8-53.13. Nurse privilege.**

No person licensed pursuant to Article 9A of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional nursing services, and which information was necessary to enable that person to render professional nursing services, except that the presiding judge of a superior or district court may compel disclosure if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule. Nothing in this section shall preclude the admission of otherwise admissible written or printed medical records in any judicial proceeding, in accordance with the procedure set forth in G.S. 8-44.1, after a determination by the court that disclosure should be compelled as set forth herein."

**SECTION 16.2.** G.S. 8-53.1 reads as rewritten:

### **"§ 8-53.1. Physician-patient and nurse privilege waived in child abuse.**

Notwithstanding the provisions of G.S. ~~8-53~~ 8-53 and G.S. 8-53.13, the physician-patient or nurse privilege shall not be a ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina."

**SECTION 16.3.** This part becomes effective December 1, 2004.



## PART XVII. TEMPORARY CHILD CUSTODY IN DOMESTIC VIOLENCE HEARINGS

**SECTION 17.1.** G.S. 50-13.2(b) reads as rewritten:

"(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). ~~Such orders may include a designation of time and place for the exchange of children away from the abused party, the participation of a third party, or supervised visitation.~~ If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child."

**SECTION 17.2.** G.S. 50B-2 reads as rewritten:

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

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such those~~ acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of ~~bodily physical or emotional injury or sexual abuse.~~ If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the court determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. Upon the issuance of an ex parte order under this

subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of ~~bodily-physical or emotional injury or sexual abuse.~~ If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the magistrate finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child. If the magistrate determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody ~~to~~ pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The Clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

**SECTION 17.3.** G.S. 50B-3(a)(4) reads as rewritten:

"§ 50B-3. Relief.

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order to bring about a cessation of acts of domestic violence. The orders may:

- (4) Award temporary custody of minor children and establish temporary visitation ~~rights; rights~~ pursuant to G.S. 50B-2 if the order is granted ex parte, and

pursuant to subsection (a1) of this section if the order is granted after notice or service of process;

...

read: **SECTION 17.4.** G.S. 50B-3 is amended by adding the following new subsection to

"(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
- (2) For purposes of determining custody and visitation issues, the court shall consider:
  - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
  - b. Whether the minor child was present during acts of domestic violence.
  - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
  - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
  - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
  - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
  - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
  - h. Whether a party has abused or endangered the minor child during visitation.
  - i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
  - j. Whether a party has improperly concealed or detained the minor child.
  - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
- (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
  - a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
  - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
  - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
  - d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
  - e. Ordering the noncustodial parent to pay the costs of supervised visitation.
  - f. Prohibiting overnight visitation.
  - g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
  - h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
  - i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the

aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

- (4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

**SECTION 17.5.** G.S. 50B-3(b) reads as rewritten:

"(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed one year, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current ~~order~~ order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved."

**SECTION 17.6.** This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

## **PART XVIII. PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST DOMESTIC VIOLENCE VICTIMS**

**SECTION 18.1.** Chapter 50B of the General Statutes is amended by adding a new section to read:

**"§ 50B-5.5. Employment discrimination unlawful.**

(a) No employer shall discharge, demote, deny a promotion, or discipline an employee because the employee took reasonable time off from work to obtain or attempt to obtain relief under this Chapter. An employee who is absent from the workplace shall follow the employer's usual time-off policy or procedure, including advance notice to the employer, when required by the employer's usual procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of any emergency that prevented the employee from complying in advance with the employer's usual time-off policy or procedure, or any other information available to the employee which supports the employee's reason for being absent from the workplace.

(b) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to the Article."

**SECTION 18.2.** G.S. 95-241(a) reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following:

- (1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
  - a. Chapter 97 of the General Statutes.
  - b. Article 2A or Article 16 of this Chapter.
  - c. Article 2A of Chapter 74 of the General Statutes.
  - d. G.S. 95-28.1.
  - e. Article 16 of Chapter 127A of the General Statutes.
  - f. G.S. 95-28.1A.

- (2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.
- (3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes.
- (4) Comply with the provisions of Article 27 of Chapter 7B of the General Statutes.
- (5) Exercise rights under Chapter 50B. Actions brought under this subdivision shall be in accordance with the provisions of G.S. 50B-5.5."

**SECTION 18.3.** This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

#### **PART XIX. PRIVACY FOR 50B INTAKE**

**SECTION 19.1.** G.S. 50B-2(d) reads as rewritten:

"(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms ~~which that~~ are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. ~~The Clerk-clerk~~ shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

**SECTION 19.2.** This part is effective when it becomes law.

#### **PART XX. TRAINING FOR JUDGES AND COURT PERSONNEL**

**SECTION 20.1.** The North Carolina Supreme Court is respectfully requested to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

**SECTION 20.2.** The Administrative Office of the Courts shall study the issue of training for court personnel in the area of domestic violence. The study shall examine the following:

- (1) The extent to which training is currently being done.
- (2) The need for additional training.
- (3) The amount and types of training that would be most appropriate.
- (4) The potential costs and sources of funding for any additional training.

The Administrative Office of the Courts shall report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

**SECTION 20.3.** This part is effective when it becomes law.

#### **PART XXI. EFFECTIVE DATE**

**SECTION 21.** Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of July, 2004.

---

Beverly E. Perdue  
President of the Senate

---

James B. Black  
Speaker of the House of Representatives

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**Rep. Carolyn H. Justice**  
**PO Box 296**  
**Hampstead, NC 28443**  
**(910-270-4604)**

**Rep. Carolyn K. Justus**  
**PO Box 2396**  
**Hendersonville, NC 28793**  
**(828-685-7433)**

**Rep. Mary E. McAllister**  
**730 Spyglass Dr.**  
**Fayetteville, NC 28311**  
**(910-488-9928)**

**Rep. Tim Moore**  
**212 S. Dekalb St.**  
**Shelby, NC 28150**  
**(704-482-4441)**

**Rep. Earline W. Parmon**  
**3873 Barkwood Dr.**  
**Winston-Salem, NC 27105**  
**(336-767-7395)**

**Rep. Karen B. Ray**  
**262 Gibbs Rd.**  
 **Mooresville, NC 28117**  
**(704-660-5961)**



**Rep. Deborah K. Ross**  
**425 S. Boylan Ave.**  
**Raleigh, NC 27063**  
**(919-832-6508)**

**Rep. Mitchell S. Setzer**  
**PO Box 416**  
**Catawba, NC 28609**  
**(828-241-3570)**

**Rep. Paul Stam**  
**PO Box 1600**  
**Apex, NC 27502**  
**(919-362-8873)**

**Rep. Edith D. Warren**  
**PO Box 448**  
**Farmville, NC 27828**  
**(252-753-4198)**

**Rep. Jennifer Weiss**  
**303 Tibbetts Rock Dr.**  
**Cary, NC 27513**  
**(919-678-1367)**

**Rep. Keith P. Williams**  
**673 Parkertown Rd.**  
**Hubert, NC 28539**  
**(910-326-1129)**

**STAFF (919-733-2578)**

**Hal Pell  
Wendy Ray  
Susan Sitze**

**Linda Attarian (919-733-3451)**

**COMMITTEE ASSISTANT**

**Rosa S. Kelley (919-715-3026)**

## **HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**

**Tuesday, January 11, 2005  
Room 643 – Legislative Office Bldg. – 2:00 p.m.**

**The House Select Committee on Domestic Violence met on Tuesday, January 11, 2005 at 2:00 p.m. in Room 643 of the Legislative Office Building with Representative Wilma Sherrill, Co-Chair, presiding.**

**The following members were present: Representative McLawhorn, Rep. Sherrill, Rep. Adams, Rep. Allen, Rep. Coates, Rep. Earle, Rep. Farmer-Butterfield, Rep. Howard, Rep. Johnson, Rep. Justice, Rep. Justus, Rep. McAllister, Rep. Moore, Rep. Parmon, Rep. Ross, Rep. Setzer, Rep. Stam, Rep. Warren, and Rep. Weiss.**

**Rep. Sherrill and Rep. McLawhorn welcomed the members of the committee and also thanked them for their fine work on this committee.**

**The Chair then recognized Jacob Ehrmann, Attorney at Law, Asheville, NC. Mr. Ehrmann gave a presentation on “Consent Agreements in 50B cases/Bryant v. Williams.” A draft of a Proposed House Bill: 50B Consent Agreements was presented to the committee by staff and it was approved unanimously. (Attachment No. 1)**

**The Chair then recognized Robert Guy, Director, Division of Community Corrections. Mr. Guy gave a presentation by using slides on:**

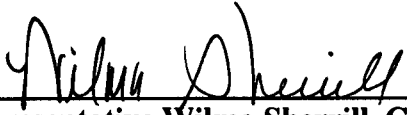
**(1) Division of Community Corrections – GPS Pilot Program (Global Positioning Satellite) (Attachment No. 2)**

**Rep. McLawhorn wanted to know if this program had been used in other states. Mr. Guy answered yes in several other states. They seem to have been very successful and well worth the cost.**

**(2) Mr. Guy then gave a presentation on “Division of Community Correction – Domestic Violence Offender Case Management”, with the use of slides. (Attachment No. 3) This presentation explained balancing victim safety, offender control and treatment/intervention.**

Rep. Sherrill complimented Mr. Guy and his department for the outstanding job they have done. She also said that their job had just begun. A recommendation was made that the Division of Community Corrections report to Corrections/Crime Control and Juvenile Justice Oversight Committee. This recommendation passed unanimously.

There being no further business, the meeting adjourned at 3:30 p.m.

  
\_\_\_\_\_  
Representative Wilma Sherrill, Co-Chair

  
\_\_\_\_\_  
Rosa S. Kelley, Committee Assistant

(A Visitor Registration Sheet is enclosed with these minutes.)



## HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE

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### AGENDA

January 11, 2005  
Room 643, Legislative Office Building  
2:00 PM

### WELCOME AND INTRODUCTION

Rep. Wilma M. Sherrill, Co-Chair  
Rep. Marian N. McLawhorn, Co-Chair

- **Consent Agreements in 50B cases/ *Bryant v. Williams***  
--Jacob Ehrmann, Attorney-At-Law, Asheville, NC
- **Presentation on the Division of Community Corrections GPS Pilot Program**  
**and**
- **Report from the Division of Community Corrections Domestic Violence Task Force**  
— Robert Guy, Director, Division of Community Corrections

### Committee Discussion

### Instructions to Staff



# PROPOSED HOUSE BILL: 50B Consent Agreements

Attach. 1

## BILL ANALYSIS

**Committee:** House Select Committee on  
Domestic Violence

**Introduced by:**

**Date:** January 11, 2005

**Summary by:** Wendy Graf Ray  
Committee Counsel

**Version:** Bill Draft 2005-SUZ-1[v.2]

**SUMMARY:** *This bill draft proposes to amend Chapter 50B to allow courts to enter consent agreements without specific findings of fact that an act of violence occurred.*

**CURRENT LAW:** When a person seeks relief under Chapter 50B, the court is authorized to enter orders to protect the aggrieved party from acts of domestic violence. G.S. 50B-1 defines "protective order" to include consent agreements, which means the parties agree to specific terms, rather than letting the court make the determination following a hearing.

**BILL ANALYSIS:** The proposed bill would clarify that the court has the authority to enter consent agreements that do not include findings of fact that an act of violence occurred or that an order is necessary to bring about a cessation of acts of domestic violence. This would allow parties to resolve 50B cases through consent agreements without making specific admissions of guilt that could be used against them in the future.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

**BACKGROUND:** This proposed bill is an attempt to resolve issues raised by the recent case of Bryant v. Williams, 161 N.C. App. 444, 588 S.E.2d 506 (2003). In that case, a consent agreement was entered under Chapter 50B, and part of the agreement was that the claims of domestic violence would be voluntarily dismissed. The NC Court of Appeals ultimately decided that the court did not have the authority to enter the domestic violence protective orders since no claim of domestic violence remained. The court noted that 50B protective orders are authorized, under G.S. 50B-3(a), only "to bring about a cessation of acts of domestic violence".

Based on this case, some district court judges will no longer enter consent agreements under Chapter 50B unless the consent agreement contains a specific finding of fact that an act of domestic violence occurred. Essentially, the party against whom an action is filed must make an admission of guilt, and many are reluctant to do so, especially if there are criminal charges pending. The result is that fewer domestic violence cases are being resolved through consent agreements.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

D

BILL DRAFT 2005-SUz-1 [v.2] (1/10)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
1/10/2005 3:28:08 PM

Short Title: 50B Consent Agreements.

(Public)

Sponsors: Representative Unknown.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 50B OF THE NORTH CAROLINA GENERAL  
STATUTES TO ALLOW COURTS TO ENTER CONSENT AGREEMENTS  
WITHOUT FINDINGS OF FACT THAT AN ACT OF DOMESTIC VIOLENCE  
OCCURRED.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 50B-3(a) reads as rewritten:

**"§ 50B-3. Relief.**

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order to bring about a cessation of acts of domestic violence. The court may also enter any protective order upon consent of the parties. Except as otherwise provided by G.S. 50B-3(b), orders entered upon consent of the parties are not required to contain findings of fact that an act of violence occurred or that an order is necessary to bring about a cessation of acts of domestic violence. The orders may:

- (1) Direct a party to refrain from such acts;
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household;
- (3) Require a party to provide a spouse and his or her children suitable alternate housing;
- (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process;
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it;
- (6) Order either party to make payments for the support of a minor child as required by law;

- 1 (7) Order either party to make payments for the support of a spouse as  
2 required by law;  
3 (8) Provide for possession of personal property of the parties;  
4 (9) Order a party to refrain from doing any or all of the following:  
5 a. Threatening, abusing, or following the other party,  
6 b. Harassing the other party, including by telephone, visiting the  
7 home or workplace, or other means, or  
8 c. Otherwise interfering with the other party;  
9 (10) Award attorney's fees to either party;  
10 (11) Prohibit a party from purchasing a firearm for a time fixed in the order;  
11 (12) Order any party the court finds is responsible for acts of domestic  
12 violence to attend and complete an abuser treatment program if the  
13 program is approved by the Domestic Violence Commission; and  
14 (13) Include any additional prohibitions or requirements the court deems  
15 necessary to protect any party or any minor child."

16 **SECTION 2.** This act is effective when it becomes law.  
17



# **North Carolina Division of Community Corrections**

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## **Global Positioning Satellite (GPS) Pilot Initiative**

***April 2003 - September 2004***

# **Global Positioning Satellite (GPS) Defined**

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- **A collection of satellites owned by the U.S. Government that provides highly accurate, worldwide positioning & navigation information 24 hours a day.**
- **GPS receivers on or near the earth's surface listen in on the information received from 3 to 12 satellites.**
- **From this information precise location of the receiver is determined, as well as, how fast and in which direction it is moving.**
- **Common uses of GPS are**
  - **Cell Phones**
  - **Military Surveillance/Targeting**
  - **Vehicle Tracking**

# **GPS Pilot**

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## **Purpose:**

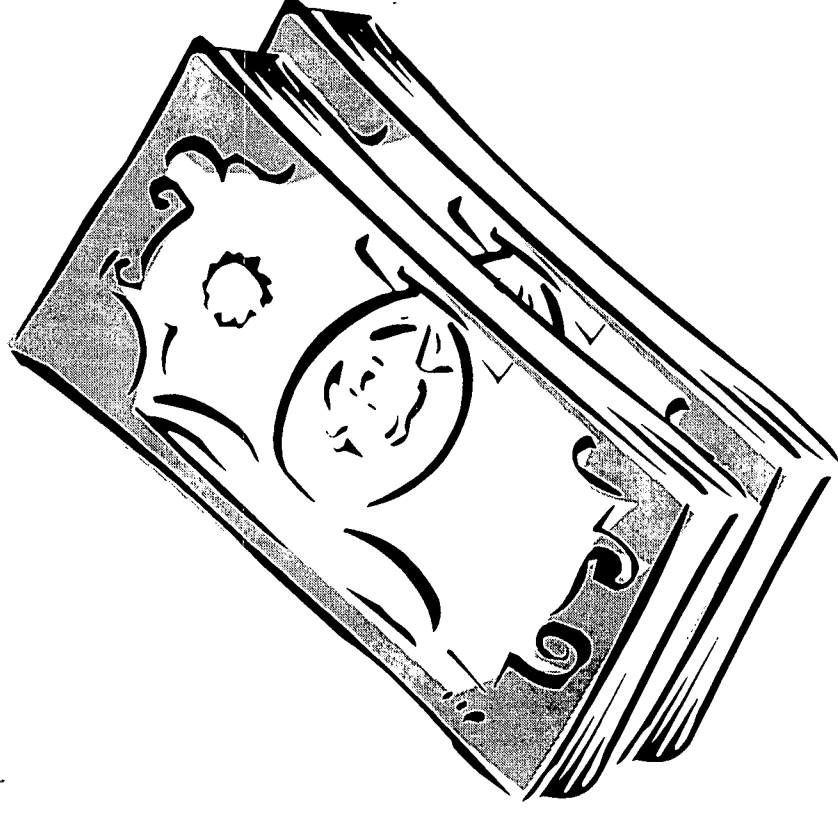
**To pilot Global Positioning Satellite (GPS) Tracking Equipment and Monitoring Services as a means to enhance supervision of the Community or Intermediate punished offender; specifically convicted Sex Offenders or Domestic Violence Offenders.**

# GPS Pilot

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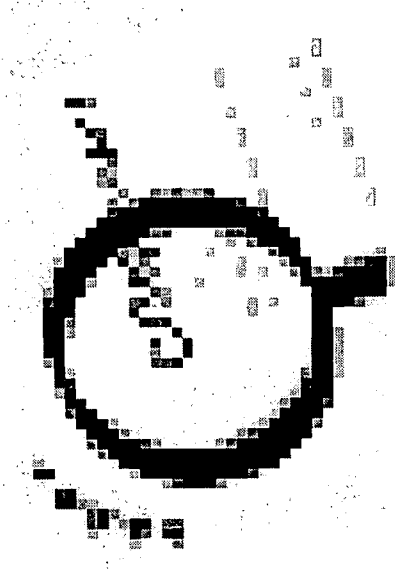
- **The Division was awarded grant funding from the Governor's Crime Commission for this initiative in the amount of \$100,000. This agency provided \$33,333 in matching funds.**

- **Grant period expired September 30, 2004.**



# GPS Pilot

- After completing the bid process, the Department of Correction awarded the contract to Pro Tech Monitoring, Inc.



# **Pro Tech**

## **SMART® Active Tracking**

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- **Satellite**
- **Monitoring**
- **And**
- **Remote**
- **Tracking**

*The SMART® system  
combines a GPS receiver with  
wireless communications and  
central monitoring to  
establish offender location  
and to track movement.*

# Active vs. Passive Tracking

---

- This pilot utilized active tracking only.
- Active – Real time monitoring of offender's whereabouts 24 hours a day, 7 days a week with immediate notification of a violation. GPS signals and wireless network report offender movement.
- Passive – Ensures offender is in the confines of their home plus tracks movement outside the home. Information is stored and downloaded to the data center via landline when device is placed in the home charger/base unit; providing next day notification of activity.

# Pro Tech's SMART® Active System

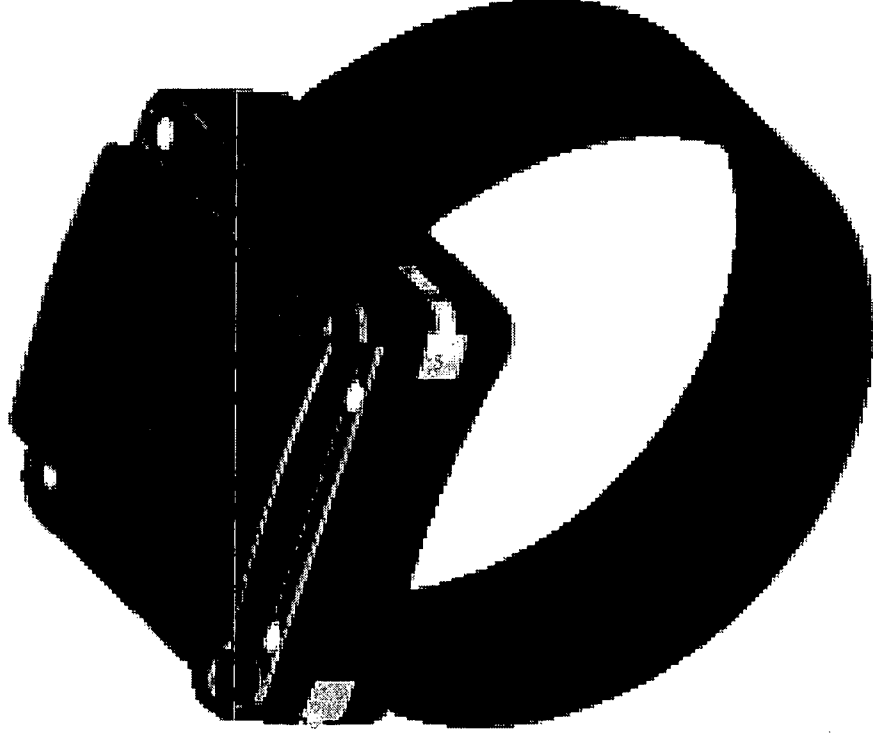
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- **Four main components:**
  - The Ankle Transmitter
  - The Portable Tracking Device (PTD)
  - The Charging Stand
  - Pro Tech's Client Enrollment Software (PCE)

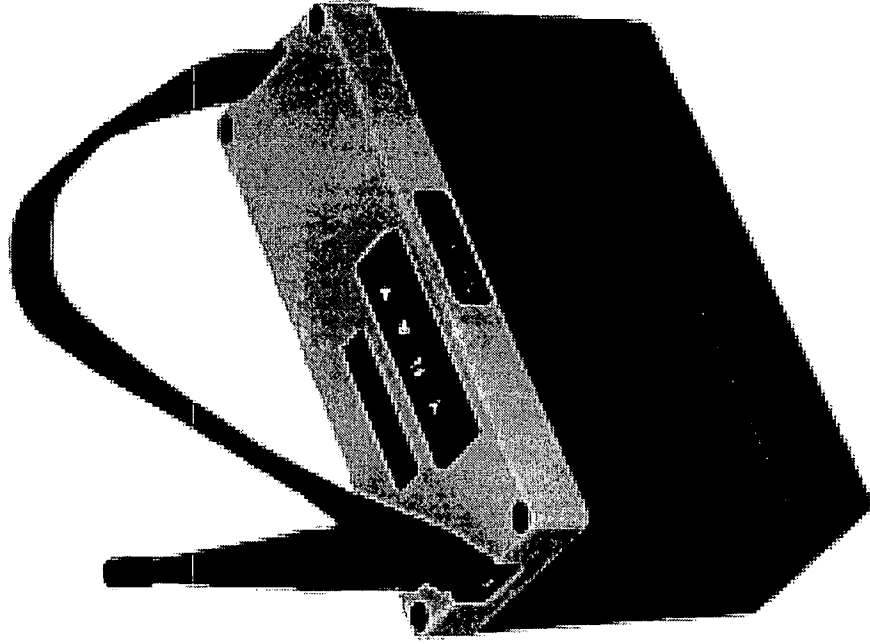


# Ankle Transmitter

- **Tamper Resistant/Tamper Detection**
- **Case made of high impact plastic**
- **Hypoallergenic strap;**
- **nylon coated; imbedded electronics; available in various sizes**
- **3 Year Battery**
- **Serves as electronic tether to the PTD**



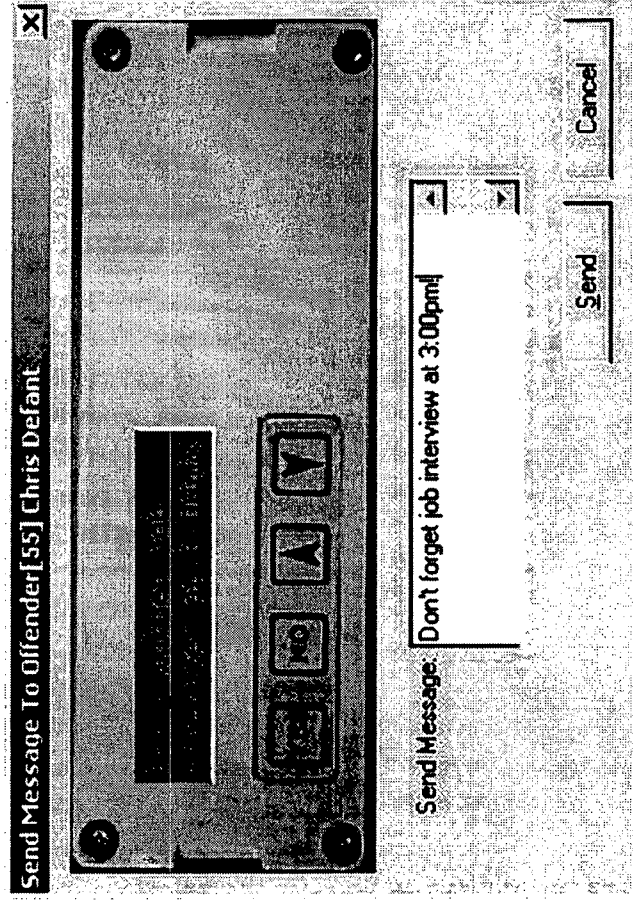
# Portable Tracking Device (PTD)



- Carried either by strap handle or in a small waist pack.
- GPS receiver, cellular modem & land-line communications capability, motion detectors, and tamper detection circuitry.
- “Sentencing Intelligence” allows notification of violations in real time.

# **PTD** *(Portable Tracking Device)*

- **Liquid Crystal Display (LCD) to display violation notifications and messages to the offender.**
- **Audible alarm**



# **PTD Charging Stand**

- **Portable device that uses either a wall outlet or car cigarette lighter.**
- **Serves to charge the PTD and as a docking station.**

# **Pro Tech Client Enrollment (PCE) Software**

---

- **Tracking and monitoring Software package that can be installed on almost any computer with Internet access.**
- **Provides access to reports, maps and offenders' information.**
- **Gives the agency control of offenders day-to-day activities. (Define offender schedules, establish exclusion and inclusion zones and send messages to PTD)**
- **Requires User ID and password**
- **Windows Format: General information about offender or contact. *Personal, Employment, Education, Sentencing, Picture, rules and mapping.***

# Pro Tech Customer Call Center

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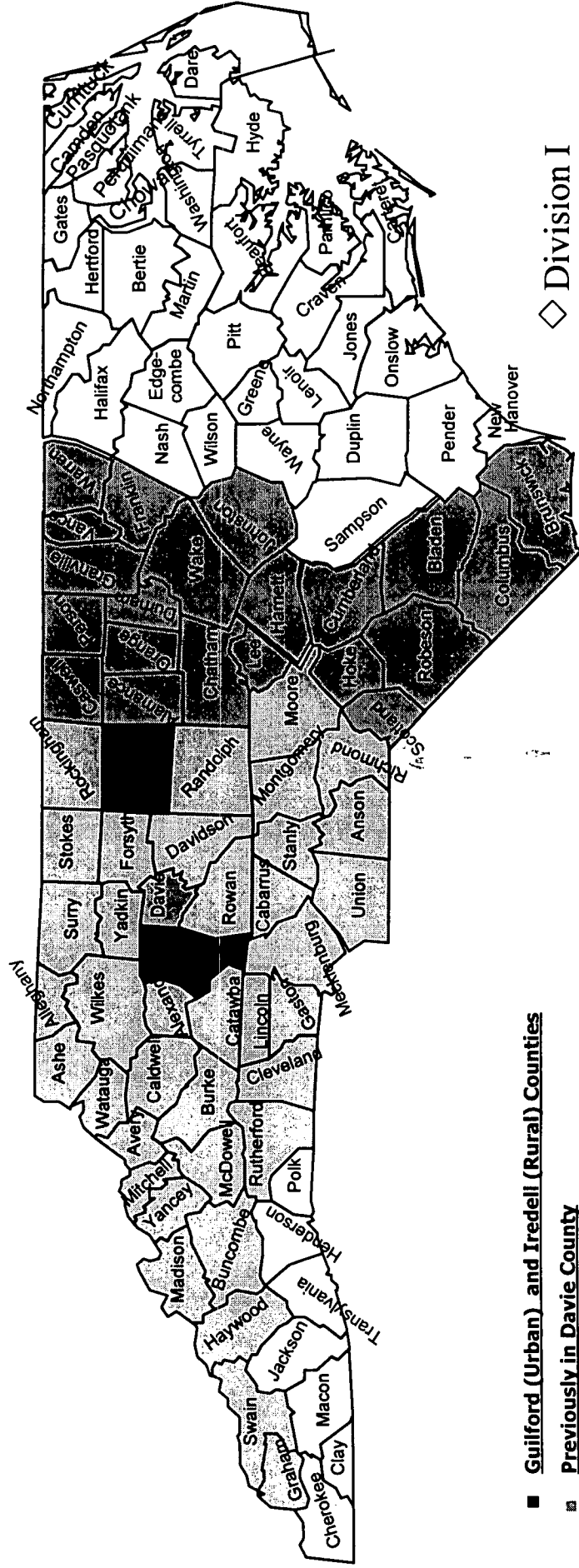


- **Customer Call Center is open 24/7 to provide customer service.**
- **Must have a password and security code**

# **“Big Picture”**

- **The Global Positioning System is a collection of satellites owned by the US Government that orbit 12,000 miles above the earth.**
- **The PTD GPS Receiver listens in on the information rec'd from 3 to 12 satellites and from that can determine the precise location of the receiver as well as how fast and in what direction it is moving.**
- **The bracelet transmits via RF signal to the PTD. The PTD ensures the bracelet is within range.**
- **The PTD's internal modem provides communication of tracking data to the Pro Tech Data Center via the Cellular network. Notification of violations are automatically sent to the contact/PPO via pager/email/fax.**

# NC Division of Community Corrections GPS Pilot Area



- Guilford (Urban) and Iredell (Rural) Counties
- Previously in Davie County

- ◇ Division I
- ◆ Division II
- ◇ Division III
- ◇ Division IV



# **DCC Officers utilized for GPS Pilot**

## **Intermediate Probation Officers:**

- Davie County            1**
- Guilford County        5**
- Iredell County          2**

## **Response Officers:**

- Davie & Guilford – Electronic House Arrest Response Officers**
- Iredell                    - Team of four (4) Surveillance Officers  
                                  responded solely to GPS violations after  
                                  after hours and on weekends**

## **Recommendation:**

- Dedicated GPS Response Team separate from EHA Response Team**
- Dedicated Response Team would be more proficient and knowledgeable of GPS technology and special needs of the offender.**

# Cost Per Day Per Offender

<b>Division of Prisons</b>	<b>-</b>	<b>\$62.00</b>
<b>Regular Probation</b>	<b>-</b>	<b>\$1.87</b>
<b>Intensive Probation</b>	<b>-</b>	<b>\$10.94</b>
<b>Electronic House Arrest</b>	<b>-</b>	<b>\$5.89</b>
<b>Community Service</b>	<b>-</b>	<b>\$ .67</b>
<b>CJPP Sentenced Offender -</b>		<b>\$11.61</b>
<b>CJPP Pretrial Release</b>	<b>-</b>	<b>\$3.46</b>
<b>GPS (Active)</b>	<b>-</b>	<b>\$11.50</b>

**(Source: DCC Program Costs for FY 03-04 as established by the NC Dept. of Correction Controller's Office)**

# Expenditures

**Grant Award:        \$133,333**

**Pilot Expenditures:**

- **Equipment Lease Cost        \$44, 842**
  - **Communication Cost        1,951**
  - **Minimal Unit Adjustment Cost    14,651**
- Total Expenditures   \$61,444\***

# Offender Statistics

## Offenders Served – 33

## Age Categories:

• Davie	- 6	• Ages 16 – 25	- 13
• Iredell	- 5	• Ages 26 – 40	- 12
• Guilford	- 22	• Ages 41 & over	- 8

Sex: 20 White Male & 13 Black Male

## Case Types:

- One Domestic Violence Case
- Two Post-Release Cases
- Thirty-Two Sex Offender Cases
- Five were sentenced to GPS and remainder were result of probation violations

# Outcomes

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## Offenders Revoked – 3

**Two were technical violations and  
one was a GPS violation.**

## Average Length of Stay:

**118 Days**

**Longest Period 1 offender tracked: 397 Days**

**Shortest Period 1 offender tracked: 3 Days**

**None of the offenders were charged with new crimes while  
under GPS Supervision.**

**91% SUCCESSFULLY COMPLETED OR WERE IN  
COMPLIANCE AT THE END OF THE PILOT.**

# PROS

- o Real time tracking of offender location
- o As technology improves, competitive market follows
- o Allows cross referencing of offender location/activity
- o Accuracy accepted by judicial & scientific communities
- o Studies indicated GPS does alter offender behavior
- o Officers can customize “inclusion” and “exclusion” zones
- o Protects crime victims by adding surveillance officers
- o Does not require offender to have a telephone
- o Saves taxpayers dollars when compared to incarceration

# CONS

- o **GPS signal cannot track inside large buildings, heavily wooded areas or if shielded by metal**
- o **Use is limited to areas with good quality cell coverage**
- o **Equipment is expensive to replace**
- o **Requires cooperative offender**
- o **Requires responding to violations in a timely manner**
- o **Most states require offenders to pay for GPS Supervision**
- o **Requires comprehensive training**
- o **Staff must daily process large amounts of information**
- o **More time consuming than traditional EHA**

# Conclusion

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**GPS Supervision “DOES”  
alter offender behavior**

**and**

**is considered the  
ultimate public safety  
tool for community  
supervision today!**





# **Future of GPS in the Division of Community Corrections**

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## **HB 1414 Section 17.8**

**Issue Request for Proposal for Passive  
and Active Global Positioning Systems  
for use as an Intermediate Sanction.**

- RFP Published 12-30-2004**
- Responses to be opened 1-28-2005**

# Goals

---

- **Establish a contract with a vendor for GPS Electronic Monitoring equipment and services for 2 years with option to renew for 3 additional years at 1 year increments.**
- **Implement GPS Program in 6 to 8 Urban Counties:**
  - **Wake**
  - **Mecklenburg**
  - **Guilford**
  - **Cumberland**
  - **New Hanover**
  - **Forsyth**

# Goals

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- **Utilize Active GPS for High Risk, High Need Offenders, specifically Domestic Violence and Sex Offenders with proposed average length of stay 90-180 days or duration of supervision.**
- **Utilize Intermediate Officers specialized in Domestic Violence and Sex Offender caseloads and provide continued training and support for their specialization.**
- **Initially have 25 offenders with increase as program expands.**
- **Develop comprehensive victim notification procedure to include equipment and violation response.**

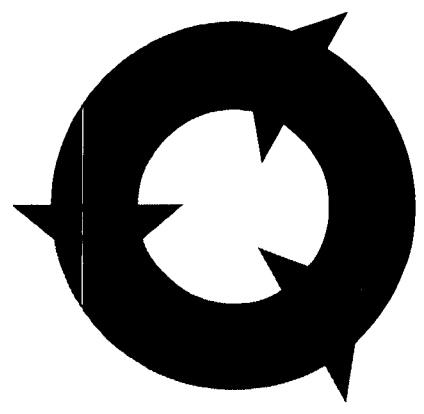
# Goals

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- **Consider passive GPS, Intensive or Electronic Monitoring as a graduated continuum of supervision.**
- **Establish and train teams solely for GPS response in each program area.**
- **Re-visit policy/guidelines initially developed for pilot and revise to encompass totality of GPS Program.**
- **Develop and strengthen partnerships with judiciary, treatment providers and community to educate and promote utilization of GPS.**

# Division of Community Correction Domestic Violence Offender Case Management

Balancing Victim Safety,  
Offender Control &  
Treatment/Intervention



# Revised Supervision Standards

## Internal Operations Changes:

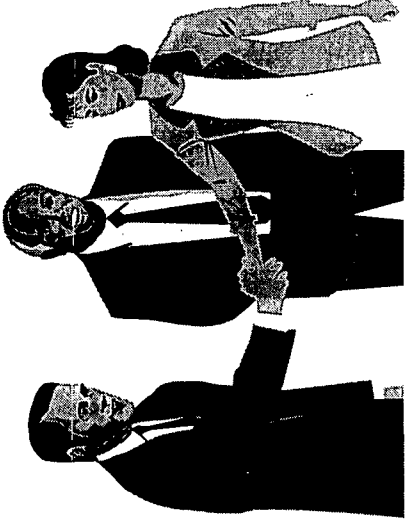
- Supervise at “I” (Intermediate) level regardless of the sentence
- Use of Intermediate Probation Officer and above
- Specialized Caseload of 30 where resources allow

6782 – C Cases, 3946 I Cases, 328 DWI, 1,005 –

Other = 12,061 Total

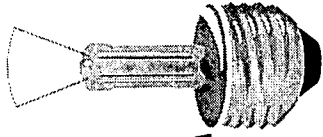
- Blended caseload in other areas
- Victim Focus, coordinate supervision with Division victim staff
- Team centered supervision, Offender Management Model (OMM) Principles
- Identified, validated DV Offender Population via HB1354

# Collaborative Partnerships



- **Intermediate Probation Officer**
- **DCC Victim Program**
- **Victim Service Providers**
- **Batterer Intervention Programs**
- **TASC & Treatment Providers**
- **Local Law Enforcement**

# Supervision Standards

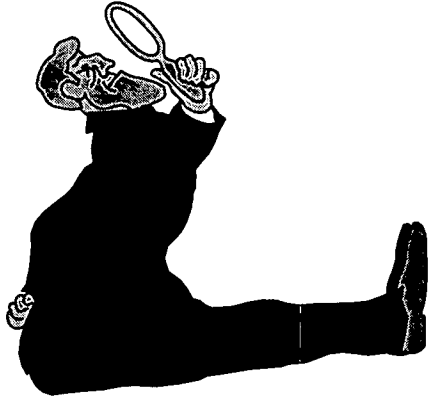


- Immediate Supervision
- Initial Immediate Residence Plan Verification
- Warrant-less Searches
- Drug / Alcohol Screening
- TASC Assessment
- Batterers Intervention Participation
- Field / Home Offender Quality Contacts



# Standards

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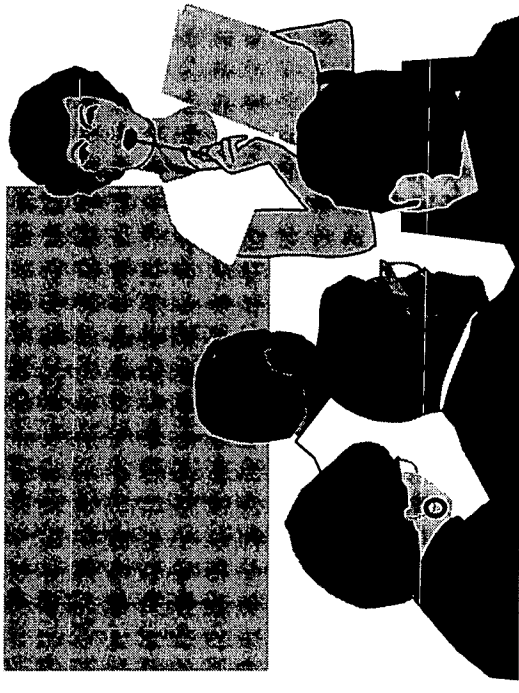


- Family Contacts
- Coordination of Civil & Criminal (knowledge of protective orders)
- Continuous Team Case Planning
- Immediate Response to Non Compliant Behavior

\*DCC Victim Staff Caseload\*

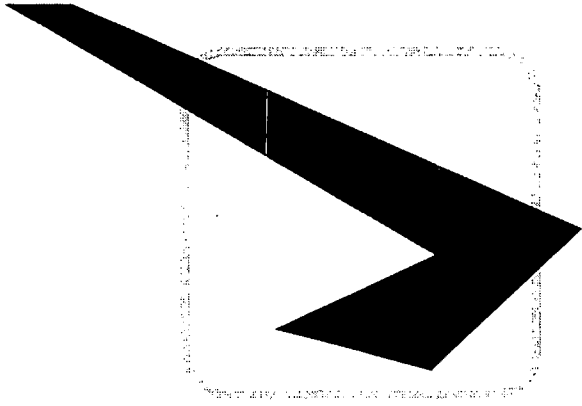
# DCC Domestic Violence Task Force

- Established December 2004
- DCC Management & Field Staff, Victim Services Representatives, Courts, District Attorneys, Law Enforcement Representatives, Intervention Representatives, Research & Planning
- Monthly Meetings
- Mission: Develop a Domestic Violence Case Management System for DCC.



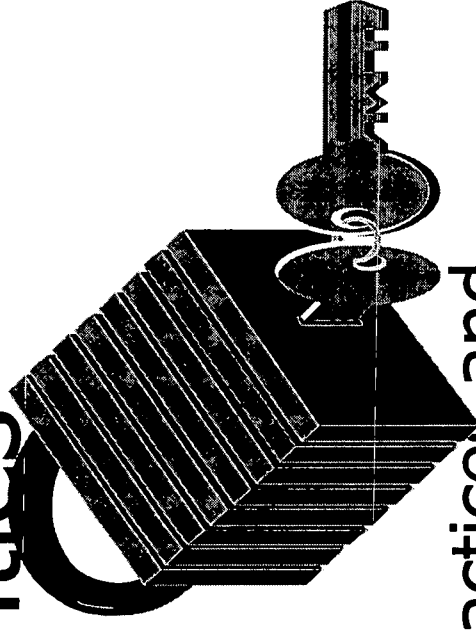
# Task Force Activities

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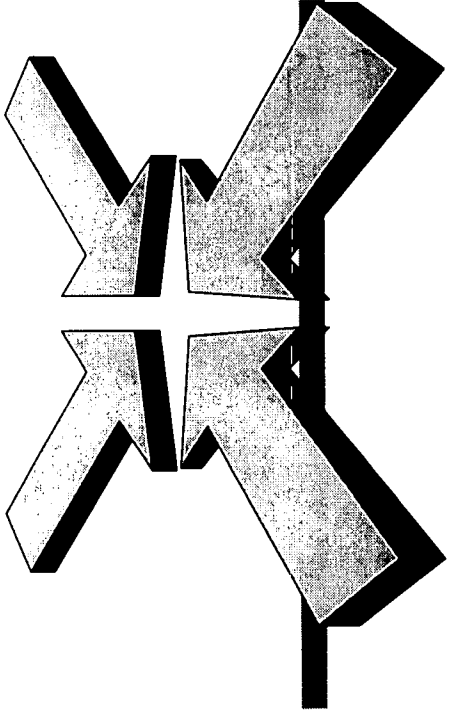


- Ensure Compliance with HB 1354
- Review Revised Standards
- Develop Model Memorandum of Understanding for Team Members
- Help Identify Resources to Implement DV Strategy

# Task Force Activities



- Review Statistic's
- Research and Identify Best Practices and Incorporate within Supervision
- Review Risk and Lethality Assessment Practices
- Develop Training Plan for Intermediate Probation Officers



## Future Area's

- Use of Technology in Supervision and Safety
- Offender Population Suited for GPS
- Offender Population Suited for EHA
- Safety Plan Alarms & Notices
- Continuous Training Program
- Shared Database

# VISITOR REGISTRATION SHEET

Dom. Violence

1-11-05

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

JACOB EHRMANN	Attorney at Law
Anne Bamberger	Pisgah Legal Services
Beth Froehling	NCCADV
Anne Winneer	NCCADV
Pearla Alston	NC Bar Association
Jeanne Stevens	NCCASA
Monika Jensen Hostler	NCCASA
Pat Doren	NC Conference of D.A.s
Leslie Starswood	ZSR & PCA NC
Jo McCants	AOC
TROY PAGE	NC SENTENCING Commission
Rheelle Gay	DOC/DCC
Sherry H. P. Kingston	DOC/DCC
Tim Moose	DOC/DCC
Catherine Smith	DOC/DCC
Kevin Wallace	DOC/DCC
Mary Beth Carroll	DOC/DOP
Judy Little	DOC
Antonia Johnson	DPI
Mildred Spearman	DOC
Jeff Ren	GRNC
Lynette Tolson	AAA / JLNC
George Hausen	Legal Aid
Teandra Miller	Legal Aid
Shadya Bradshaw	
Judy Mallwood	Public
Judy Miller	Catigera

## VISITOR REGISTRATION SHEET

Dom. Violence

Name of Committee

1-11-05

Date \_\_\_\_\_

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

John McLaughlin  
Mike McLaughlin

Co, writing  
NI Center For Public Policy Research

## **HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**

**Wednesday, January 12, 2005  
Room 643 – Legislative Office Bldg. – 9:00 a.m.**

**The House Select Committee on Domestic Violence met on Wednesday, January 12, 2005 at 9:00 a.m. in Room 643 of the Legislative Office Building with representative Marian McLawhorn, Co-Chair, presiding.**

**The following members were present: Representative McLawhorn, Rep. Sherrill, Rep. Coates, Rep. Earle, Rep. Farmer-Butterfield, Rep. Howard, Rep. Johnson, Rep. Justice, Rep. Justus, Rep. Moore, Rep. Ross, Rep. Setzer, Rep. Stam, Rep. Warren, and Rep. Weiss.**

**Rep. McLawhorn and Rep. Sherrill welcomes the members of the committee and also thanked the individuals who were appearing on the program for this meeting. She thanked the Sgt. At Arms staff and the clerk for their services.**

**The Chair introduced Leza Wainwright with the Department of Health and Human Services who gave an overview of HB 1354, Sec. 6.1 which pertained to a Study of Mental Health Services For Domestic Violence Victims. (Attachment No. 1) Starlene Scott-Robbins then explained the section in detail. The Chair asked for DPI's report by January 15, 2005. Staff suggested that the report could be sent to the Speaker and to the Over-Sight Committee. Rep. Weiss stated that she was afraid if we don't get this report soon, it would be lost in the shuffle. The Chair agreed with Rep. Weiss' concern.**

**The Chair introduced Alice Mine, Assistant Executive Director of the North Carolina State Bar who explained HB 1354, Sec. F.1) She presented a Preliminary Report to the committee on domestic violence. (Attachment No. 2) Rep. McLawhorn stated that she was concerned with the fact that so many victims of domestic violence do not get the proper counsel to help them. She urged the State Bar to keep working on helping these victims. Rep. Ross also urged that this be done as soon as possible.**

**The Chair introduced Marvin Pittman, Director, Division of School Improvement and Margaret Peoples. They presented by use of slides a Study of House Bill 1354 and a Presentation Overview. (Attachment No. 3) They also presented a Report to the Joint Legislative Education Oversight Committee which**



**was a final report on the Study of Anti-violence Education in Schools and Training for School Personnel. (Session Law 2004-186) and (House Bill 1354, Section 3).**

**Leslie Winner, UNC General Counsel – Task Force of the Campus Community, was introduced. She presented a report on Task Force on the Safety of the Campus Community (Attachment No. 4)**

**A Report to the North Carolina General Assembly on Domestic Violence Training for Law Enforcement was passed out the committee members and the Chair suggested that the members read this report. (Attachment No. 5)**

**Leslie Staroneck was introduced. Leslie is with the Z. Smith Reynolds Foundation and Project Director with Prevent Child Abuse in North Carolina. (Attachment No. 6) She presented a set of considerations for the Committee including Civil Law and Judicial Administration Sub-Committee; Victim Services Sub-Committee; and Treatment, Prevention, Education and Juvenile Issues Sub-Committee. She also presented to the committee a background and rational for proposed changes to child support enforcement in domestic violence protective order proceedings.**

**Susan Sitze, staff counsel, explained to the members that the staff had compiled a list of recommendations which would include in a draft bill to be taken to the 2005 Session of the General Assembly. Motion carried unanimously. (Attachment No. 7)**

**There being no further business, the meeting adjourned at 1:30 p.m.**

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**Rep. Marion McLawhorn, Co-Chair**



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**Rosa S. Kelley, Committee Assistant**

# HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE

Wednesday, January 12, 2005

9:00 AM

Room 643, LOB

## AGENDA

### I. WELCOME

Representative Marian McLawhorn, Co-chair

Representative Wilma Sherrill, Co-chair

### II. REPORTS OF STUDIES CONDUCTED PURSUANT TO H1354

North Carolina State Bar

- Alice Mine, Assistant Executive Director

(HB 1354, Sec. F.1)

Department of Health and Human Services (HB 1354, Sec. 6.1)

- Leza Wainwright and Starlene Scott-Robbins

Department of Public Instruction

- Marvin Pittman, Director, Division of School Improvement

(HB 1354, Secs. 3.1 and 3.2)

Leslie Winner, UNC Counsel – Task Force – Campus Community

### III. RECOMMENDATIONS TO COMMITTEE

Leslie Staroneck – Z. Smith Reynolds Foundation

Other interested parties

### IV. COMMITTEE DISCUSSION

### V. ADJOURN

## VISITOR REGISTRATION SHEET

# Domestic VIOLENCE

Name of Committee

1/12/05  
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

John Mathew, L

Gov Office

Mark Fleming

Leslie Winnie

Bobby Karou

Jo McCalt

Aoc

TROY PAGE

NC SENTENCING COMMISSION

Marvin Pittman

NCDPI

Marquerte Peeble

NC DPI

Leslie Staroneck

ZSR/PCANC

Barry Bryant

GCE

Managuerite Peebles

DPI

VFA Reg

GRNC

*Stylis. 1876-1877*

NC DHHS

Lisa Wachtman

DMHDP SA.

*John H. Hays*

DMH/OP/SAS

Dr. Nagar

HH S

D. D. 11

NC Conference of D.A.s

Markus Schwan-Huetler

NCC ASA

Belt Fresh Lin.

NCC ADV

Michelle Frazier

NC Bar Ass'n

Peck. Alaska.

11<sup>th</sup> Bar Ass'n

Leopoldo Maldonado  
Asesor Minero

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1-11-05

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*Reuben*

Sgt-At-Arms

1. Name: *Charles Williams*
2. Name: *Martha Parrish*
3. Name: *Martha Gadison*
4. Name: \_\_\_\_\_

**Study of Mental Health Services for Domestic Violence Victims  
Final Report**

**General Assembly of NC Session 2003  
House Bill 1354 Part VI.-Section 6.1.**

**January 11, 2005**

In response to General Assembly Session 2003, Session Law 2004-186, House Bill 1354, Part VI. Section 6.1., the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services *shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs.*\* The plan is based on findings and recommendations drawn from stakeholders, local investigations of domestic violence in North Carolina conducted by researchers at the Injury Prevention Research Center at UNC-Chapel Hill (IPRC), the Research Triangle Institute (RTI), as well as review of research literature that address domestic violence and mental health and substance use co-morbidities, implications of multiple and severe traumas, and the effects of family violence on children.

The plan is focused on the provision of *diagnostic and referral services for any client in a domestic violence program suspected of having a mental illness or substance abuse problem and the delivery of appropriate services to clients meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102.* Services that are determined to be *best practice* by the Division of MH/DD/SAS (hereafter referred to as the Division) will be utilized to serve this population. The plan also addresses *the delivery of services to children identified through domestic violence programs.* The *fiscal impact of implementing the resulting plan* is also considered. The purpose of the plan is to address provision of mental health and substance abuse services to the non-offending parent and children affected by domestic violence.

To *consult various stakeholders in the domestic violence network of organizations*, the Division convened a stakeholder group composed of representatives from the following list of organizations, departments, divisions and groups. Please see the addendum section of this report for a complete list of individuals who participated in the stakeholders group.

<p><b>Department of Administration:</b> NC Council for Women and Domestic Violence Commission Division of MH/DD/SAS Division of Public Health Division of Social Services Domestic Violence Providers Governors Crime Commission Governors Institute for Alcohol and Substance Abuse North Carolina Coalition Against Domestic Violence North Carolina Coalition Against Sexual Assault North Carolina Council of Community Programs: Two Local Management Entity Representatives</p>
---

The stakeholder group assisted the Division in crafting the plan designed to address the mental health (MH) and substance abuse needs (SA) of non-offending parents and their children in domestic violence programs. Three meetings were convened between September and November 2004 for input into plan development.

Division review of the North Carolina domestic violence studies, the Chicago Area Domestic Violence Advocacy Programs reports, and domestic violence related research literature, indicate a significant need for mental health and substance abuse services among clients of domestic violence programs. A meta-

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\* Quoted statements or partial statements from the bill are italicized.

analysis of studies looking at domestic violence as a risk factor for mental disorders resulted in a prevalence estimate for PTSD of 63.8 percent for battered women (Golding, 1999). Depression, post-traumatic stress disorder, anxiety, and panic disorder were the mental disorders most commonly cited. Studies on domestic violence indicate a strong association between domestic violence and substance abuse. The estimate of substance abuse among participants in domestic violence programs ranges from 25 percent to 50 percent. Because many shelters have strict policies about substance use among its consumers, the treatment of substance abuse problems among domestic violence victims is particularly critical.

Exposure to family violence can have both short- and long-term effects on children. How a child copes with family violence is affected by the circumstances of the violence, the child's age, the social supports available, and whether the trauma reoccurs. Some children will meet diagnostic criteria for post traumatic stress disorder (PTSD), while others may exhibit symptoms of depression and anxiety, may have behavioral problems such as school truancy, or may cope by using substances. Evidence-based-model treatment and prevention programs recommended by Substance Abuse and Mental Health Services Administration (SAMHSA) are showing promising outcomes for treating children exposed to family violence.

Two recent studies conducted in North Carolina directly address the questions outlined in House Bill 1354 Part VI-Section 6.1. The first of these, titled- The North Carolina Demand and Needs Assessment: Alcohol and Other Drugs, was released in 2001 and primarily addressed substance abuse treatment needs of women referred to domestic violence programs. Researchers from the Research Triangle Institute (RTI) in collaboration with the Division carried out this study. A sample of 193 women referred to domestic violence programs in four counties responded to questions. Researchers found that many of the women in the study had suffered repeated and severe episodes of violence, often resulting in injuries.

A second study, The North Carolina Domestic Violence Programs Survey, was conducted by researchers associated with the UNC-Chapel Hill Injury Prevention Research Center (IPRC) and was released in August 2002. Domestic violence program providers were surveyed to gather information on services provided in North Carolina to victims of domestic violence, and to learn providers' perceptions of gaps in the broader services systems in their communities. The study was not based on actual mental health and substance use diagnoses; instead, the study questions addressed perceptions of domestic violence program staff regarding the met and unmet treatment needs of victims of domestic violence perceived as also having mental health, substance use, and developmental disabilities.

Each of the studies reviewed included recommendations that included cross training of domestic violence, substance abuse and mental providers, development of screening and referral protocol, identification of a screening tools for domestic violence providers and identification of best practice models to address the treatment and prevention needs of the consumers.

#### **Summary of Recommendations from the Division Plan**

- 1. Provide cross training for domestic violence staff/volunteers and Local Management Entity (LME) screening staff on identification of symptoms, screening protocol, and coordination of care for victims of domestic violence with substance abuse and/or mental health needs.**
- 2. Support an integrated system of care for this population through cross training, training in *best practice* models for treatment as defined by the Division, and by encouraging communities to develop Memorandums of Understanding and Memorandums of Agreement for this population.**
- 3. Train providers who contract with LMEs to accurately diagnosis trauma related mental health disorders and substance use co-morbidities and to provide evidence based treatment determined to be *best practice* by the Division of MH/DD/SAS.**

4. Establish new target populations to better serve adult and child victims of domestic violence.
5. Monitor and evaluate efforts for screening and referral of domestic violence clients needing treatment for mental health and substance use co-morbidities; monitor disposition of referrals to treatment for this population; monitor those seeking service who meet new target population criteria; assess housing needs of families served through domestic violence programs.
6. Provide funding for domestic violence programs to support client participation in mental health and substance abuse services.
7. Manage implementation and monitoring of the plan over a two-year period through contracted coordination and evaluation services.
8. Report findings after a two year period of further study to the *House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services.*

appointments contained in Section 1 of this act shall take effect at the end of those terms.

**SECTION 5.3.** This part is effective when it becomes law.

**PART VI. STUDY OF MENTAL HEALTH SERVICES FOR DOMESTIC VIOLENCE VICTIMS**

**SECTION 6.1.** The Department of Health and Human Services shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The plan will address providing diagnostic and referral services for any client suspected of having a mental illness or a substance abuse problem. The plan will also address the delivery of appropriate services to clients meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102. Services must be best practices, as determined by the Department. The Department will consult various stakeholders in the domestic violence network of organizations. The Department will also consider the delivery of services to children identified through domestic violence programs. The Department shall also consider the fiscal impact, if any, of implementing the plan developed pursuant to this study.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services no later than October 1, 2004, and a final report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the General Assembly on or before January 15, 2005.

**SECTION 6.2.** This part is effective when it becomes law.

**PART VII. STUDY OF CLE CREDIT FOR PRO BONO LEGAL REPRESENTATION**

**SECTION 7.1.** The North Carolina State Bar, in cooperation with the North Carolina Bar Association, shall study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar shall consider what types of pro bono legal representation, if any, should qualify for CLE credit and what administrative requirements would be necessary to provide such credit. The Bar shall specifically look at the possible benefits of providing CLE credit for pro bono legal representation to domestic violence victims. The Bar shall also consider the fiscal impact, if any, of providing the credit.

The Bar shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

**SECTION 7.2.** This part is effective when it becomes law.

**PART VIII. DOMESTIC RELATIONSHIP AGGRAVATING FACTOR**

**SECTION 8.1.** G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.





Attach. No. 2

## The North Carolina State Bar

ALICE NEECE MINE  
Assistant Executive Director  
208 Fayetteville Street Mall  
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Raleigh, North Carolina 27611-5908  
Telephone: 919/828-4620  
Fax: 919/821-9168

September 29, 2004

The Honorable Wilma Sherrill  
The Honorable Marian N. McLawhorn  
House of Representatives  
North Carolina General Assembly  
State Legislative Building  
16 West Jones Street  
Raleigh, NC 27601-1030

RE: Preliminary Report to the House Select Committee on Domestic Violence

Dear Representative Sherrill and Representative McLawhorn:

I am writing to you on behalf of the committee that was formed by the North Carolina State Bar and the North Carolina Bar Association to study the issue of providing continuing legal education (CLE) credit to North Carolina lawyers for pro bono legal representation. As you will recall, Part VII of House Bill 1354 called for this study, particularly as it might impact the representation of domestic violence victims, and required the bar to make a preliminary report to the House Select Committee on Domestic Violence by October 1, 2004, to be followed by a final report on or before January 15, 2005. This letter is submitted to you as the preliminary report.

### 1. Composition of the Study Committee.

North Carolina State Bar (State Bar) appointed two members of its Board of Continuing Legal Education to serve on the study committee. They are Kaye R. Webb, legal counsel to North Carolina Central University, and Gary W. Thomas, a private practitioner from Statesville. Mr. Thomas was appointed chair of the study committee. I was asked to serve as staff counsel to the study committee.

The State Bar's Board of Continuing Legal Education (CLE Board) is a standing committee of the Council of the State Bar and is responsible for operating the CLE program of the State Bar. Every active member of the State Bar is required to take twelve hours of CLE each calendar year including two hours of education on professional responsibility. The State Bar keeps track of the CLE credits of every active member of the State Bar but it does not present CLE programs.

The North Carolina Bar Association (the Bar Association) appointed two members of its Continuing Legal Education Committee to serve on the study committee. They are Trudy A. Ennis, a lawyer in private practice from Greensboro, and Michael D. Gunter, a lawyer in private practice from Winston-Salem. The CLE Committee has oversight responsibility for the CLE program of the North Carolina Bar Foundation, Inc., the charitable arm of the Bar Association. The Bar Foundation's CLE program regularly presents education programs for which lawyers may receive CLE credit.

2. Meeting on September 23, 2004.

The study committee held its first meeting by conference call on September 23, 2004. Raymond C. Ruppert, Director of Continuing Legal Education for the Bar Association, was a guest participant in the conference call. Evan G. Lewis, a lawyer with Legal Aid of North Carolina in Greenville and a member of the Bar Association's Public Service Advisory Committee, also participated as a guest. The Public Service Advisory Committee advises the Bar Foundation on activities relating to the delivery of legal services to indigents and those of modest means. The study committee reviewed a chart from the American Bar Association's web site that lists the six states that have considered granting CLE credit for pro bono representation. Two of the six states discontinued the program. After a presentation by Mr. Lewis and a discussion of the current positions of the CLE Board and the Bar Foundation's CLE Committee on the issue of granting CLE credit for pro bono representation, the study committee instructed staff to make this report and to include in the report an explanation of the positions of the two organizations, an explanation of the position of Mr. Lewis, and an outline of the additional activities the committee intends to undertake to study this issue.

3. Existing Positions of The CLE Board and The Bar Foundation.

The purpose of the CLE program of the North Carolina State Bar is to help lawyers to maintain their competence through continuous education and training. See Rule .1502, Purpose and Definitions, *Rules Governing the Administration of the Continuing Legal Education Program*, 27 N.C.A.C. 1D, Section. 1500. CLE credit is only granted for legal activities that "constitute an organized program of learning dealing with matters directly related to the practice of law." See Rule .1519, Accreditation Standards, 27 N.C.A.C. 1D, Section .1500.

Since the inception of the mandatory CLE program of the State Bar in 1987, all active members of the State Bar have been required to take twelve hours of approved CLE annually. (A small percentage of bar members are exempt from the requirements for various reasons including, for example, nonresident status and service on the judiciary.) The CLE Board has consistently refused to grant CLE credit for activities that are not specifically and primarily pedagogical in nature. Just last year, the board declined to pursue a proposal from the Honorable Terrence W. Boyle, Chief Judge of the United States District Court, Eastern District of North Carolina, that CLE credit be given to lawyers who volunteer to represent indigent civil litigants in federal court

actions. The CLE Board believes that twelve hours of CLE is the minimal amount of education necessary to keep a lawyer competent and current in his or her practice area, and that representing a client in court is not the equivalent of classroom education.

The Bar Foundation's CLE Committee supports pro bono endeavors and opposes domestic violence. To encourage pro bono representation, the Bar Foundation routinely offers CLE programs at a reduced rate for lawyers who handle cases pro bono. Nevertheless, the CLE Committee opposes the use of CLE credits as an incentive to pro bono service. The committee believes that a lawyer's professional obligation to provide pro bono representation is distinct from the professional obligation to maintain competency through continuing legal education. Pro bono service is a professional duty undertaken for the privilege of practicing law: it is its own reward. If some pro bono activities of lawyers are rewarded with CLE credit, it will become increasingly difficult to deny CLE credit for the many worthy volunteer activities undertaken by lawyers that advance and support the administration of justice. The CLE Committee believes that clients—including indigent clients—are better served by requiring more professional education rather than less. Finally, the committee is very concerned that, if the funds paid to sponsors of CLE are diminished because of a reduction in the number of lawyers who are required to take CLE, it will become increasingly difficult to present quality educational programs for lawyers.

#### 4. Alternative Proposal.

Mr. Lewis acknowledged that the objectives of pro bono service and mandatory CLE are entirely different. He proposed, however, that CLE might be used to meet the legal needs of poor people without compromising the competency of lawyers who provide the representation. For example, a lawyer who takes a CLE class in poverty law might receive double CLE credit if she subsequently represents an indigent person on a legal matter. Mr. Lewis recognized that determining which pro bono activities would be worthy of CLE credit would be difficult. Mr. Lewis offered to contact the Public Service Advisory Committee to seek its recommendation and to report back to the study committee.

#### 5. Further Activities of the Study Committee.

The study committee agreed to meet again in December to receive and consider the report and recommendation of the Public Service Advisory Committee. It also instructed the staff to investigate the CLE programs in the four states that grant CLE credit for pro bono activities to report to the study committee on the benefits and costs, financial and otherwise, of these programs. The two state bars that considered but did not pursue such a program will also be contacted and staff will report on the reasons why the proposals were rejected or not pursued. The co-chairs of the House Select Committee on Domestic Violence will be called by staff and asked if there is anyone who addressed the House Select Committee on this issue and from

Representative Wilma Sherrill  
Representative Marian N. McLawhorn  
September 29, 2004  
Page 4

whom the study committee should hear. If so, that person (or persons) will be asked to attend the next meeting of the study committee.

If you would like additional information about the study committee at this time, please let me know.

Sincerely yours,



Alice Neece Mine  
Assistant Director

cc Gary W. Thomas  
Kaye R. Webb  
Michael D. Gunter  
Trudy A. Ennis  
Daniel B. Dean  
Dudley Humphrey  
Raymond C. Ruppert



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### Policies - State CLE/Pro Bono Rules

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 [CLE Credit for Doing Pro Bono](#)

A number of states have implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements. The table below summarizes the status of these rules.

State	Action	MCLE*	For Pro Bono	Originator	Date	Date	Type of Policy	Pro Bono
AZ	Proposed, Rejected	15/yr (3)	3 hrs credit/yr	State Bar Legal Svcs Cmte	Approved 11/98	Rejected 4/28/00	Amendment to Sup. Ct Rule 45 (new subsection)	<ul style="list-style-type: none"> <li>One pb case frm recognized/ approved pb program for low income persons</li> <li>Direct rep</li> </ul>
NY	Adopted	24/2yrs (4) for all except admittees after 10/1/97 (32/first 2yrs (3))	1 credit/6 hrs, max 6 credits/2 yrs	Chief Judge of Court of Appeals (highest state court in NY)	Proposed 3/5/00 by Admin. Bd of Cts	Approved 5/00 by CLE Board, effective as of 1/1/00	Amendment to MCLE rules, i.e. subsection (j) of §1500.22	<ul style="list-style-type: none"> <li>Approved pb work</li> <li>ct assignmnts or CLE-accredited programs</li> </ul>
TN	Adopted	15/yr (3)	1 hr credit/8 billable hrs	Commission on Continuing Legal Ed and Specialization	Added by order 12/10/98	Implemented 1/99	Added subsection (c) to Sup. Ct Rule 21 §4.07	<ul style="list-style-type: none"> <li>ct apptmnts</li> <li>bar programs and LS orgs</li> <li>mediation svcs, state or fed</li> </ul>
VT	Tried, Not Pursued	20/2 yrs (2)	6 credits/2 yrs, max [Direct credit]	Vermont Volunteer Lawyers Project	2/1/97 start	1/31/99 finish (2-yr pilot project)	Supreme Court Experimental Rule, Admin. Order 37	<ul style="list-style-type: none"> <li>rep and mentoring in certain areas only: family law; bankruptcy, consumer, housing; wills, estates.</li> <li>Only through VVLP</li> <li>Only for one county</li> </ul>
WA	Adopted	45/3 yrs (6**)	6 hrs credit/2 hrs educ. + 4 hrs subsequent direct rep	WSBA Pro Bono and Legal Aid Cmte	2/98 approval by WSBA Bd of Govs	in process of enactment as of 8/00	Amendments to MCLE Rule, Regulations 103 & 104	<ul style="list-style-type: none"> <li>to low-income clients through qualified legal services</li> <li>subsequent direct rep:</li> </ul>

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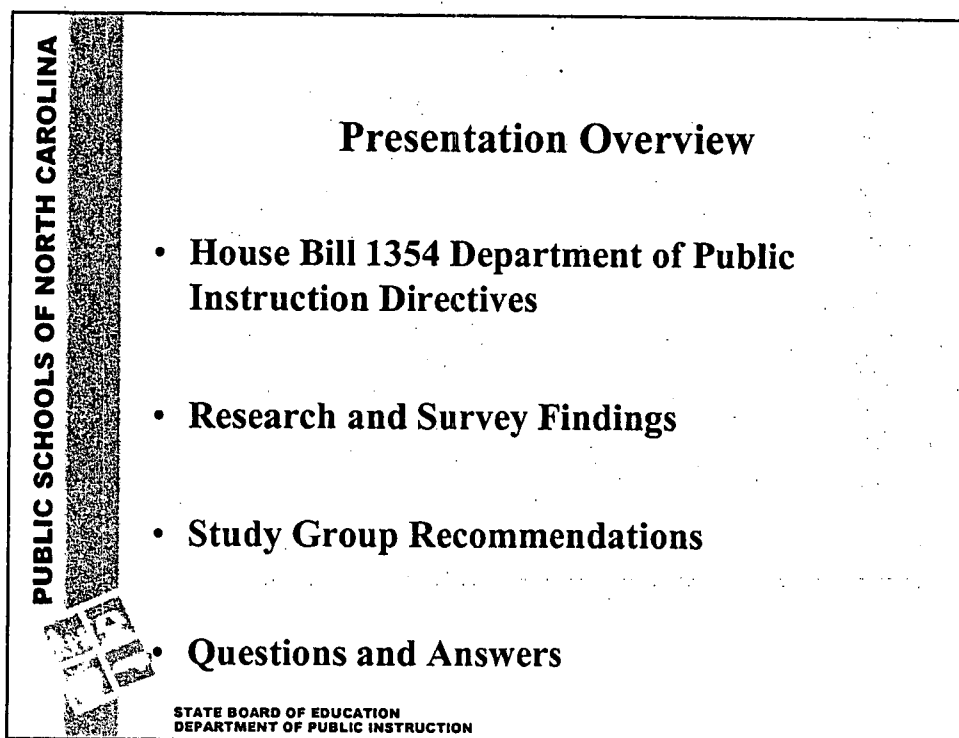
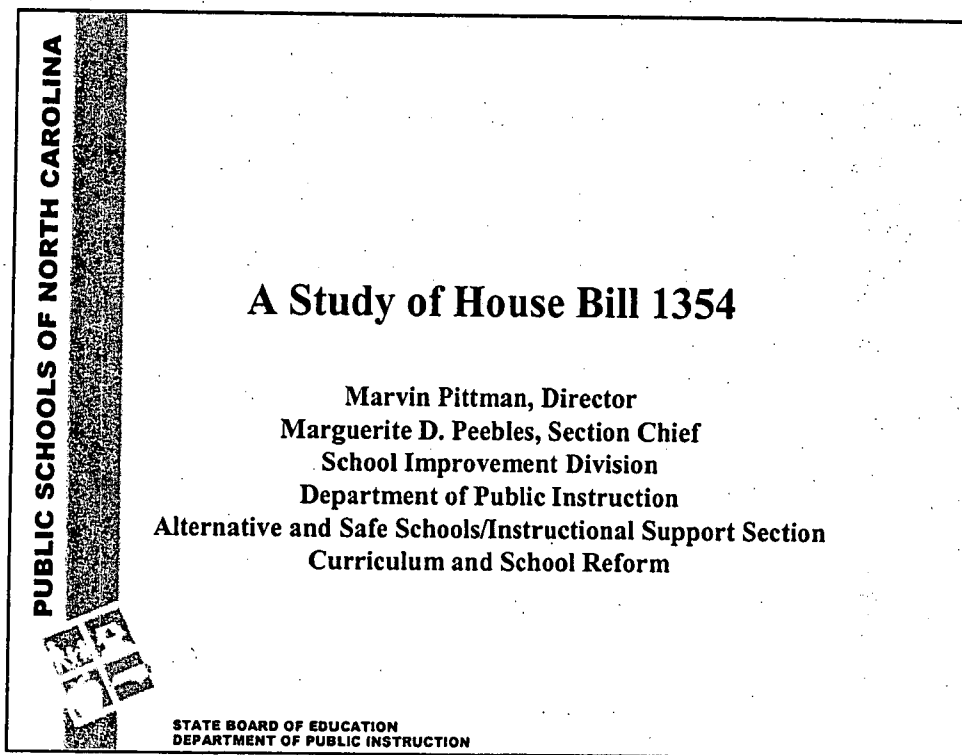
							provider or mentoring
WY	Adopted	15/yr	3 hrs. credit/yr 1 credit/5 billable equiv. hours	amended April 22, 2003	effective July 1, 2003	Amendments to State Court of Wyoming Rules for Continuing Legal Education	<ul style="list-style-type: none"> <li>• direct representation of mentoring activities approved by the Wyoming Pro Bono Organization</li> </ul>

*\* number in parentheses indicates hourly breakdown requirement for ethics and/or professional responsibility/professionalism, if any.*

*\*\* indicates alternative courses acceptable (e.g. bias, office management, malpractice prevention or substance abuse).*

Last Updated: 10/10/03

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## House Bill 1354 directs...

- The Department of Public Instruction (NCDPI), in collaboration with the State Board of Education (SBE), shall study the issue of anti-violence programs in the schools.
- DPI shall study appropriate training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence.

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## Study Group Process:

- To prepare for this report, the Department of Public Instruction completed the following steps:
  - Convened a group of collaborative partners
  - Routinely held meetings to research topics associated with anti-violence and domestic violence
  - Distributed a survey to Local Education Agencies (LEAs), highlighting the questions identified by the legislation
  - Analyzed the LEA survey data
  - Reviewed Safe and Drug Free Schools and Community Grant Applications
  - Produced Preliminary and Final Reports

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION





## Collaborative Partners

- Center for Child and Family Policy, Duke University
- Coastal Women's Shelter
- Department of Juvenile Justice & Delinquency Prevention
- Governor's Crime Commission
- Historically Minority Colleges and Universities Consortium
- Jones County Schools Police
- North Carolina Association of School Administrators
- North Carolina Coalition Against Domestic Violence
- Prevent Child Abuse
- Peace at Work
- North Carolina Division of MH/DD/SAS, Prevention and Intervention
- North Carolina Justice Center
- School Board Association
- Wake County Schools

(Refer to page 28 for names)

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## Children and Domestic Violence Research Facts:

- Each year, 3.3 million children are exposed to violence by a family member against their mothers or female caretakers. (American Psychological Association's Report on Family Violence, 1996)
- Child Abuse occurs in 30% -60% of family violence cases that involve families with children. ("The overlap between child maltreatment and woman battering") J. L. Edleson, Violence Against Women, February 1999)
- In North Carolina, from July 1, 2002- June 30, 2003, nearly 9,000 children received services from their local domestic violence programs, with 6,248 children actually staying in their local domestic violence shelters overnight. (NC Council for Women and Domestic Violence annual program statistics, FY 2002-2003)

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## LEA Survey Questions Summary

(In response to questions identified in Section 3.1 and 3.2, found on page 6)

- 95 of the 115 LEAs completed surveys, a response rate of 83%
- 93% of the 88 LEAs responding reported that their schools were currently addressing anti-violence in the curriculum
- 93% of the LEA's SDFS applications indicated that at least one violence prevention programs were being implemented
- 57 LEAs reported using a specific anti-violence program or curriculum in at least one grade level

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## Survey Findings Continued

- 38 LEAs reported using Character Education and/or Healthful Living ( a summary of these programs can be found in Appendix A on pages 16-18)
- Second Step was the second most frequently used program reported
- Other programs included: Get Real About Violence, Positive Behavioral Support (PBS) and Peer Mediation (summary in Appendix B on pages 19-21)
- Table I (page 8) shows the percentage of LEAs reporting grade level program implementation

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## Findings Continued

- 69% of LEAs reported addressing at least one form of anti-violence (Refer to table 2 on page 9)
- 8% of LEAs reported that they specifically address domestic violence
- 7% of LEAs reported that they specially address relationship violence

STATE BOARD OF EDUCATION  
DEPARTMENT OF PUBLIC INSTRUCTION



## Survey Findings Summary

Should the State implement a particular anti-violence curriculum or allow individual schools to choose an appropriate curriculum from an approved list?

- 42% reported that schools should choose programs without any State intervention
- 51% reported that schools should choose from a State approved list
- 7% reported that the State should require a specific curriculum

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## Findings Continued

- What is the fiscal impact of implementing an anti-violence program for all schools, including additional staffing needs, if any?
- Of the 96 LEAs reporting anti-violence programs, 85 included specific budget figures for anti-violence curricula.
- Average anti-violence curricula budget.....\$4, 975
- Minimum anti-violence curricula budget...\$0
- Maximum anti-violence curricula budget...\$65,858

(Refer to page 14)

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## House Bill 1354 Study Group Recommendations

- DPI will continue to offer existing programs and curricula geared to addressing the needs of students and staff;
- State and community agencies, including the Universities are encouraged to collaborate to provide training to schools;
- DPI will conduct a comprehensive review of community-based curricula and programs which concentrate on substance prevention, violence prevention, child maltreatment, domestic violence and related child behavior issues;

(Refer to page 27)

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## Recommendations Continued

- DPI will collaborate with the University System and the Independent Colleges to ensure that courses are adequately addressed in teacher and administrator preparation programs;
- DPI, in collaboration with other agencies, is encouraged to request sufficient resources for a school-based position to address anti and domestic violence needs; and
- Local Education Agencies are to review policies and Safe Schools Plans to assure that there are measurable goals and objectives that are aligned with the issue of addressing anti-violence and domestic violence topics.

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## Next Steps

- DPI, in collaboration with other agencies, will provide implementation guidance and in-service training options;
- DPI, will review school and community curricula to determine the levels of implementation; and
- DPI will convene a study group of University leaders to review State and LEA Legislative Survey data in order to solicit input.

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Why is this topic critical to our schools and our community?

....Because of the children!



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# Questions

# ?

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Public Schools of North Carolina  
State Board of Education  
Department of Public Instruction

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# Report to the Joint Legislative Education Oversight Committee

*Final Report: Study of Anti-violence Education  
in Schools and Training for School Personnel*

*Session Law 2004-186*

*House Bill 1354 (Section 3)*

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Date Due January 15, 2005  
Report # 12 in August 2004 – January 2005  
DPI Chronological Schedule

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**DEPARTMENT OF PUBLIC INSTRUCTION  
HOUSE BILL 1354**

**FINAL REPORT**

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## **EXECUTIVE SUMMARY**

### **A STUDY OF HOUSE BILL 1354 THE STATE BOARD OF EDUCATION THE NORTHCAROLINA DEPARTMENT OF PUBLIC INSTRUCTION**

The General Assembly ratified House Bill 1354 which is

**AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.**

The act was passed July 15, 2004 and signed on August 12, 2004. This bill became law through the work of the House Select Committee on Domestic Violence and the initiatives of many other policy-makers and practitioners in this field. Section 3.1 and Section 3.2 of the legislation identify responsibilities for the State Board of Education and the North Carolina Department of Public Instruction (DPI). Representatives from stakeholder agencies, organizations and groups partnered with DPI and the State Board in developing a strategic to fulfill the mission that has been delegated through this legislation.

House Bill 1354 directs "The North Carolina Department of Public Instruction (NCDPI), in collaboration with the State Board of Education (SBE), to study the issue of anti-violence programs in the schools, and appropriate training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence."

In pursuit of fulfilling these directives of the legislation, the Department of Public Instruction, Alternative and Safe Schools/Instructional Support Section under the guidance of the Director of School Improvement have completed or are in the process of completing the following steps:

1. Convened a House Bill 1354 Planning Committee;
2. Sent surveys to each Local Education Agency to identify available resources;
3. Reviewed each of the LEA Safe and Drug Free Schools and Communities Applications;
4. Established a House Bill Study Group with participants from various agencies and community organizations;
5. Reviewed research on anti-violence and domestic violence programs;
6. Provided a historical overview of the domestic violence-related issues discussed throughout the progress and phases of this work being signed into legislation;
7. Briefed the committee on current research trends and models of implementation for training;
8. Discussed effective programs and curriculum areas that are currently being implemented in the schools; and
9. Developed a plan to address the requirements identified in the House Bill and continued to expand the study group to include individuals who are able to provide assistance in the framing of the process, developing the procedures and affecting the outcome of the final report.

The DPI House Bill Study Group has had quality in-depth discussions and productive subgroup work sessions during the meetings held. The work of the DPI House Bill 1354 Study Group will continue to address each of the items outlined in the Bill in order to provide guidance pertaining to the issue of anti-violence and domestic violence program training.

This Final Report includes a list of the study group meeting participants, data gathered as a result of the LEA survey questionnaire, information gathered as a result of reviewing existing curricula and other related materials, and a chart of programs currently being implemented throughout the State. This report will be presented to the State Board of Education in December and to the Legislative Education Oversight Committee on January 15, 2005.

A STUDY OF HOUSE BILL 1354  
THE STATE BOARD OF EDUCATION  
THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

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House Bill 1354 directs "The North Carolina Department of Public Instruction (NCDPI), in collaboration with the State Board of Education (SBE), to study the issue of anti-violence programs in the schools, and appropriate training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence."

In pursuit of fulfilling these directives of the legislation, the Alternative and Safe School/Instructional Support Section under the guidance of the Director of School Improvement did the following:

Sent surveys to each school district to identify what resources are available and how those resources are being utilized in a manner that could affect domestic violence issues. The following survey questions were developed from the list of questions in Section 3.1 and Section 3.2.

- How are schools currently addressing anti-violence in their curriculum?
- How do current curriculums vary at each grade level, K-12?
- Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence?
- Should the State require every public school to have an anti-violence program of Instruction incorporated into the curriculum?
- Should an anti-violence program be required at every grade level?
- What would be an appropriate curriculum for each grade level?
- What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence?
- Should the State implement a particular anti-violence curriculum or allow individual schools to choose an appropriate curriculum from an approved list?
- What is the fiscal impact of implementing an anti-violence program for all schools, including additional staffing needs, if any?

Each question was asked in a manner that sought to elicit the intent and spirit of each question and to provide a more accurate reflection of the status of anti-violence programs at each educational level. The surveys were sent to each of the one-hundred and fifteen school districts. The rate of response was significant enough for the State to develop a consensus about what is happening across the State as it relates to the issue of anti-violence programs.

Organized and convened an initial committee with several participants from various venues to study and respond to the legislative mandates. This group decided to expand to become the ad hoc committee for this study. The ad hoc committee was established to inform DPI and to enlarge its understanding of the prevailing issues involved. Representatives were identified from agencies, services and programs that provided support through resources, advocacy, or services to this area.

For the committee's second meeting, the membership had been greatly expanded to reflect the goals of the original members to form a very broad and diverse range of representatives from many support agencies, programs and service providers. The complete list of participants, along with acknowledgements, can be reviewed in the attachments. This second meeting provided an historical overview of domestic violence as it progressed through various phases to become the legislation that it is today. Also, the committee was briefed on current research trends and models of implementation for training and empowering more individuals to have an effective understanding of and response to this subject. During this time, the committee also discussed effective programs and curriculum that do or may lend themselves to effective education and training in the area of anti-violence and anti-domestic violence.

The third meeting of the ad hoc committee focuses on paring down the breath of information that was available to the committee. This paring down of information allowed for more specificity in determining what was relevant in the ordering of the information that is included in this preliminary report on House Bill 1354.

The committee also developed a plan of action to address the requirements laid out in the bill and identified additional stakeholders that needed to have input into the framing of the process, procedures and the ultimate outcome of the agency's efforts. Additionally it reviewed various curriculum and resources that are available at the State and local levels.

Additionally, the committee members participated in break-out sessions for more in-depth discussion and processing of available data developed the format, organization and substance of the study and defined the next steps and follow-up strategies.

This group has had in-depth communication through several meetings and written correspondence. Specifically, the task of the ad hoc committee was to share historical data and background information, to assist DPI in charting a course, and to examine the following:

- House Bill 1354 Legislation, particularly Sections 3.1 and 3.2;
- Survey format and responses;
- Counseling Curriculum;
- Charter Education Curriculum;
- Healthful Living Curriculum; (Curricula were identified and reviewed for the core components that may have a direct or indirect relationship to the issue of domestic violence); and
- Second Step Program and other research based program.

The Department of Public Instruction consulted with the Center for Child and Family Policy at Duke University to assist in compiling the various streams of information used in this report. This data will be presented to the Legislative Education Oversight Committee and the General Assembly in depth, outlining the various curriculums, programs, services and resources that currently exist in our schools.

## House Bill 1354

### Local Education Agency Survey Findings

As part of House Bill 1354 to strengthen domestic violence laws, the North Carolina Department of Public Instruction in collaboration with the State Board of Education was charged with studying “the issue of anti-violence programs in schools, including looking at curriculums that address physical violence and mental or verbal abuse, and domestic and relationship violence...” The questions DPI was asked to address were the following:

1. *How are schools currently addressing antiviolenence in their curriculum?*
2. *How do current curriculums vary at each grade level?*
3. *Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence?*
4. *Should the State require every public school to have an antiviolenence program of instruction incorporated into the curriculum?*
5. *Should an antiviolenence program be required at every grade level?*
6. *What would be an appropriate curriculum for each grade level?*
7. *What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence?*
8. *Should the state implement a particular antiviolenence curriculum or allow individual schools to choose an appropriate curriculum from an approved list?*
9. *What is the fiscal impact of implementing an antiviolenence program for all schools, including additional staffing needs, if any?*

To address these questions, DPI surveyed all 115 Local Education Agencies (LEAs) about the antiviolenence efforts they were implementing. Surveys were sent to the Safe and Drug Free Schools coordinator at each LEA, although an individual other than this person may have completed it. The Center for Child and Family Policy at Duke University was retained by DPI to analyze responses to this survey. The findings are presented in the pages below.

*Because of the limited time that LEAs had to complete the survey, a number of surveys were incomplete and there was substantial variability in the thoroughness of the survey responses. Thus, to provide a more complete account of school-based antiviolenence programs, we also examined data contained in the Safe and Drug Free Schools applications that were submitted by LEAs last June. These applications contain information about violence prevention activities that LEAs intended to implement and is relevant to questions 1, 3, 5, and 9 listed above. In addition, we examined the content of several of the antiviolenence curriculums that LEAs report using to determine whether they address issues that are specific to domestic and/or relationship violence. The information obtained from the applications is described in italics.*

## Survey Results

**Response rate** - Ninety-five of the 115 LEAs completed surveys, a response rate of 83%. Eighty-eight of the 95 LEAs who responded (i.e., 93%) indicated that their schools were currently addressing antiviolence in their curriculum; 7 LEAs indicated that they were not addressing antiviolence in their curriculums.

*Safe and Drug Free School applications were reviewed for 99 of the 115 LEAs (this is the total number that were received from DPI. Consistent with data from the surveys, the vast majority of LEAs (i.e., 93%) indicated in their application that they were implementing at least one violence prevention program. The number of antiviolence programs reported by the LEAs ranged from 0 to more than 7. The modal number of antiviolence programs reported was 3, a figure given by over 43% of the LEAs. These programs, however, may not include all antiviolence programs because the LEAs are only reporting programs funded with Safe and Drug Free School money.*

### 1. How are schools currently addressing antiviolence in their curriculum?

Among the 88 LEAs reporting antiviolence programs, 57 reported using a specific antiviolence program/curriculum (e.g. Second Step) in at least one grade level. Thirty-eight LEAs reported using Character Education and/or Healthful Living as a component of their antiviolence efforts. (Note: Some LEAs reported that they used a specific program/curriculum and Character Education and/or Healthful Living.) While LEAs report using specific anti-violence programs, the survey did not request that they provide information on how these programs are implemented. Existing research indicates that the effectiveness of these programs is affected by program fidelity, i.e., how faithful the implementation is to the program model.

LEAs reported using a wide array of antiviolence programs at elementary, middle, and secondary school levels. A summary of these programs can be found in Appendix A. As seen in Appendix A, Character Education was the most frequently reported method of addressing violence; this approach was noted by 26, 20, and 15 LEAs at the elementary, middle, and secondary school levels respectively. For elementary and middle schools, Second Step was the next most frequently reported antiviolence program, and was reported by 16 and 11 LEAs respectively. Other more frequently reported programs included Get Real About Violence and Peer Mediation.

Although the programs/approaches noted above were reported by multiple LEAs, it is clear that no specific program or curriculum is reported by a majority of LEAs. Efforts being made to address violence in schools across the state are thus extremely diverse.

*Information on how LEAs are addressing antiviolence that was contained in the Safe and Drug Free School applications was highly consistent with the above. Once again, Character Education was the most frequently reported program for addressing violence, no single program was reported by the majority of LEAs, and a large number of programs were reported by only a single LEA. Thus, this information provides confirmation of the diverse efforts that LEAs are making to provide antiviolence education to students.*

In addition to the specific antiviolence efforts indicated in Appendix A, it is important to note that Positive Behavioral Support (PBS) programs are being used in at least 27 elementary schools and are being considered for adoption by 4 additional school districts. PBS is an evidence-based program that provides a whole school process for teaching socially appropriate behaviors in order to optimize

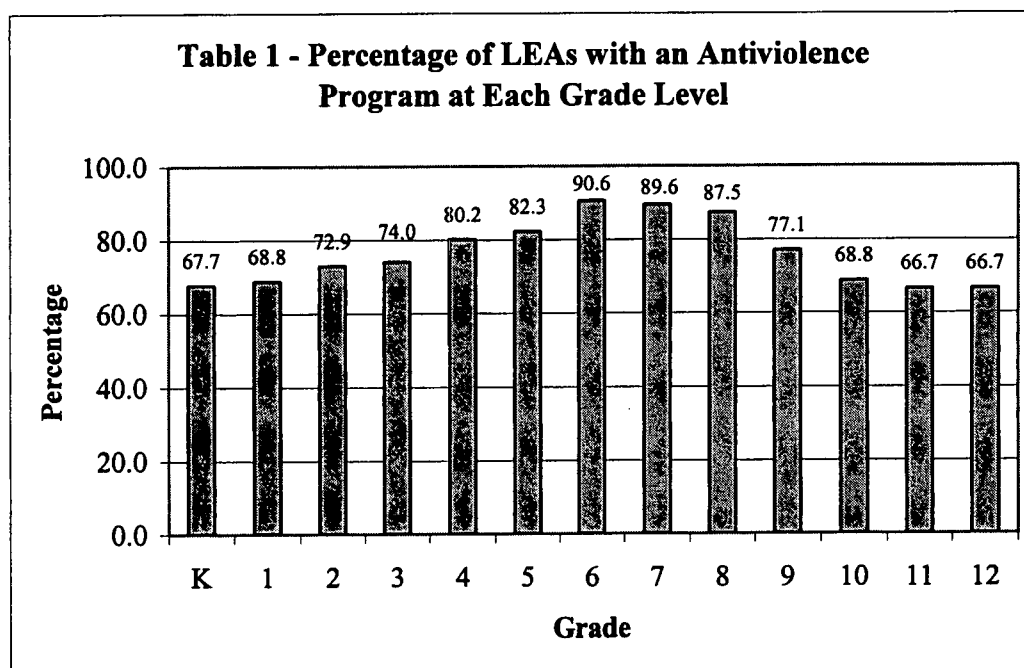


academic achievement for each student. Positive Behavioral Support Programs can be integrated with Safe School Plans and Character Education. Whole School Positive Behavioral Support is a systematic approach that establishes and reinforces clear behavioral expectations. It is a team-based system involving the entire school staff and must have the ownership of teachers, administrators, families, and students. The school staff must adopt a common approach to discipline that is proactive, instructional, and outcome-based. Data about the school is used to guide decision-making. The school team looks at the entire school campus and the whole school day.

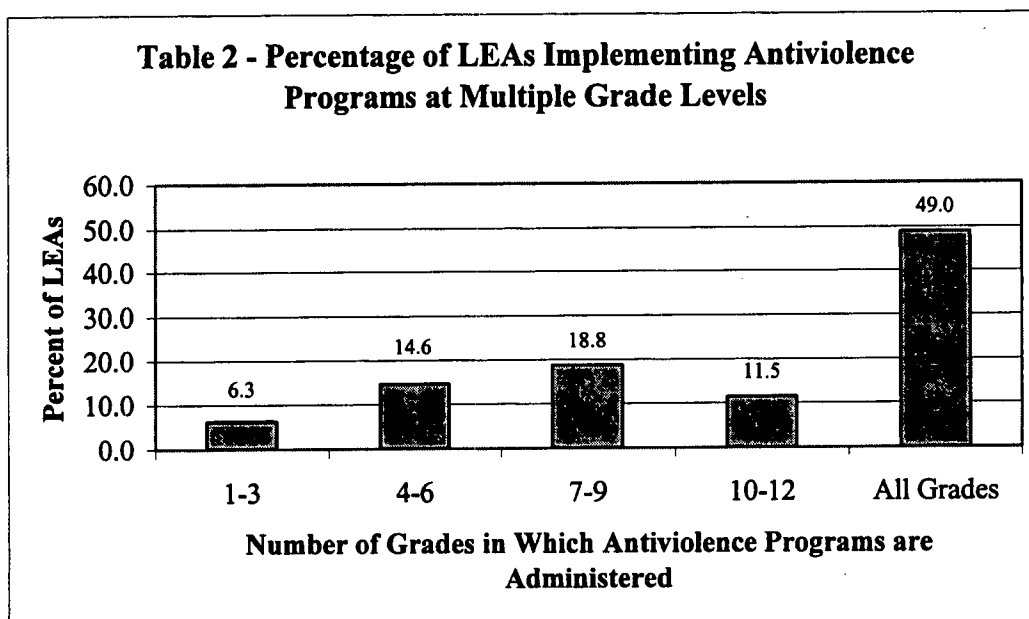
## *2. How do current curriculums vary at each grade level?*

Specific information on how antiviolence programs vary by grade was not provided in the survey. Based on the programs reported for elementary, middle, and secondary schools, however, 64% of LEAs report that they use antiviolence programs that vary by grade while only 17% indicated that they use the same program across all grade levels. Even when the same program is being implemented across grades, however, it is quite likely that program content would be tailored to the developmental level appropriate for different grades. For example, topics addressed in the Character Education curriculum vary by grade level. Positive behavior support programs are whole school interventions that work across all grade levels.

*Information gleaned from the Safe and Drug Free Schools applications provides additional data on the grade levels at which antiviolence programming is being implemented. Table 1 below shows the percentage of LEAs who reported planning to implement an antiviolence program at each grade level using funding obtained from the Safe and Drug Free Schools program. For example, nearly 68% of LEAs were planning to support an antiviolence program for kindergarteners. The percent of LEAs implementing antiviolence efforts at each grade level rises steadily across the elementary school grades, peaks with the transition to middle school, and then declines gradually through the end of high school.*



Data from the Safe and Drug Free School applications can also be used to determine the number of grades across K-12 that LEAs are implementing antiviolence programming. Table 2 on the following page shows the percentage of LEAs that report implementing antiviolence programming in 3 or fewer grades, 4-6 grades, 7-9 grades, 10-12 grades, and all grade levels. As can be seen, almost half of the LEAs reported plans to implement antiviolence programming across all grade levels and fewer than 10% report antiviolence efforts in only 3 or fewer grades.



3. Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence?

Responses to this question do not permit a clear determination of the specific forms of violence that LEAs are addressing in their antiviolence programming. Sixty-nine percent of LEAs reported addressing at least one of these forms of violence. Only 8% of LEAs provided any indication that they specifically address domestic violence and 7% report that they specifically address relationship violence. It is not possible, however, to know with certainty whether the remaining LEAs are not addressing these forms of violence, or merely neglected to include this detailed information in their response. In addition, even for those few LEAs that specifically indicated that they address domestic and/or relationship violence, Specific details about the programs were not provided.

Data contained in the Safe and Drug Free School applications was of limited value in understanding the extent to which domestic violence and relationship violence are currently being addressed by LEAs. Only 14 LEAs indicated that they specifically address issues pertaining to domestic violence, and only a single LEA specifically noted that relationship/dating violence issues were addressed. The LEAs who reported addressing domestic or dating violence, and the programs used are shown in Table 3 on the following page.

Table 3- LEAs who specifically reported addressing domestic violence<sup>1</sup>

<sup>1</sup> This list is based on the DPI survey, the Safe and Drug Free School applications, and non-systemic contact with school district personnel and domestic violence organizations.

<i>LEA</i>	<i>Program Addressing Domestic Violence/Dating Violence</i>
<i>Alamance-Burlington Schools</i>	<i>Child Abuse Puppet Show</i> <i>Domestic Violence Awareness</i>
<i>Burke Co.</i>	<i>Health Curriculum</i>
<i>Camdon Co.</i>	<i>Delta</i>
<i>Craven Co.</i>	<i>Resolve</i>
<i>Dare Co.</i>	<i>Presentations from Domestic Violence Specialists</i>
<i>Davie Co.</i>	<i>Family Life Curriculum</i>
<i>Elizabeth City</i>	<i>Delta</i>
<i>Jackson Co.</i>	<i>Dating violence within Healthful Living and Character Education</i>
<i>New Hanover Co.</i>	<i>Delta</i>
<i>Pitt Co.</i>	<i>Faculty Training</i>
<i>Vance Co.</i>	<i>Resolve</i>
<i>Wake Co.</i>	<i>Interact</i>
<i>Warren Co.</i>	<i>Health Curriculum</i>
<i>Watauga Co.</i>	<i>Integrated program within Healthful Living</i>

*It is important to emphasize that neither the LEA survey nor the Safe and Drug Free Schools applications were constructed in a manner that enables accurate information about how LEAs are, or are not, addressing domestic and relationship violence issues to be compiled. LEAs were not asked specifically about efforts being made to address these forms of violence; the relative absence of information about programs to address these types of violence does not necessarily mean that such programs are not being implemented. Instead, it may reflect the fact that the person completing the LEA survey and Safe and Drug Free School application was unaware of efforts that were being made in these areas. Or, they may have neglected to provide information about the specific forms of violence because they were not explicitly asked about them.*

*As a result, the data currently available to DPI is not sufficient to understand whether and how issues pertaining to domestic and relationship violence are being addressed by LEAs. Obtaining more complete and detailed information about this would require a second survey that deals more explicitly with these issues. In the absence of such an additional survey, no definitive statements are possible. We would note, however, that based on a review of the Character Education curriculum available on the DPI website, it does not appear that issues directly pertaining to domestic violence or relationship/dating violence are covered in this curriculum. This is noteworthy, because Character Education was the program most frequently reported by the LEAs as being part of their antiviolence efforts. In addition, there is also no indication that domestic violence issues are specifically addressed in the Healthful Living curriculum, nor was domestic violence specifically addressed in any of the antiviolence curriculums reported by the LEAs that we were able to examine (e.g., Second Step, Get Real About Violence, Steps to Respect, Lion's Quest, Make time to Listen, Take Time to Talk). The Healthful Living curriculum, however, includes "Formulating Principles for Healthful Dating Relationships" as a competency goal for grades 9-12.*

*4. Should the State require every public school to have an antiviolence program of instruction incorporated into the curriculum?*

Responses to this question are shown below.

- 57% - Yes
- 34% - No
- 4% - Maybe
- 4% - Don't know

These results are somewhat surprising in that just over one-third of LEAs indicate that incorporating antiviolence education should not be required. What is unclear, however, is whether the LEAs responding negatively were 1) objecting to the state requiring this; 2) objecting to antiviolence education being integrated into the existing curriculum rather than being implemented as "stand alone" programs; or, 3) do not feel that incorporating antiviolence instruction should be part of students' education. Additional follow up with the LEAs would be required to resolve this uncertainty.

In considering whether the state should require every public school to have an antiviolence program of instruction incorporated into the curriculum, it should be recognized that this is already required for all LEAs that receive Safe and Drug-Free school funding. Title IV, Part A, Subpart 1 of the federal Safe and Drug-Free Schools and Communities Act states: "LEAs that receive SDFSCA funds are required to have a plan for keeping their schools safe and drug-free that includes appropriate and effective discipline policies, security procedures, prevention activities, a student code of conduct, and a crisis management plan for responding to violent or traumatic incidents on school grounds."

This Act further states the purpose of the SDFSCA is to support programs that prevent violence in and around schools, prevent the illegal use of alcohol, tobacco, and drugs. Further, this federal assistance is provided to LEAs in order to "establish, operate, and improve local programs of school drug and violence prevention and early intervention." In determining the effectiveness of a program, the act indicates that LEAs should consider the needs of the area, the goals of the program, and the evaluation results. Unless the LEA has chosen, based on needs assessment information, to focus the program exclusively on either drug use or violence, programs and performance measures should be included that address both areas.

*5. Should an antiviolence program be required at every grade level?*

Responses to this question were as follows:

- 54% - Yes
- 40% - No
- 5% - Don't know

Thus, the distribution of responses was highly similar to the prior question. The same uncertainty exists as to the meaning of responses for those LEAs who responded negatively.

*6. What would be an appropriate curriculum for each grade level?*

LEAs were asked to address this question separately for elementary, middle, and secondary schools. Their responses are summarized in Appendix B. These tables list the specific curriculums/programs that were named for each level and the number of LEAs that nominated them. Also included are concepts that LEAs noted as important for the different levels and the number of LEAs identifying each concept.

As seen in these tables, a large number of programs/curriculums were identified and a specific program was not mentioned by more than a minority of the LEAs. At the elementary level, the most common programs/curriculums nominated were Second Step, Character Education, and Get Real About Violence. In terms of key concepts that antiviolence education at the elementary level should include, anti-bullying was the only concept specifically reported by more than 3 LEAs.

At the middle school level, the curriculum nominated most frequently was Second Step, which was identified by 20 LEAs. Get Real About Violence was the next most frequently nominated program, with 7 nominations. In terms of key concepts that antiviolence education for middle schoolers should include, anti-bullying and anger management were identified 5 times, while conflict resolution and peer mediation techniques were identified 4 times.

At the secondary school level, the only curriculum receiving more than 5 nominations was the Get Real About Violence program. In terms of key concepts that secondary school students should be exposed to, dating/relationship violence was reported 6 times and anger management was reported 5 times.

In summary, no strong consensus for specific programs or curriculums was evident at any level. There was also not strong consensus on the key concepts that antiviolence education at each level should address. In part, this is likely to reflect the open-ended nature of the question that was asked. An alternative format in which a list of programs/curriculums and key concepts was provided to be rated or ranked could enable a clearer set of preferences to be identified.

There is an ever growing number of lists that claim to say which programs work and which do not. (See below for a sample of available lists.) The state should consider a way to sort through this information and make it easier for school administrators to use. This would require gathering additional information.

Another option would be to require whole school approaches. There is research that shows that whole school approaches, which may include classroom curricula, but also focus on the behavior of all school personnel, are more effective than the adoption of curricula that focuses only on classroom activities. The evidence for these programs is strongest for the elementary school grades.

Some available lists of evidence based practices:

What Works Clearing House

<http://www.w-w-c.org/>

The promising practices network

<http://www.promisingpractices.net/benchmark.asp?benchmarkid=4>

National Blue prints project

<http://www.colorado.edu/cspv/blueprints/model/overview.html>

Preventing crime What works

<http://www.seeq.com/popupwrapper.jsp?referrer=&domain=preventingcrime.com&direct=true>

Exemplary and Promising Safe, Disciplined, and Drug-Free Schools Programs 2001

<http://www.ed.gov/admins/lead/safety/exemplary01/exemplary01.pdf>

*7. What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence?*

LEAs were asked to respond separately for elementary, middle, and secondary schools. Many left this question blank and noted that they did not have sufficient expertise to suggest specific requirements. Of the LEAs that responded, the most frequently reported issues to address were as follows:

#### Elementary School

- What constitutes violence/abuse
- What should be done if someone you know is being abused
- Bullying prevention
- Character education

#### Middle School

- What constitutes violence/abuse
- What should be done if someone you know is being abused
- Bullying prevention
- Character education

#### Secondary School

- What constitutes violence/abuse
- What should be done if someone you know is being abused
- Bullying prevention
- Training in anger management skills
- Training in conflict resolution skills
- It was also noted by a number of LEAs that any antiviolence program should be integrated into curriculum

It should be noted that requirements for effective antiviolence programming are already addressed, in part, through the Safe and Drug-Free Schools and Communities Act through which LEAs receive funding. Title IV, Part A, Subpart 1 of this act requires that recipients of SDFSCA funds use these funds to implement programs that meet the "principles of effectiveness." Programs that meet these standards have demonstrated that when implemented appropriately, they are effective in preventing youth drug use, violence, and/or disruptive behavior. Programs implemented with SDFSCA funds must be based on scientific research demonstrating the program's effectiveness in these areas. However, antiviolence programs that are supported with local funds would not necessarily have this same requirement.

8. *Should the state implement a particular antiviolence curriculum or allow individual schools to choose an appropriate curriculum from an approved list?*

Among the 67 LEAs who responded appropriately to this question:

- 7 % believe the State should require a specific curriculum
- 51% believe schools should choose from a State approved list
- 42% believe schools should choose without any State intervention

Clearly, LEAs are consistently opposed to the idea of being required to implement a specific antiviolence program selected by the state, although the majority of respondents were in favor of a state approved list from which to choose. A significant minority, however, (i.e., 42%) expressed the desire to address antiviolence within their schools without state input. A number of LEAs commented that the decision about how to effectively address violence in schools could best be made locally.

9. *What is the fiscal impact of implementing an antiviolence program for all schools, including additional staffing needs, if any?*

Responses to this question cannot be summarized. An accurate response to this item would require knowledge of the program to be implemented, the level of training required, etc. A number of LEAs indicated that they could not respond to this item without additional information. Some noted that there would be no fiscal impact while others described additional staff that would need to be retained. For example, LEAs that are currently addressing antiviolence exclusively through the Character Education program may not incur any additional expenses. Those that would like to implement a specific curriculum such as Second Step throughout their district would incur expenses associated with purchasing the curriculum and training personnel.

*Limited information on the budgetary requirements for antiviolence programming is available in the Safe and Drug Free Schools applications. Of the 96 LEAs who reported antiviolence programs, 85 included specific budget figures for antiviolence curricula. This information is summarized below.*

<i>Average antiviolence curricula budget</i>	<i>= \$4,975</i>
<i>Minimum antiviolence curricula budget</i>	<i>= \$0</i>
<i>Maximum antiviolence curricula budget</i>	<i>= \$65,858</i>

<i>Average percent of SADFS budget devoted to antiviolence curricula</i>	<i>= 8%</i>
<i>Minimum percent of SADFS budget devoted to antiviolence curricula</i>	<i>= 0%</i>
<i>Maximum percent of SADFS budget devoted to antiviolence curricula</i>	<i>= 40%</i>

*As can be seen, there was a wide range of the total Safe and Drug Free Schools money that LEAs were planning to spend on antiviolence curricula, i.e., 8% to 40%. It is important to note that these figures only pertain to money for antiviolence education that is drawn from Safe and Drug Free School funds. LEAs may be devoting resources to antiviolence programs in addition to these funds. Thus, neither data contained in the LEA survey or the Safe and Drug Free Schools applications allows for an accurate estimate of what the financial impact of requiring antiviolence programming for all schools would be. In part, this is because there is currently no standardization of programming across LEAs, and the expenses would thus vary considerably from one LEA to the next depending on the scope and intensity of the efforts being implemented.*

### **Summary**

Results of the survey administered by DPI, as well as data contained in the Safe and Drug Free Schools applications, indicate that the vast majority of LEAs report addressing antiviolence in their curriculums and are doing so in a variety of ways. There was no single program/curriculum reported by a majority of LEAs, nor are there particular concepts that a majority of LEAs reported as essential to include in antiviolence education. In part, this diversity of views may reflect the open-ended nature of the survey. The area on which the greatest consensus emerged is that LEAs oppose the state requiring a specific antiviolence curriculum, although many would support the adoption of a state approved list from which they could choose. A significant minority of LEAs, however, report that antiviolence programming should be a local decision made without state intervention.

The focus of House Bill 1354 is on domestic violence situations and results from this survey are ambiguous with respect to efforts being made by LEAs to address domestic violence or relationship violence. *As noted previously, information contained in survey responses and the Safe and Drug Free Schools applications does not enable any definitive conclusions to be made about whether and how domestic and/or relationship violence is being addressed by LEAs. This would require additional data collection in the form of a new survey that deals specifically with efforts by LEAs to address these forms of violence.*



## Appendix A – Listing of antiviolence programs reported at elementary, middle, and secondary schools

### *Programs reported in elementary schools and the number of LEAs reporting each program*

Elementary Programs Mentioned	Number of LEAs	Elementary Programs Mentioned (continued)	Number of LEAs
7 Habits of Highly Effective Teens	1	Indirectly through study of non-violent heroes	1
Adventurers	1	Kelly Bean	1
Adventures in Odyssey	1	Kelso's Choice	3
Anger is a Feeling Too	1	Life Skills	1
Anger Management	3	Lions Quest	3
Anti-Bullying	8	Make Time to Listen, Take Time to Talk	1
Bully Proofing your School	4	McDonald's Making it Real	1
Bully Safe USA - teacher program	1	Micro Society	1
CARE	1	Montessori	1
Character Education	27	OASIS	1
Choosing for Yourself II	1	On-line library of resources	1
Conflict Resolution	4	Outsider Speakers	2
Connect with Kids	2	Peer Mediation	3
Coping with conflict	1	Power Pals	1
Core Virtues	1	Project Class - mentoring self esteem building	1
Creature of Character	1	Proud to be polite	1
DARE	8	Risk Watch	1
Disciplinary programs	1	SAVE	1
Discover Skills for Life	1	Second Step	17
Don't Laugh at Me	1	Set Straight on Bullies	1
DUSO	1	Skills for Growing	2
Eight habits are taught including respect for self and other.	1	Small Counseling groups	1
Field trips - law enforcement related	2	Social Skills	1
Free the Horses	1	Start Something	1
Froggy and Friends	1	STEP	1
Funny Turnmy Feeling	1	Steps to Respect	2
Get Real About Violence	9	Student assistance program	1
Good Touch, Bad Touch	1	Teaching tolerance	1
Guidance counseling	5	Veggie Tales	1
Healthful Living Curriculum	5	When No Means No	1
I'm Special	1		

***Programs reported in middle schools and the number of LEAs reporting each program***

<b>Middle School Programs</b>	<b>Number of LEAs</b>	<b>Middle School Programs (continued)</b>	<b>Number of LEAs</b>
Anger Management Life Skills	1	Outside speakers from local agencies	3
Anti-Bullying	4	Peace Makers	1
Assigned intervention specialist and resource officers	1	Peer Mediation	8
Botvin's Life Skills Curriculum	1	Positive Behavior Support	1
Bully Free Classroom	1	Project Alert	2
Bully Proofing your School	2	Project Class - mentoring self esteem building	1
Bully Safe USA - teacher program	1	Rape Prevention	1
Bully-Free School zone	1	Read "Violence, Not Allowed" in their advisor/advisee program	1
Character Education	20	Ripple Effects	1
Choosing for Yourself II	1	SAVE clubs	7
Classroom presentations by SDFS teachers and counselors	1	Second Steps	11
Conflict resolution	2	Set Straight on Bullies	1
Connect with Kids	1	Sexual Harassment training	1
DARE	3	Skills for Adolescence	1
Delta - domestic relationships	2	Small Counseling groups	1
Don't Laugh at Me	1	Social Skills Training	1
Eight habits are taught including respect for self and other.	1	Social Studies classes - citizenship	1
Excellence in Teaching	1	SOS Programs	1
Field trips related to law enforcement	1	SOR's	2
Gear UP program	1	Student Assistance Program	1
Get Real About Violence	9	Student code of conduct	1
Gossiping, Taunting, and Bullying	1	Teachers receive training in defusing crisis situations	1
Guidance Counselor programs	5	Violence as it related to drug and alcohol abuse	1
Health Class/Healthful Living	7	WAVE	1
Leadership Training	1	When No Means No	1
Life Skills	3	Wise Guys	1
Lions Quest	3		
Master Teacher Curriculum	1		
Micro Society	1		
Montessori	1		
OASIS	1		
On-line library of resources	1		

***Programs reported in secondary schools and the number of LEAs reporting each program***

<b>Secondary School Programs</b>	<b>Number of LEAs</b>	<b>Secondary School Programs (continued)</b>	<b>Number of LEAs</b>
7 Habits of Highly Effective Teens	1	School Assemblies	1
Aggressors, Victims and Bystanders	1	Second Step	1
Anger management	3	Sexual Harassment training	1
Anti-Bullying	2	Sexuality and the Millennial Teen	1
Anti-violence strategies within curriculum	1	Short novels with character education element	1
Assigned intervention specialist and resource officers	1	Skills for Action	1
Be Cool for High Schools	1	Social Conflict Management Class	1
Botvin's Life Skills Curriculum	1	Social Studies curriculum	2
Bully Safe USA - teacher program	1	Special activities around national awareness days & before prom	1
Bully-Free School zone	1	SORs	2
Character Education	15	Student Assistance Program	1
Choosing for Yourself II	1	Student code of conduct	1
Conflict Resolution	3	Tattoo: Peer Education Program	1
Family & Consumer Science/Health/PE Curriculum	1	Teachers receive training in defusing crisis situations	1
Get Real About Violence	6	Teen Court/Leadership Development	1
Guidance Counselor lead programs	3	Teen help cards are available with a list of resources	1
Health Class/Healthful Living	8	WAVE	1
Inclusion of anti-violence writings and art - discussed in seminars	1	When No Means No	1
Life Skills	1	Workshops	1
Mastering Anger: Resolving Conflict	1	Youth Prevention Specialists	1
Media Literacy	1		
Mentor program	4		
Our Family Life	1		
Outside speakers from local agencies	5		
Peace Talks	1		
Peer Discovery class	1		
Peer Mediation	9		
Positive Behavior Support	2		
Project Class - mentoring self esteem building	1		
Project Wave	1		
Ripple Effects	1		
SAVE	6		

## Appendix B – Appropriate Antiviolence Programs/Curriculum for elementary, middle, and secondary schools

### Elementary School

Appropriate Curriculum for Elementary School	Number of LEAs	Key Concepts Elementary School Curriculum Should Include	Number of LEAs
Adventures in Odyssey	1	Anger management	2
Bully Proofing your School	2	Anti-bullying	5
Character Education	8	Awareness of public safety services	1
Character Education - Grade Level Specific Curriculum	1	Conflict Resolution	3
Creature of Character	1	Consistency across teachers	1
DARE	4	Coping with conflict	1
Different and the Same	1	Curriculum based on positive choices and behavior	1
Don't Laugh at Me	1	Curriculum designed around particular character traits.	1
Free the Horses	1	Decision making skills	1
Froggy and Friends	1	How to develop positive relationships	1
Get Real About Violence	6	Integrate lessons into existing curriculum - Character Education & Healthful Living	3
Healthful Living Curriculum	2	Local decision	1
I'm Special	1	Moral stories, examples, films for biweekly discussion sessions	1
Lions Quest	1	NC Center for Prevention of School Violence has excellent material	1
Project Class - mentoring self esteem building	1	Peer mediation	3
Ripple Effects	1	Programs that are developmentally appropriate	1
Risk Watch	1	Puppets	1
Second Step	13	Resistance skill training	1
Skills for Growing	1	Small group discussions	1
Start Something	1	Social development of adolescents	1
Steps to Respect	2	Social skills training	2
Veggie Tales	1	Strategies for personal safety	1
		Stress management	1
		Teach respect, responsibility, and good judgment	2
		Teaching tolerance	1
		Time to teach the current curriculum	1
		Understanding and coping with feelings	1
		Weekly lesson with counselor	1
		What violence is, how to recognize it, and what to do about it	3

## Middle School

Appropriate Curriculum for Middle School		Number of LEAs
Borvin's Life Skills Curriculum		1
Bullies, Victims, and Bystanders		1
Bully Proofing your School		2
Character Education		4
Delta-domestic violence program		1
Discover Skills for Life		1
Get Real About Violence		7
GREAT		1
Healthful Living Curriculum		3
Lions Quest		1
Project Alert		1
Project Class - mentoring self esteem building		1
Ripple Effects		1
S.A.V.E.		1
Second Step		10
Stand Up and Speak Out		1
Teen Court		2

Key Concepts Middle School Curriculum Should Include		Number of LEAs
Advisor program		1
Anger management		5
Anti-bullying programs		5
Anti-violence as it related to drug and alcohol abuse		1
Any program that helps student value self without having to resort to violence		1
Recognition of violent behavior		1
How to avoid or diffuse situations		1
Resources available to help		1
Citizenship and responsibility		1
Conflict resolution techniques		4
Curriculum designed around particular character traits.		1
Daily character lessons with weekly consideration of bullying, anti-violence topics		1
Dealing with opposite sex		1
Decision making skills		2
Domestic violence		1
Easily implemented by teachers		1
Gangs		1
Introduction to judicial system in NC		1
Local decision		1
None - students just need to be aware of the consequences of their behavior		1
Outside speakers from local agencies		1
Peer mediation		4
Relationship issues		1
Resistance Skills		1
Self discipline		1
Self esteem issues		1
Small group discussions		1
Social skills training		2
Stress management		1
Students should be held to their actions being addressed in relations to all academic subject matter		1
Suicide prevention		1
Teach about healthy relationships		1
Teach students to respect each other		1
Use of community agencies very important		1
Utilize school resource officials more in a teaching mode about crime and violence		1

## Secondary School

Appropriate Curriculum for Secondary School	Number of LEAs
Be Cool High School	1
Botvin's Life Skills Curriculum	1
Bullies, Victims, and Bystanders	1
Character Education	3
Don't be a victim-Sunburst Visual Media	1
Get Real About Violence	6
Healthful Living Standard Course of Study	4
Life Skills	1
Olweus Bullying Prevention Program	1
Our Family Life	1
Project Class - mentoring self esteem building	1
Relate for Teens	1
Safe Dates	1
Second Step	1
Skills for Action	1
Social Conflict Management Class	1
Tatto	1
Think About It-Understanding the Impact of TV Violence	1

Key Concepts Secondary School Curriculum Should Include	Number of LEAs
Anger management	5
Anti-bullying programs	2
Awareness of the consequences of violence/Laws	2
Citizenship and responsibility	1
Conflict resolution techniques	4
Criminal justice classes	1
Dating/Relationship violence	6
Decision making skills	2
Develop a curriculum with the advisor program	1
Developmentally appropriate	1
Domestic violence	1
Easily implemented by teachers	1
Elective course	1
Exposure to family court	1
Gangs	2
How to avoid or diffuse situations	1
How to recognize abusive relationships and what to do about it	1
Integrated into existing curriculum	4
Local decision	4
Managing emotions	1
Mediation skills	1
Parenting skills training	1
Peer mediation	4
Problem solving	1
Recognition of violent behavior	1
Resistance skills	1
Self-discipline	1
Self-esteem training	2
Sexual harassment	1
Small group discussions	1
Social Conflict Management Class	1
Social Skill training	2
Stress management	1
Suicide prevention	1
Utilize school resource officials more in a teaching mode about crime and violence	1
Weekly review of temper, violence, and self-control issues and techniques	1

## TRAINING

Four major points continuously came up in the HB1354 Study Group's discussions regarding training - utilize existing resources, include all school staff in basic training, training needs to be audience-specific (i.e. not the same for custodians as for school counselors) and trainings need to clarify the differences between domestic violence and other forms of violence.

In utilizing existing resources, we first need to identify criteria of which quality, effective training would include, continue to study what resources already exist and determine how to best make use of those resources. Trainings provided by the North Carolina Coalition Against Domestic Violence and local domestic violence programs and having universities offer courses in domestic violence and other forms of violence were the most commonly agreed upon options amongst the HB1354 Study Group. Several universities within the UNC system already have advisory groups in place to develop anti-violence and domestic violence courses. Below are some of the existing options for trainings.

Event	Description	Sponsor
Safe Schools and Character Education Conference	An annual two-and-a-half-day conference with expert speakers and multiple break-out sessions related to school safety and climate	NC Department of Public Instruction
Domestic Violence Basics	A six-hour Domestic Violence Basics training presented to new employees of domestic violence programs	NC Coalition Against Domestic Violence
Working with Children of Domestic Violence	A workshop addressing the dynamics of the effects of domestic violence on children	NC Coalition Against Domestic Violence
Coordinated Community Response	A workshop on organizations working together within the community to address domestic violence	NC Coalition Against Domestic Violence
NCCADV Bi-annual Conference	A three-day bi-annual conference inclusive of workshops and forums on various topics related to domestic violence	NC Coalition Against Domestic Violence
This Far By Faith Conference	A three-and-a-half day conference inclusive of topics such as oppression, unity across diversity, feminism, social change, gender justice, men's role in preventing VAW, policies, etc.	The Black Church and Domestic Violence Institute

In addition, the North Carolina Department of Public Instruction, the North Carolina Center for the Prevention of School Violence, the North Carolina Coalition Against Domestic Violence, the North Carolina Council for Women and Domestic Violence Commission and their satellite programs, and local Departments of Health and Human Services provide various trainings and workshops based on the requests and expressed needs of their consumers. Organizations such as

the North Carolina School Counselor Association and the North Carolina School Social Worker's Association have annual conferences that include, but are not limited to, sessions on domestic violence and other violence related topics.

Domestic violence and other forms of violence can be addressed in separate trainings, however the study group felt that combining the two into one training of the basics would be more time efficient especially in light of the fact that schools have lost five staff development days. It would be critical for all school staff from custodians, bus drivers, and teachers to principals, superintendents, directors of student services, and other administrators to receive the basic training. Basic domestic violence training for all school staff would need to be inclusive of the following:

- definitions of types of violence and the difference from other forms of violence;
- signs, symptoms and effects of domestic violence;
- how to do a quick assessment and referral;
- what resources are available;
- confidentiality, sensitivity and empathy to the domestic violence situation and those involved;
- relative federal, state and local policies and laws;
- characteristics of healthy and unhealthy relationships.

A more in depth level of domestic violence training for staff members such as school counselors, school social workers, school nurses, school psychologist and school resource officers would provide more specificity in the topics of the basic level training. Training of any more depth would be for domestic violence professionals such as agency social workers specializing in domestic violence.

The anti-violence basic training component for all staff would need to be inclusive of the following topics:

- definitions of types of violence and the difference from domestic violence;
- how to recognize and address bullying;
- conflict resolution and anger management;
- peer mediation;
- positive communication skills;
- implementing positive behavioral support;
- how to recognize and address gang activity;
- how to promote positive self-esteem;
- effectively working with parents;
- understanding poverty and hidden rules of social classes;
- understanding and addressing racism, multiculturalism and diversity;
- understanding and promoting resiliency; and
- characteristics of healthy and unhealthy relationships.



A more in depth level of anti-violence training for staff members such as school counselors, school social workers, school nurses, school psychologist and school resource officers would provide more specificity in the topics of the basic level training.

### **Using the Healthful Living and Guidance Curriculums to Educate About Domestic and Dating Violence**

The existing, standardized curricula are required as elective courses of study. The curricula currently include topic headings/goals and objectives that may allow for instruction on anti-violence AND domestic and dating violence.

Domestic and dating violence specific core curriculum components can be incorporated under specified topic headings/goals and objectives of the curricula and instruction can include the use of available supplemental materials and resources, curricula and/or programs as outlined by materials provided by the HB 1354 Study Commission/DPI Work Group.

Here are some examples of how certain objectives may be met while incorporating domestic and dating violence specific core curriculum components:

#### **HEALTHFUL LIVING CURRICLUM**

**Kindergarten:** Objectives 1.02, 2.01 – 2.05, 3.06, 4.02

Children who witness or experience violence in their homes may benefit from discussions about feelings, making choices and seeking help.

**Grade 1:** Objectives 2.01-2.04, 3.03-3.04, 4.01-4.06

Children who witness or experience violence in their homes may benefit from discussions about feelings, seeking help, and respecting the rights of self and others.

**Grade 2:** Objectives 2.01-2.05, 3.07, 4.01-4.04

Children who witness or experience violence in their homes may benefit from discussions about various feelings, coping methods, and working cooperatively with others.

**Grade 3:** Objectives 2.01-2.05, 4.01-4.04

Children who have witnessed or experienced violence in their homes may benefit from discussions about feelings and unhealthy ways to express feelings, standards of behavior, and empathy building.

**Grade 4:** 2.01-2.05, 4.02, 5.03, 9.01-9.03

Children who have witnessed or experienced violence in their homes may benefit from discussions about advanced feelings, physical and emotional development, and relationships.

**Grade 5:** Objectives 2.01-2.06, 3.02-3.03, 4.01-4.05, 6.04

Children who have witnessed or experienced violence in their homes and/or students who are involved in dating violence may benefit from discussions about anger management, controlling behavior and health risks. (NOTE: Anger management is not an appropriate topic or intervention for dating violence).

**Grade 6: Objectives 2.01-2.08, 3.03, 4.01-4.05**

Children who have witnessed or experienced violence in their homes and/or students who are involved in dating violence may benefit from discussions about structured thinking processes, social relationships, individual behaviors, and abusive relationships.

**Grade 7: Objectives 2.01-2.06, 3.02-3.09, 4.01-4.05**

Children who have witnessed or experienced violence in their homes and/or students who are involved in dating violence may benefit from discussions about high-risk behaviors, coping methods, positive communication, and “mutually faithful” relationships.

**Grade 8: Objectives 1.06, 2.02-2.07, 3.02-3.08, 4.01-4.03**

Children who have witnessed or experienced violence in their homes and/or students who are involved in dating violence may benefit from discussions about accepting responsibility for personal behavior, consequences of behavior, and relationship skills.

**Grades 9 – 12: Objectives 2.01-2.06, 3.07-3.09, 4.01-4.06, 6.01**

Children who have witnessed or experienced violence in their homes and/or students who are involved in dating violence may benefit from discussions about behavior change strategies, self-protection, and principles of healthful daring relationships (including information about relationship violence prevention).

**GUIDANCE CURRICULUM FOR COMPREHENSIVE SCHOOL COUNSELING PROGRAMS**

**Elementary Personal / Social Development**

Children who have witnessed or experienced violence in their homes may benefit from discussions about individual responsibility, sociability, self-management, interpersonal skills, negotiation, communication and problem solving.

**DV specific components:** safety planning to include instruction for children to “stay out of the incident/do not get involved”, “to seek safety”, and “to seek help”; also, messages to children that abuse is not their fault and that they are not alone.

**Middle School Personal/Social Development**

Children who have witnessed or experienced violence in their homes and/or involved in dating violence benefit from discussions about individual responsibility, self-esteem, sociability, self-management, negotiation, communication, problem solving, personal and safety skills (understanding safety).

**DV specific components:** safety planning for children who have witnessed or experienced violence in their homes (see above); safety planning for students who are victims of dating violence to include variety of options for protection (Domestic Violence Protective Orders, Counseling, Law Enforcement response, etc.); also, messages to children who have witnessed or experienced violence in their homes and student victims of dating violence that abuse is not their fault and that they are not alone; also, messages to student perpetrators of dating violence of personal responsibility and accountability, and availability of services to support efforts for changing abusive and violent behaviors.

### **High School Personal/Social Development**

Children who have witnessed or experienced violence in their homes and/or involved in dating violence benefit from discussions about individual responsibility, self-esteem, sociability, self-management, integrity, interpersonal skills, negotiation, and acquiring personal safety skills.

**DV specific components:** safety planning for children who have witnessed or experienced violence in their homes (see above); safety planning for students who are victims of dating violence (see above); also, messages to children who have witnessed or experienced violence in their homes and student victims of dating violence that abuse is not their fault and that they are not alone; also, messages to student perpetrators of dating violence of personal responsibility and accountability, and availability of services to support efforts for changing abusive and violent behaviors.

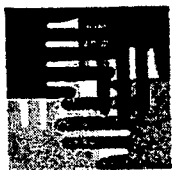
## **HOUSE BILL 1354 STUDY GROUP RECOMMENDATIONS**

- 1. The Department of Public Instruction (DPI) will continue to offer existing anti-violence programs and curricula geared to addressing the needs of students and staff. Anti-violence training topics and lessons are currently included in the following curricula: Healthful Living, Character Education, Comprehensive School Counseling and Guidance, as well as Safe and Drug Free Schools approved programs.**
- 2. State and community agencies, including Universities that currently provide in- service training and courses through distance education and site-based courses, are encouraged to collaborate in order to provide collaborative trainings to schools and school district personnel, using strategies, programs, and services that have proven effectiveness and that are researched-based.**
- 3. The Department of Public Instruction, in collaboration with other agencies, will conduct a comprehensive review of community-based curricula and programs currently being used by LEAs and local schools in the areas of child behavior issues, substance prevention, violence prevention, relationship and domestic violence, including child maltreatment. The purpose of this review would be to evaluate the effectiveness of existing curricula and programs, and to identify opportunities for streamlining and strategically linking related offerings.**
- 4. In order to increase the awareness of various social and emotional consequences of domestic violence and the impact on the overall health and well-being of children, the Department of Public Instruction will collaborate with the University System and the Independent Colleges to ensure that courses in anti-violence, domestic violence, peer meditation, anger management and conflict resolution are adequately addressed in teacher and administrator preparation programs.**
- 5. The Department of Public Instruction, in collaboration with other agencies, is encouraged to request sufficient resources (resources may include collaboration with other service providers, the structuring and scheduling of staff time to provide services, or the distribution and allocation of monetary resources for targeted activities) for a school-based position to address anti- and domestic violence needs, as well as to implement strategies designed to provide training and services to students and families in need.**
- 6. Local Education Agencies are to review their existing policies and Safe Schools Plans to assure that there are measurable goals and objectives that are aligned with the issue of addressing anti-violence and domestic violence topics.**

## **Study Group Meeting Participants:**

Rep. Marian McLawhorn, North Carolina General Assembly  
Edgar Murphy, State Board of Education  
Marvin Pittman, Director, Division of School Improvement, NCDPI  
Lisa Bateman, DJJDP - Center for the Prevention of School Violence  
Cynthia Floyd Boyd, Education Consultant, NCDPI  
Denise Briggs, Department of Juvenile Justice & Delinquency Prevention  
Barry Bryant, Governor's Crime Commission  
Nan Coleman, Historically Minority College and Universities Consortium  
Carolyn Foxx, Education Consultant, NCDPI  
Beth Froehling, North Carolina Coalition Against Domestic Violence  
Jennifer Godwin, Center for Child & Family Policy, Duke University  
Joann Haggerty, North Carolina Child Advocacy Institute  
Joann Harris, North Carolina Coalition Against Domestic Violence  
Adam Hartzell, Interact  
Michelle Hughes, Prevent Child Abuse  
Kevin Hutchinson, Governor's Policy Office  
Antonia Johnson, Education Consultant NCDPI  
Katherine Joyce, North Carolina Association of School Administrators  
John Lee, Peace at Work  
Lee Lewis, North Carolina Division of MH/DD/SAS, Prevention and Intervention  
Carolyn McKinney, North Carolina Association of Educators  
Lisa Moore, Coastal Women's Shelter  
Marguerite Peebles, Section Chief, NCDPI  
David Rabiner, Center for Child & Family Policy, Duke University  
Sheria Reid, North Carolina Justice Center  
Peter Romary, Attorney (Private Practice)  
Molly Ryan, School Board Association  
Allison Shafer, North Carolina School Boards Association  
Adam Short, North Carolina Child Advocacy Institute  
Eric Sparks, Wake County Public Schools  
Kevin Spragley, North Carolina Association of Educators  
Leslie Staroneck, Consultant, Prevent Child Abuse of North Carolina  
Tracy Turner, North Carolina Association of County Directors of Social Services  
Tykee Vallien, Interact  
Michelle Wallen, Education Consultant, NCDPI  
Shawn Williams, Jones County Schools Police  
Leanne Winner, School Board Association

## **RESOURCE MATERIAL**



**NORTH CAROLINA  
COALITION**  
AGAINST DOMESTIC VIOLENCE

## **SUMMARY OF HOUSE BILL 1354 STRENGTHEN DOMESTIC VIOLENCE LAWS**

**This comprehensive legislation is a result of the work of the  
House Select Committee on Domestic Violence  
*Passed 7/15/04***

### **Part I: Domestic Violence Offender Treatment**

- moves offender treatment as a condition of probation from the permissive section of the statute to the mandatory section
- all defendants convicted of domestic violence and placed on probation must attend and complete an abuser treatment program approved by the Domestic Violence Commission
- Department of Corrections shall establish an abuser treatment program for domestic violence offenders
- *effective December 1, 2004*

### **Part II: Domestic Violence Training for Law Enforcement**

- mandates that Basic Law Enforcement Training (BLET) include education and training in response to, and investigation of, domestic violence cases, as well as training on evidence-based prosecution
- mandates in-service training on domestic violence
- provides that instructors must be certified to teach domestic violence
- *NC Criminal Justice Education and Training Standards Commission and the NC Sheriffs' Education and Training Standards Commission shall report to the General Assembly on or before March 1, 2005 on the standards implemented*

### **Part III: Study of Anti-Violence Education in Schools and Training for School Personnel**

- NC Department of Public Instruction in collaboration with the State Board of Education to study the issue of anti-violence programs in schools, including looking at curriculums that address physical violence and mental or verbal abuse, and domestic and relationship violence
- agencies also to study training for school personnel, including who should be trained and what type of training they should receive
- *preliminary report is due by November 15, 2004, and a final report is due by January 15, 2005*

### **Part IV: Legal Services for Victims of Domestic Violence**

- funding to be provided to established legal services programs to provide legal representation for victims of domestic violence in protective order proceedings, as well as custody proceedings and services which ensure the safety of the client and the client's children
- funds will be distributed as follows: 20% based on a fixed equal dollar amount for each county and 80% based on the rate of 50B actions filed in that county
- *effective when it becomes law*

### **Part V: Domestic Violence Advocates on Child Fatality Task Force**

- two positions added to the Child Fatality Task Force, including a representative from NCCADV and a representative from the Council for Women/DV Commission
- *effective when it becomes law*

**Part VI: Study of Mental Health Services for Domestic Violence Victims**

- DHHS to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs, including service delivery to children
- *preliminary report is due by October 1, 2004, and a final report is due by January 15, 2005*

**Part VII: Study of CLE Credit for Pro Bono Legal Representation**

- NC State Bar in cooperation with the NC Bar Association to study the issue of providing CLE credit to active attorneys for providing pro bono legal representation
- *preliminary report is due by October 1, 2004, and a final report is due by January 15, 2005*

**Part VIII: Domestic Relationship Aggravating Factor**

- provide for an aggravating factor for felony sentencing if the defendant took advantage of a position of trust, including a domestic relationship
- *effective December 1, 2004*

**Part IX: Create Strangulation Offense**

- new crime of non-fatal strangulation created
- any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony
- *effective December 1, 2004*

**Part X: Amend Habitual Misdemeanor Assault Statute**

- felony crime of "habitual misdemeanor assault" changed to only require 2 or more prior convictions for either misdemeanor or felony assault (rather than requiring 5 prior convictions, 2 of which have to be assaults)
- the earlier of the two prior convictions must have occurred no more than 15 years prior to the date of the current assault
- triggering assault must cause physical injury
- *effective December 1, 2004*

**Part XI: Domestic Violence Offense Tracking**

- requires the court to determine if the parties have a personal relationship (as defined in 50B) for all offenses involving assault or communicating a threat and indicate that the case is domestic violence on the judgment
- allows the court to order electronic house arrest as part of a community punishment
- *effective December 1, 2004*

**Part XII: Study of Misdemeanor Offense Classifications**

- directive to the NC Sentencing and Policy Advisory Commission to study misdemeanor assault offenses and make recommendations for reclassifications
- *final report must be made to the General Assembly in the 2006 Session*

**Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions**

- violation of a pretrial release order entered under GS 15A-534.1 (domestic violence bond law) added to the list of offenses that allow for arrest without a warrant when the offense occurs out of the presence of the officer
- *effective December 1, 2004*

**Part XIV: Conform State Firearms Law to Federal Law**

- removes exception that allows felons to possess firearms within their own homes or places of business and conforms state firearms definition to the federal definition
- *effective December 1, 2004*



**Part XV: Specifically Allow Cross-Warrants**

- judicial official may not refuse to issue a warrant *solely* because a prior warrant was already issued against a person involved in the same incident
- purpose is to prevent policies that prohibit the issuance of a cross warrant in cases where the perpetrator gets to the magistrate's office first and obtains a warrant against the victim
- *effective when it becomes law*

**Part XVI: Clarify Nurse's Privilege**

- written or printed medical records that would otherwise be admissible in court are still admissible after a determination by the court that disclosure should be compelled
- *effective December 1, 2004*

**Part XVII: Temporary Child Custody in Domestic Violence Hearings**

- standard at ex parte stage of DVPO changed from "child exposed to a substantial risk of bodily injury or sexual abuse" to "child exposed to a substantial risk of physical or emotional injury or sexual abuse"
- court required to consider custody at ten-day hearing and must consider factors listed
- if court grants visitation, court must provide for the safety of the child and the aggrieved party and specify dates and times in the order
- custody order entered under 50B may not last for more than one year even if order is renewed
- court must follow provisions in 50B when determining general custody cases if the court finds that domestic violence has occurred
- *effective October 1, 2004*

**Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims**

- employer may not discharge, demote, deny a promotion or discipline an employee because the employee took reasonable time off from work to obtain relief provided in Chapter 50B
- employee must follow the employer's usual time-off policy unless an emergency prevents the employee from doing so
- *effective October 1, 2004*

**Part XIX: Privacy for 50B Intake**

- clerk required to provide a private area for plaintiffs to fill out forms and make inquiries, whenever feasible
- *effective when it becomes law*

**Part XX: Training for Judges and Court Personnel**

- request to the NC Supreme Court to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases
- AOC to study the issue of training for court personnel in the area of domestic violence
- AOC must make a report to the 2005 General Assembly
- *effective when it becomes law*

***For more information, please contact Beth Froehling, Public Policy Specialist  
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# **How Does Anti-Bullying/Anti-Harassment Fit with Healthful Living Education in North Carolina?**

## **Fourth Grade**

### *Preparatory*

- 1.01 Summarize health risks for age group.

### *Stress Management*

- 2.01 Associate personal behaviors with universal standards.
- 2.02 Identify feelings of contentment, enthusiasm, and confidence and demonstrate healthy ways to express those feelings.

### *Relationships*

- 4.01 Recognize and demonstrate the importance of facial expression, body language, and verbal expression in communication.
- 4.02 Describe the variety of relationships between people.
- 4.03 Explain the value of social support.

## **Fifth Grade**

### *Preparatory*

- 1.01 Summarize health risks for own age group.

### *Stress Management*

- 2.01 Analyze the impact of emotions on health-related behaviors.
- 2.02 Successfully manage anger and other strong emotions.
- 2.04 Identify basic human needs as motivators of behaviors.
- 2.05 Identify impulse behaviors, ways to control them, and how to respond to others.

### *Relationships*

- 4.01 Interpret stereotyping and discrimination as limiting and hurtful behaviors.
- 4.02 List and follow rules for productive discussion.
- 4.03 Identify alternatives to fight or flight as means of resolving interpersonal conflicts.
- 4.04 Describe means of adapting to changing relationships and friendships.
- 4.05 Identify family, school, and community as sources of social support to reduce or prevent stress.

## **Sixth Grade**

### *Preparatory*

- 1.01 Explain health risks for age group.
- 1.02 Accurately describe the incidence of high-risk behaviors for age group.

### *Stress Management*

- 2.04 Cope with failure appropriately.
- 2.05 Initiate requests for help or assistance from others.
- 2.06 Demonstrate stress management through breathing patterns, muscular relaxation, directing thoughts.
- 2.07 Use a structured thinking process to make decisions and solve problems.

### *Protecting Self/Others*

- 3.06 Differentiate between positive and negative effects of peer pressure.

### *Relationships*

- 4.01 Communicate own feelings.

- 4.04 Enact non-violent conflict resolution strategies.
- 4.05 Discuss abusive relationships and create a list of resources for seeking help.

## **Seventh Grade**

### *Preparatory*

- 1.01 Explain health risks for age group.
- 1.02 Appraise own health status.
- 1.05 Accurately describe the incidence of high risk behaviors for age group.

### *Stress Management*

- 2.05 Anticipate and monitor personal stressors.
- 2.06 Explain methods of managing stress by minimizing exposure to stressors.

### *Protecting Self and Others*

- 3.09 Analyze messages in the media targeting teens.

### *Relationships*

- 4.01 Exercise social and interpersonal persuasion.
- 4.02 Identify feelings in communication with others.
- 4.03 Clarify expressions of others.
- 4.04 Express expectations to others.
- 4.05 Define tolerance and explain its importance to a healthy society respectful of differences and diversity.

### *Substance Abuse*

- 6.01 Quantify the contribution of alcohol death to injury from vehicle crashes, pedestrian injury, homicide, suicide, robbery, and assault, drowning, burns, and falls, and to job absenteeism, job loss, and job injury.

### *Appreciation for Diversity (Physical Education)*

- 9.01 Demonstrate respect for individual differences in physical activity settings.
- 9.03 Develop strategies for including persons of diverse backgrounds and abilities in physical activity settings.

## **Eight Grade**

### *Preparatory*

- 1.01 Explain health risks for personal age group.
- 1.02 Appraise own health status.
- 1.03 Identify automobiles, alcohol, and handguns as three factors associated with the majority of fatal and serious injuries.
- 1.04 Predict the potential for health risks in a variety of situations.
- 1.06 Explain how media can model both positive and negative health behaviors.

### *Stress Management*

- 2.03 Identify positive ways to cope with stress.
- 2.04 Accept responsibility for own behaviors.
- 2.05 Employ a variety of structured thinking processes to solve problems and make decisions.

### *Relationships*

- 4.01 Develop and maintain confidential relationships.
- 4.02 Describe constructive and risky means of expressing independence.
- 4.03 Seeks help from family, schools, and community resources for unhealthy relationships.

### *Substance Abuse*

- 6.01 Explain the relationship between the amount and frequency of a harmful substance consumed and effect on behavior.
- 6.04 Describe the special risks associated with alcohol use and vehicles.
- 6.05 Relate the potential impact- social, emotional, familial, physical, and legal- of harmful substance use on oneself.

## **High School (Grades 9 -12)**

### *Preparatory*

- 1.01 Assess own health status
- 1.02 Accept responsibility for own health.
- 1.03 Determine individual control over health risks.

### *Stress Management*

- 2.01 Develop awareness of own control over stress.
- 2.02 Replace negative thoughts with positive.
- 2.03 Associate behaviors with personal, family, and cultural values.
- 2.04 Cope with losses appropriately.
- 2.05 Respond to others with empathy.
- 2.06 Identify symptoms of mental disorders and know where to seek professional assistance.

### *Protecting Self and Others*

- 3.09 Understand causes, consequences, and prevention of major health risk behaviors for own age group, including the transmission of HIV.

### *Relationships*

- 4.01 Analyze problems stemming from unhealthy relationships.
- 4.02 Implement skills which develop positive relationships.
- 4.03 Utilize anger management skills.
- 4.04 Identify resources for managing relationship problems.
- 4.05 Demonstrate conflict resolution skills.
- 4.06 Formulate principles for healthful dating relationships.

### *Substance Abuse*

- 6.02 Describe the potential effects on others of substance abuse by individuals.
- 6.03 Analyze motives for and consequences of steroid abuse.
- 6.06 Delineate the risks involved in binge drinking.

### *Appreciation for Diversity (Physical Education)*

- 9.01 Execute respect for individual differences in physical activity settings.
- 9.02 Develop strategies for including persons of diverse backgrounds and abilities in physical activity settings.

### *Social Wellness (Physical Education)*

- 10.01 Work productively as a member of a team and contribute to the team's success through the assumption of a variety of noncompetitive duties.
- 10.03 Practice acceptable sportsmanship and fair play behaviors in physical activity settings.
- 10.04 Apply cooperative skills to partner and group activities such as dance, outdoor activities, team building, problem solving, and cooperation games.

## Objective 4.04

### Identify resources for managing relationship problems.

#### Materials Needed:

Overhead Projector  
Index cards w/ Feeling Words  
Poster paper or flip chart paper  
Markers, tape  
Appendix 1 – Copies of You Have Rights  
Appendix 2 – Copies of NC Hazing Laws  
Appendix 3 – Copies of Could Mephram High School Happen Here?  
Phone books

#### Review:

Have the students come up with a definition for each of the following words in groups. Create a class definition. Write the definitions on newsprint and hang for the duration of the class. Make sure the following information is included in the definitions.

*1. Sexual Harassment- A form of harassment which involves any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.*

*2. Bullying- The act of intimidating a weaker person physically or mentally to make them do something or to make them feel bad.*

*3. Hazing- Any conduct which subjects another person, whether physically, mentally, emotionally, or psychologically, to anything which may endanger, abuse, degrade, or intimidate the person as a condition of association with a group or organization regardless of the person's consent or lack of consent.*

#### Focus:

##### Emotional Gossip

- o This game is played similarly to the game *Telephone, Gossip, or Pass It Along*.
- o Explain the following rules to the class:
  - *There is to be no talking during this activity!!*
  - *No vocal sounds at all. Anyone caught will be disqualified along with their group.*
  - *The student in the front of the line has to use non-verbal communication to express the emotion which is written on the card.*
  - *The students are to "pass" the emotion down the line non-verbally (and without mouthing the words).*
  - *The students may not repeat the gesture. They are to "pass" the emotion one time! The next student in line is to guess what emotion they were "passed" and turn to the next student in line, tap them on the shoulder, and "pass" the emotion.*
  - *The last person to get the emotion should show the class what they saw and guess what emotion they are conveying.*
  - *Tell what emotion was written on the card after each group has guessed.*
  - *Repeat with the next card.*
- o Have the students get into groups by counting off by fours.
- o Tell each of the groups to get into a straight line with all of the students facing the same direction.

- o Show the last person in each line one of the index cards with a feeling word written on it. (Examples: shy, scared, embarrassed, excited, or ashamed) Show the same card to each group. Make sure you only show the card to the student in the back of the line who has his or her back to you.
- o Process this activity with the following questions:
  - o *Were we good at guessing how a person was feeling based on their non-verbal clues?*
  - o *Why did the gestures people used differ from person to person and group to group?*
  - o *How do high school students normally communicate what they are thinking or feeling?*
  - o *What does this have to do with bullying, hazing and sexual harassment?*

### **Statement of Objectives:**

*Today we are going to discuss sexual harassment. By the end of this program you will be able to define sexual harassment, bullying and hazing, list behaviors associated with sexual harassment, bullying and hazing and explain societal factors which contribute to sexual harassment, bullying and hazing.*

### **Teacher Input:**

To initiate student thinking about identifying relationship problems present the following scenarios and ask the students to define what type of relationship problem is being discussed. (It is also a good idea to invite guest speakers from the community such as law enforcement officers, counselors, or local domestic violence community educators.)

#### **True Story**

In November 2000, a teenage girl's pants were pulled down in the middle of her crowded high school cafeteria. The girl was humiliated and many members of the student body teased her for the rest of the school year. Students would yell comments about her breast size and make innuendos about her sexual history on a daily basis. (**sexual harassment**)

#### **True Story**

A 16-year-old teenage girl was abused by her classmates which took both a physical and emotional toll on her. "They actually had a contest. They'd high-five each other if they came up with the best name to describe how ugly I was," she said. "They'd kick me in the back of the knees and give me small bruises or they tripped me." The student, who has a heart condition, would suffer attacks of rapid heartbeats after being harassed. Her grades dropped. She became withdrawn and had no friends. After school she would lock herself in her room and cry. "All day, every day, they kept harassing me," she said. "Everywhere I went, there they were." She said teachers told her to "tough it out" or to "just ignore it." She said she was too embarrassed to tell her parents, but she finally confided in her mother. Principals of her school say the complaints never reached them, but they admit despite their anti-bullying policies, she somehow fell through the cracks. The teen victim now goes to a new school where she says she is treated "like a human being." (**bullying**)

#### **True Story**

A high school student says he and his family were assaulted when he tried to drop out of a secret band fraternity. The student has filed suit against the Board of Education in his town and a school band director. The suit claims he was beaten by high school band members at the direction of the band teacher. He said it was part of a pledge process required to join a secret band fraternity and that he was punched, kicked and hit with wooden paddles. When he tried to drop out of the pledge process, he says he and members of his family were attacked. (**hazing**)

- Ask the students to think about how they would feel if they were involved in any of the above situations. Have the class discuss options available to the students.
- Pass out a copy of the You Have Rights (Appendix 1) to the class and read and discuss. Ask the students how they would feel if they had to report an incident of sexual harassment, bullying or hazing. Point out to the class that students reporting they are being abused is the only way the school faculty can help put an end to the abuse. Also, point out that student reporting is the only way that fights, harassment, and other incidents of school violence can be prevented.
- Distribute copies of the NC Hazing Law (Appendix 2). Have students read the law and ask them to work in pairs for Think, Pair, and Share. They should think of three new facts they learned and share those with a partner. Call on groups in round robin fashion to share with the larger group.

### **Guided Practice:**

#### **Option 1**

- Tape five pieces of poster board paper or flip chart paper around the room.
- Divide the class into three groups. (If the class is large, use more groups with a few groups answering the same question.)
- Explain to the groups they have to answer questions on the poster paper. [The questions can be printed at the top of each sheet of poster paper before the class begins.]
- Give each group a few markers.
- Each group will discuss a different question.
- Ask the following questions and have each group present their answers to the class.
  - *What are some behaviors which might be classified as sexual harassment, bullying and/or hazing?*
  - *Who can you talk to if you or someone you know is being sexually harassed, bullied or hazed?*
  - *What can other students do to help create a culture in their high schools which does not tolerate sexual harassment, bullying and hazing?*
  - *What are a few contributing factors which lead to sexual harassment, bullying and hazing in high schools?*
  - *What steps can a student take to prevent and/or report relationship problems such as sexual harassment, bullying and hazing?*

#### **Option 2**

##### **Could Mephram High Happen Here?**

Distribute copies of the article, Could Mephram High Happen Here? (Appendix 3) Have students read the story about the sexual assault and hazing of younger players by older players. Ask the following questions about the story:

- *Why did the older boys think they were entitled to abuse the younger players on the team?*
- *What effects might the hazing incident have on the victims? The perpetrators? The team? The schools? The community?*

- *If you knew about an incident of hazing, would you report it? Why or why not?*
- *Could hazing happen here? Why or why not?*

**Independent Practice:**

Tell the students to create a resource list for high school students dealing with relationship problems. Have the students create a list of resources including their phone numbers, addresses, and the types of services each agency or person offers. The students can use phone books, the Internet, and any other resources they might think to use.

**Closure:**

*Today we discussed sexual harassment. You are now able to define sexual harassment, list behaviors associated with sexual harassment, and explain societal factors which contribute to sexual harassment.*



## Objective 4.05

### Demonstrate conflict resolution skills.

#### Materials Needed

Appendix 1 – Transparency of Quotation about conflict by Edelman and Satcher  
Anger Management and Conflict Resolution PowerPoint presentation on the STHSH III CD-ROM  
Poster paper, tape, markers  
Overhead Projector  
Appendix 2 – Copies of Identify the Conflict  
Appendix 3 – Copies of Styles of Resolving Conflict  
Appendix 4 – Copies of How I Resolve Conflict  
Appendix 5a, b, c – Copies of Choices

#### Focus:

##### PowerPoint: Anger Management and Conflict Resolution

You can use the Anger Management and Conflict Resolution PowerPoint presentation on the CD-ROM to display the quotation or make a transparency of Appendix 1.

- Place the quotation from Peter Edelman and David Satcher on a transparency.
- Arrange the class in small groups and instruct each group to discuss and write their interpretations of the quote on the poster paper.
- The groups should read their quotations aloud to the class.
- Post the interpretations around the classroom.
- Discuss the original quote and the interpretations as a class. Here are a few possible questions.
  - Why is violence considered a public health problem?
  - Can violence be prevented?

#### Review:

Distribute copies of Identify the Conflict (Appendix 2). This activity will help students learn to identify conflicts. Ask the students to read each scenario and determine who and what the conflict involves.

#### Statement of Objectives:

*Today we will talk about ways to demonstrate positive conflict resolution skills. By the end of the lesson you will be able to identify conflicts, brainstorm non-violent solutions and demonstrate positive conflict resolution skills.*

#### Teacher Input:

*Violence is a serious problem in our society for people of all ages. Statistics on child abuse, spouse abuse, rape, suicide, homicide, assault, weapon carrying in schools, drug and gang "wars," and prison overcrowding indicate the problem is getting even worse.*

*Some of these violent acts can be prevented through education. All of us have learned ways, for better or worse, to deal with conflict. Many of us seem to have learned only violent ways, but anything learned can be unlearned and replaced with more appropriate skills. Research indicates that many violent youth are not even aware that non-violent alternatives for resolving conflicts exist. They have never seen these methods in action. It has never occurred to them to try anything other than violence.*

*The purpose of this lesson is to help students learn appropriate and healthful ways to deal with conflict, but violence is not the only target. Conflict, if not handled well, can contribute to a variety of unhealthy practices including drug use, unwise sexual behaviors, and unsafe driving. Conflict is at the root of many mental and social health issues as well. Habitual avoidance of conflict or always accommodating oneself to the wishes of others are, in addition to violence, learned but unproductive ways of dealing with conflict.*

*Conflict can be a useful indicator that a problem needs to be fixed. It is not all bad, but conflict produces nothing good for the student who is not skillful at resolving conflicts.*

Distribute to each student a copy of Styles of Resolving Conflicts (Appendix 3) and use a transparency to present the list of conflict resolution styles which have been identified by experts. Discuss the styles briefly.

### **Guided Practice:**

- Ask the students to refer to the scenarios listed in the review step. Have small groups work together to brainstorm possible outcomes of the conflicts listed utilizing the different styles of conflict resolution (competing, avoiding, accommodating, compromising, cooperating, and collaborating). For each scenario, have the groups decide who "won," who "lost," how each person felt, and a likely outcome of the conflict.
- Have each group create a skit using a conflict from the scenarios and one of the conflict resolution skills. The skit must have a realistic, positive and non-violent resolution.
- Each group will perform their skits for the class. The teacher and the students should provide feedback about the conflict resolution skills used in the skits.

### **Independent Practice:**

#### **Option 1**

- Explain that it is important for all of us to be aware of our usual style of resolving conflict. We can make a conscious effort to change our usual style if we are not satisfied with the results. Stress that there is not one way to handle every conflict. However, it makes sense that conflict resolutions without violence and with all parties at least partially satisfied are generally better. Conflicts solved by violence are not beneficial for anyone involved.
- Pass out the How I Resolve Conflicts handout (Appendix 4).
- Express to the students that they will not have to report their results to the class unless they choose to participate. Also explain that this is not a "personality" test or even a scientific questionnaire. The sole purpose is to stimulate students to think about how they deal with conflict in their own lives. Process the activity. Here are a few sample questions:
  - *What did you learn about yourself?*
  - *What are the potential positive and negative consequences of the way you handle conflict?*
  - *How can this exercise(s) improve a current relationship?*

#### **Option 2**

To apply the concepts of conflict resolution, ask students to brainstorm examples of conflicts they see every day (girlfriend/boyfriend is late in meeting you, again; you hear that an untrue rumor about you is going around school; your parents won't let you go to the dance; your sister borrows something of yours without asking). List students' examples on the board.

Distribute a copy of Choices (Appendix 5a, b, c) to each student. Ask students to read the scenario and alternate endings. Ask students if they think the endings are all realistic and why. Ask students if they think they would prefer one ending over another and why. Explain that it is valuable to consider different ways of resolving conflicts. Sometimes we can get stuck in a rut and not consider all of our options. When this happens, we probably are not resolving all of our conflicts as well as we might.

Divide the class into groups of 3 or 4, have groups select one of the conflicts listed on the board, think of as many ways as possible the conflict might have been or could be resolved, and make a list of these outcomes. Have groups select a different conflict and repeat the same procedure. Finally, ask groups to generalize from their lists. That is, ask each group to examine the outcomes they have described and try to identify some categories of ways people tend to resolve conflicts. After a few minutes, ask each group to report its categories. Record student suggestions marking paper.

Distribute to each student a copy of Styles of Resolving Conflicts (Appendix 3) and use a transparency made from it, to present the following list of conflict resolving styles which have been identified by experts. Discuss the styles briefly and ask students to relate the categories they previously generated to the list of styles on the transparency.

- competition (pursuing own goals; seeing conflict as a contest where one person wins and one loses)
- avoiding each other (not addressing the conflict; neglecting own needs and needs of others; no one wins)
- accommodating to the other party (giving in to the wishes of the other person; lose-win)
- compromising (satisfying some of the needs of each)
- cooperating (satisfying as many needs of each other as they can)
- collaborating (a win-win way of dealing with conflicts; fully satisfying own concerns as well as concerns of others)

Explain that it is important for all of us to be aware of our usual style of resolving conflicts. If we can identify how we typically resolve conflicts, we can make a conscious effort to change and try another style if we are not satisfied with the results of our normal style. Stress that there is no best way for all people to resolve all conflicts. Conflict resolution is a matter of judgment, but it makes sense that conflict resolutions which end up with all parties at least partly satisfied are generally better than other kinds. Interpersonal conflicts resolved by violence are not ultimately useful for anyone.

Give every student a copy of How I Resolve Conflicts (Appendix 4) and ask them to privately respond to the statements for themselves. State that they will not be required to reveal their responses.

When students have finished, briefly discuss each item so students will have a basis for interpreting the meaning of the questionnaire for themselves. Ask students for their interpretations of the meanings of the statements and responses. Caution students that this is

not a “personality” test or even a scientific questionnaire. The sole purpose is to stimulate students to think about how they go about dealing with conflict in their own lives.

Assign the following situation for homework: Tim and Jake are in a conflict about some money which Jake lent to Tim. Tim has not repaid the money. Have the students write examples of how this conflict might be handled using each of the following styles: competition, avoidance, accommodation, compromise, collaboration, and cooperation.

Encourage students to notice the variety of conflict situations in which they find themselves how they are handled.

**Closure:**

*Today we discussed positive ways to manage conflict. You now have the knowledge and skills to identify conflict and apply positive conflict resolution skills in your personal life.*

## Objective 4.06

### Formulate principles for healthful dating relationships

#### Materials Needed:

Index cards

Appendix 1 – Transparency of Dating Bill of Rights

Appendix 2 – Healthy vs. Unhealthy Relationship Behaviors (slips cut apart)

Appendix 3 – Copies of Relationships Contract

Appendix 4 – Copies of Go Out, Have Fun, Date, and Be Safe

Poster board, markers, contact paper, construction paper, newsprint, arts and craft materials

Appendix 5 – Rubric for Making a Brochure: Unhealthy Dating Relationships

Unhealthy Dating Relationships Brochure Template, STHSH III CD-ROM

Unhealthy Dating Relationships Brochure Rubric, STHSH III CD-ROM

#### Review:

Explain to students that dating can be a rewarding and fun experience. In order to get the most out of dating experiences, students need to use effective communication to convey expectations to their dating partners and should know their rights and responsibilities concerning dating.

- Divide the students into four or five co-ed groups. Distribute index cards with the following questions to each group.
  1. What do girls look for in a boy?
  2. What do boys look for in a girl?
  3. What behaviors on a date might make you feel uncomfortable? Why?
  4. Who should pay for a date? Why?
- Ask each group to choose a recorder to take notes on the main points discussed by the group and a reporter who will read the results of the group's discussion of each question. Allow 10-15 minutes for the groups to discuss the questions. Ask each reporter to describe the answers their groups came up with to the entire class.
- Process the activity by asking students if they were surprised by any of the answers they heard. Explain that effective communication about relationships and dating can help students avoid unpleasant surprises and experiences.

#### Focus:

- Read the following story from an anonymous female author to the class. Be sure to tell the students that although this story is written by a female about her male abusive partner, unhealthy relationships can happen to boys or girls and within opposite and same sex relationships.

*It started off like most relationships do. He was nice, good looking, and seemed to be interested in a lot of the things I was. Everything was going great for a while until he started getting overly concerned with where I was going and with whom I was spending time.*

*I didn't mind so much at first because I figured he must really love me to be so worried about me all the time. But then he began criticizing my clothes telling me I was dressing too "sexy" and accused me of flirting with other guys. He started getting jealous any time I wanted to go out with my friends, and he even accused me of cheating. We were arguing all the time and I began feeling like I couldn't do anything right anymore.*

*Sometimes he would get so mad I worried he might hit me. Luckily, he never did. The interesting thing is that I thought abuse just meant violence. I learned later that abuse can mean a lot of things.*

*The criticism never stopped and we eventually broke up because I realized that in his eyes, I would never be good enough.*

*I was lucky because a lot of people involved in emotionally abusive relationships don't realize it until it escalates out of control. I learned that sometimes, abuse can even feel like love.*

- Process the story with the class by having the students take out their health journals and free write for five minutes. Discuss the story as a class. Some suggested questions are:
  - *Can abusive relationships happen in teen relationships?*
  - *What behaviors listed in the story can be considered unhealthy?*
  - *Why do you think the author stayed with her boyfriend after he began treating her so badly?*

### **Statement of Objectives:**

*Today we are going to discuss healthy dating relationships. By the end of the lesson, you will be able to describe a healthy relationship, recognize behaviors may be considered unhealthy, and describe principles for healthy dating relationships.*

### **Teacher Input:**

*Dating violence is defined as a threat or act of violence against one member of a dating relationship by the other member of the dating relationship. This includes acts of sexual violence, physical abuse, as well as verbal and/or emotional abuse. When most people think about dating/domestic violence, they immediately think of adult victims. However, this issue affects teenagers also.*

*According to the Centers for Disease Control, one in four eighth and ninth grade students will be victims of a nonsexual violent incident at the hands of a dating partner. The study goes on to report that one in twelve eighth and ninth grade students are victims of sexual violence which is perpetrated by a dating partner. Minimal experience with relationships, poor relationships with parents, and lack of a healthy support network are all reasons which make teenagers vulnerable to dating violence.*

*Dating violence affects teens from all walks of life. It happens to teenagers of both genders, all socioeconomic levels, all geographic regions, and all ethnic groups. The effects of a violent relationship can be devastating. The teen may suffer from low self-esteem, become involved with alcohol and drugs, as well as engage in risky sexual behaviors which may lead to sexually transmitted diseases and/or unplanned pregnancies. Many people often wonder what keeps a teenager in a violent relationship. One reason a teenager might stay in an abusive relationship is because they may confuse jealousy and possessiveness with love. Teen victims often think any attention is better than no attention at all. Teens need to understand that conflict in relationships is okay. Violence is never ok. Another reason teenagers may stay in a violent relationship is that the victim is afraid the abuser will hurt or kill them if they attempt to leave the relationship or seek help. A victim may attempt to seek help from a parent or a teacher who might not take the teenager seriously due to their young age. This can be devastating to a young person who is looking for support or guidance. Often times the abuser has told the victim that no one will believe him or her or be able to help.*

*Parents, teachers, and anyone who works around teenagers need to be aware of the signs of dating violence. Signs of abuse can include, but are not limited to, physical abuse (hitting, pushing, or kicking), sexual abuse (forced sexual acts or intercourse, refusing to wear or use contraception), emotional/verbal abuse (threatening violence, breaking things, put-downs). The most important thing to remember is the abuse is never the victim's fault. Teenage victims need the support of their friends, family, teachers, and community. If a teenager you know is being abused, there are several things you can do to help. First, be supportive, listen, and believe his or her story. The next step is to make sure the victim does not need any medical attention. Help the teen decide what is the best course of action for his or her individual situation. Your local domestic violence agency can help educate the victim about his or her options.*

### **Guided Practice:**

Part 1: Explain to students that dating can be a rewarding and fun experience. In order to get the most out of dating experiences, students need to use effective communication to convey expectations to their dating partners and should know their rights and responsibilities concerning dating.

- Show the transparency of Dating Principles (Appendix 1). Place the students in groups of four or five. Assign each group the task of reading each 'right' and discussing examples of how this 'right' would benefit a healthy teen relationship. The groups should choose the three 'rights' they liked most and share with the class.
- Once each group has reported, ask individual students to choose the 'right' with which they feel the least comfortable (the behavior they may have difficulty claiming as their 'right'). For example, some students may feel uncomfortable saying 'no' to their dating partners. Once the students have identified a couple of 'rights' with which they feel uncomfortable, have them complete an in-class writing activity. The students should answer the following questions:

1. *Why do I feel uncomfortable with this 'right'?*
2. *What can I do to feel more comfortable with this 'right'?*
3. *Who in my life could assist me with this process?*

Share answers in small groups.

Part 2: It is important that teenagers realize there are some behaviors which are not normal in a healthy relationship. Explain to the class this next activity will help them learn to identify behaviors which support a healthy relationship.

Distribute the behaviors listed on the slips of paper to the students (created from Appendix 2, Healthy vs. Unhealthy Relationship Behaviors). On the board write the word HEALTHY on the left hand side of the board and the word UNHEALTHY on the right side of the board. Give the students a small piece of tape and have them decide where on the relationship continuum (which you have just created on the board) their slip of paper should be placed. Discuss each behavior and agree as a class whether the behavior is healthy, unhealthy or if it depends on the situation. (Answers for teacher: Healthy—laughing, friendship, intimacy, sharing, compromise; Unhealthy—control, blaming, fear, yelling, hitting, pushing, crying; Depends on Situation—laughing (both people should be having fun), crying (sometimes even healthy relationships have their hard times). There may be other answers if the students give a valid compelling argument.

Part 3: Explain to the class that a contract is an agreement between two people. Safe, fun dates do not just happen—they require a lot of planning and effective communication. This activity will help the students think through some of the more difficult aspects of dating.

Distribute a copy of the Dating Contract (Appendix 3) to each student. Ask them read the contract. Ask if this is a form they would use with a dating partner. Are there any questions on the contract which would make them feel uncomfortable discussing with a dating partner? Why or Why Not? Ask the students to add additional questions which might be important in future dating relationships.

Pass out a copy of the Go Out, Have Fun, and Date (Appendix 4) to each student. Place the student in groups and have them create a safe and healthy date for a teenager in your county. Once each group is finished, have the groups write their dates on newsprint and display around the school as suggestions for other students. Keep in mind the date must follow the guidelines suggested in the Go Out, Have Fun and Date. The date must also follow these rules:

- o Two to four hours in duration
- o Cannot spend more than 25 dollars
- o No sexual intercourse
- o No fast food
- o No movies
- o Must avoid high risk activities and/or behaviors

### **Independent Practice:**

#### **Option 1**

Tell the students they are going to create a want ad describing the kind of person and the type of healthy relationship they want. The students can be as creative as they wish. The want ad must include their qualities, desired partner's qualities, hobbies, and interests. The students can use arts and craft supplies, the computer, and magazines to create their want ads. The goal of this activity is to be creative and utilize the skills and knowledge from this lesson. This project will be turned in at a later class to give the students adequate time to work on the project.

#### **Option 2**

##### Unhealthy Relationship Brochure Template

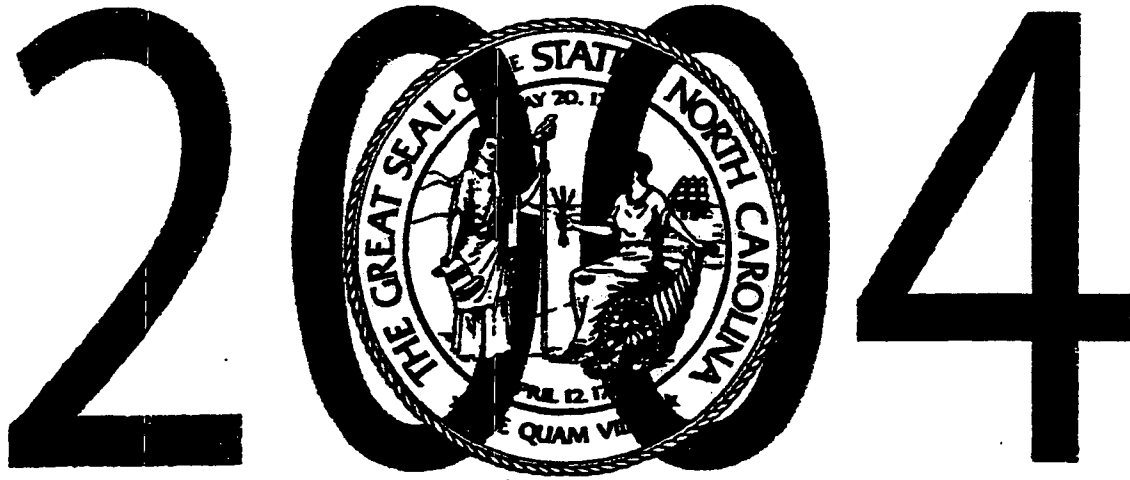
##### Unhealthy Relationship Brochure Rubric

Put students in pairs and have them create a brochure to be distributed at your school and to students at your middle school. Using the Unhealthy Dating Relationship Brochure Template, each pair will research and enter in the information requested. They have the freedom to change graphics in their project, but they will have to save it with a different name. Use the Unhealthy Dating Relationship Brochure Rubric (Appendix 5 and the STHSH III CD-ROM) to grade student projects.

### **Closure:**

*Today we discussed healthy relationships. You are now able to describe healthy relationships, recognize behaviors which may be considered unhealthy, and describe principles necessary to formulate healthy relationships.*





HOUSE BILL 1354  
SESSION LAW 2004-186

**AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC  
VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO  
DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER  
CHANGES AS RECOMMENDED BY THE HOUSE SELECT  
COMMITTEE ON DOMESTIC VIOLENCE**

Presentation to the N.C. Council for Women/Domestic Violence Commission  
September 30, 2004

**James B. Black**  
**Speaker**



**Richard T. Morgan**  
**Speaker**

Office of the Speaker  
North Carolina House of Representatives  
Raleigh, North Carolina 27601-1096

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## **HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**

**To the Honorable Members of the North Carolina House of Representatives:**

**WHEREAS**, North Carolina lost 74 people as a result of domestic violence homicides in 2002, an average of one person every five days according to information collected by the N.C. Coalition Against Domestic Violence; and

**WHEREAS**, experts in the field of domestic violence recognize that misdemeanor domestic violence cases can quickly escalate from misdemeanors to homicide cases; and

**WHEREAS**, a study of 238,000 misdemeanor cases from January 1, 1997 to October 11, 2002, indicates that there is a wide disparity between North Carolina Judicial Districts as to the successful prosecution of misdemeanor domestic violence cases; and

**WHEREAS**, the public has an interest in addressing the problem of domestic violence due to the deleterious effects on families, children, places of employment, and our communities; and

**WHEREAS**, the state owes a duty to its citizens to provide adequate remedies for pervasive problems that impact the health and welfare of its citizens.

**NOW, THEREFORE;**

**Section 1. The House Select Committee on Domestic Violence is established by the Speakers, effective August 12, 2003, as a select committee of the House under G.S. 120-19.6(a) and Rule 26(a) of the Rules of the House of Representatives of the 2003 General Assembly.**

**Section 2. The Select Committee consists of 24 members. The individuals listed below are appointed to the Select Committee. Members serve at the pleasure of the Speakers.**

1. Representative Marian McLawhorn, Co-Chair
2. Representative Wilma Sherrill, Co-Chair
3. Representative Alma Adams
4. Representative Lucy Allen
5. Representative Joni Bowie
6. Representative Lorene Coates
7. Representative Margaret Dickson
8. Representative Beverly Earle
9. Representative Jean Farmer-Butterfield
10. Representative Michael Gorman
11. Representative Julia Howard
12. Representative Linda Johnson
13. Representative Carolyn Justice
14. Representative Carolyn Justus
15. Representative Mary McAllister
16. Representative Tim Moore
17. Representative Earline Parmon
18. Representative Karen Ray
19. Representative Deborah Ross
20. Representative Mitchell Setzer
21. Representative Paul Stam
22. Representative Edith Warren
23. Representative Jennifer Weiss
24. Representative Keith Williams.

**Section 3. The Select Committee shall review the causes of domestic violence, the laws related to domestic violence in North Carolina, the law enforcement and judicial system responses to domestic violence cases, the severity of criminal penalties in domestic violence cases, the effectiveness of the**

1999 Crime Victims' Rights Act, and the adequacy of the data collection systems tracking domestic violence cases and homicides.

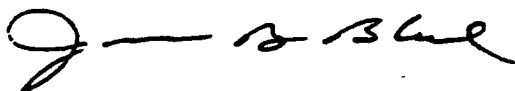
**Section 4.** The Select Committee shall report on the results of its study, including any proposed legislation, to the members of the House of Representatives, on or before April 15, 2004, by filing a report with the Speakers' offices, the House Principal Clerk, and the Legislative Library. The Select Committee terminates when the final report is filed.

**Section 5.** The Select Committee is authorized to meet during the interim period between regular sessions upon the call of its Co-Chairs.

**Section 6.** The Select Committee is vested with the authority contained in Article 5A of Chapter 120 of the General Statutes.

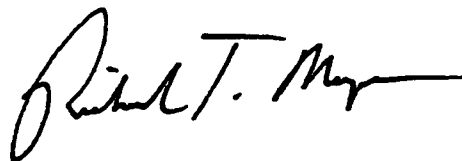
**Section 7.** Members of the Select Committee shall receive per diem, subsistence, and travel allowance at the rate established in G.S. 120-3.1.

**Section 8.** The expenses of the Select Committee shall be paid upon the written approval of the Speakers pursuant to G.S. 120-35 from funds available to the House of Representatives for its operation.



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James B. Black  
Speaker



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Richard T. Morgan  
Speaker

**HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE  
SUBCOMMITTEES**

**CIVIL LAW AND JUDICIAL ADMINISTRATION**

**Rep. Ross – Chair  
Rep. Moore  
Rep. Dickson  
Rep. McAllister  
Rep. Earle**

**(Wendy Ray – Staff)**

**CRIMINAL LAW ISSUES**

**Rep. Stam – Chair  
Rep. Earle - Chair  
Rep. Weiss  
Rep. Justus  
Rep. Johnson  
Rep. Gorman**

**(Hal Pell – Staff)**

**TREATMENT, PREVENTION, EDUCATION AND JUVENILE ISSUES**

**Rep. Bowie – Chair  
Rep. Coates  
Rep. Justice  
Rep. Parmon  
Rep. Adams  
Rep. Allen**

**(Susan Sitze – Staff)**

**VICTIM SERVICES**

**Rep. Warren – Chair  
Rep. Setzer  
Rep. Ray  
Rep. Howard  
Rep. Williams  
Rep. Farmer-Butterfield**

**(Susan Sitze – Staff)**

**EXCERPT FROM 2004 SUMMARIES PUBLICATION**

[http://www.ncleg.net/LegislativePublications/researchdivisio\\_/summariesofsubs\\_/summariesofsubs-4/default.htm](http://www.ncleg.net/LegislativePublications/researchdivisio_/summariesofsubs_/summariesofsubs-4/default.htm) .

## **Strengthen Domestic Violence Laws**

S.L. 2004-186 (HB 1354) makes various changes to strengthen the laws against domestic violence and to provide additional assistance to domestic violence victims.

**Part I: Domestic Violence Offender Treatment.** – The act requires attendance and completion of an abuser treatment program while on probation if the court finds that the defendant is responsible for acts of domestic violence and there is a program reasonably available to the defendant. If the court makes those findings, the court must order the treatment as a regular condition of probation unless the court finds that it would not be in the best interest of justice.

The act also requires the Department of Correction to establish a domestic violence treatment program for offenders in the custody of the Department whose official record includes a finding by the court that the offender committed acts of domestic violence. The Department must ensure that those inmates complete the domestic violence treatment program prior to being released, unless other requirements deemed critical by the Department prevent program completion. If the inmate does not complete the program, the Department must document, in the inmate's official record, specific reasons why that inmate did not or was not able to complete the program.

This part is effective December 1, 2004 and applies to offenses committed on or after that date.

**Part II: Domestic Violence Training for Law Enforcement.** – The act requires the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to establish minimum standards for training of law enforcement officers in domestic violence. The training standards shall be developed for entry-level employment, for in-service training, and for certification of instructors, and shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence based prosecutions.

The Commissions must have the training in place no later than March 1, 2005 and must report to the General Assembly on or before March 1, 2005 on the exact standards implemented and the date they were implemented.

This part became effective August 12, 2004.

**Part III: Study of Anti-Violence Education in Schools and Training for School Personnel.** – The act requires the Department of Public Instruction, in collaboration with the State Board of Education, to study the issue of anti-violence programs in schools. The Department is directed to address several questions and to look at different programs used across the country.

The Department is required to issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by November 15, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

The act also requires the Department of Public Instruction, in collaboration with the State Board of Education, to study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence.

The Department is required to issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by November 15, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

**Part IV: Legal Services for Victims of Domestic Violence.** – The act creates a new Domestic Violence Victim Assistance Act to provide legal services to domestic violence victims. This section requires the North Carolina State Bar to disburse funds under this act to legal services organizations that provide legal services to domestic violence victims.

The funds are disbursed to the organizations based on the counties they serve, with each county receiving a fixed 20% amount and the remaining 80% of the funds distributed to the counties based on the rate of actions filed for 50B domestic violence protective orders in that county.

The act creates a \$100 fee for pro hac vice motions in North Carolina. A pro hac vice occurs when an out of state attorney, who is not licensed to practice law in North Carolina, asks a North Carolina court to allow that attorney to appear in court in North Carolina for one particular case. Currently, North Carolina does not charge any fee for these motions, although many states do. The fees collected go to the General Court of Justice.

The act also sends ninety-five cents (\$.95) of each civil and criminal court fee to the State Bar to fund the provisions of Section 4.1 of this act.

The fee for pro hac vice motions becomes effective October 1, 2004, and applies to all motions filed on or after that date. The sections that authorize that \$.95 of each civil and criminal court fee go to the State Bar become effective October 1, 2004, and apply to fees assessed or paid on or after that date. The section that creates a new Domestic Violence Victim Assistance Act became effective August 12, 2004.

**Part V: Domestic Violence Advocates on Child Fatality Task Force.** – The act adds two domestic violence advocates to the Child Fatality Task Force. This provision removes 2 public members from the task force and adds a representative from the North Carolina Domestic Violence Commission, appointed by the Speaker, and a representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore. The public members being removed must complete their current terms.

This part became effective August 12, 2004.

**Part VI: Study of Mental Health Services for Domestic Violence Victims.** – The act requires the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs, including providing diagnostic and referral services.

The Department is required to make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by October 1, 2004, and a final report to Mental Health Oversight and the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

**Part VII: Study of CLE Credit for Pro Bono Legal Representation.** – The act requires the North Carolina State Bar, in cooperation with the North Carolina Bar Association, to study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar is required to make a preliminary report to the House Select Committee on Domestic Violence by October 1, 2004, and a final report to the General Assembly by January 15, 2005.

This part became effective August 12, 2004.

**Part VIII: Domestic Relationship Aggravating Factor.** – The act amends the portion of the Criminal Procedure Act that applies to aggravating the sentence for a defendant who has been convicted of a felony offense. In felony sentencing, there are three ranges for the sentencing judge to determine a minimum sentence length.

Following is an example of the sentencing options for a person who has been convicted of a Class D felony, and who has no prior record points (no prior offenses):

Aggravated Range: 64-80 Months

Presumptive Range: 51-64 Months

Mitigated Range: 38-51 Months

If a court finds that aggravating or mitigating circumstances exist, it may depart from the presumptive range. If the aggravating factors present outweigh the mitigating factors that may be present, then the court may sentence in the aggravated range (and vice versa). [Note: If a firearm is used, displayed, or threatened to be used in the course of the offense, a separate statute provides that an additional 60 months may be added to the minimum sentence.]

One of the current statutory aggravating factors is set forth at G.S. 15A-1340.16(d)(15): "The defendant took advantage of a position of trust or confidence to commit the offense." The factor generally has been applied to defendants who have been in a fiduciary relationship with the victim, e.g., embezzled money from the victim.

The amendment clarifies that a defendant may also take advantage of the trust or confidence in a domestic relationship to commit the offense. "Domestic relationship" is not defined in the section; however, domestic violence is defined by statute [G.S. 50B-1(a)], and applies to those with whom the defendant has a "personal relationship." G.S. 14-134.3, Domestic Criminal Trespass, has a more restrictive application. It applies to a present or former spouse, or when the parties had lived together as married. The State has the burden of proving that the defendant did, in fact, take advantage of the relationship to commit the offense. If the trial judge sentences in the aggravated (or mitigated) range, then the judge must make written findings.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

**Part IX: Create Strangulation Offense.** – The act creates a new criminal offense: assault by strangulation. The offense is a Class H felony. The State has the burden of proving that the defendant attempted to strangle the victim, and cause physical injury by the act of strangulation. A first time offender would be subject to community punishment, intermediate punishment, or an active sentence. The presumptive range for an active sentence would be a minimum of 5-6 months.

Although the term "serious bodily injury" is defined by statute, the terms "serious injury" and "physical injury" are not. Whether or not serious or physical injury has occurred is a jury determination, based upon common law.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

**Part X: Amend Habitual Misdemeanor Assault Statute.** – The act amends the habitual misdemeanor assault statute by:

- > Reducing the number of necessary prior convictions from five to two;
- > Allowing any prior assault conviction (whether misdemeanor or felony) to count as a prior conviction, with the earlier conviction no more than 15 years prior to the current violation;
- > Requiring that the assault involved physical injury to the victim; and



- Providing that a conviction of the statutory offense could not be used as a prior felony conviction for any other habitual offense statute.

Currently, an offender must have five prior misdemeanor convictions, two of which are assault convictions, to qualify as a habitual misdemeanor assault offender on a third assault conviction.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

**Part XI: Domestic Violence Offense Tracking.** – The act adds a new provision to provide for reporting offenses involving domestic violence. In cases involving assault or communicating a threat, the judge will determine whether there was a personal relationship between the offender and the victim. If so, there will be an annotation on the judgment to reflect that the case involved domestic violence. The clerk of court is required to make the appropriate entry into the offender's official criminal record to reflect that the offense involved domestic violence.

- The offender has to be in a personal relationship, as defined by statute.
- The entry will be made in all cases (including a murder), where the underlying conduct was assaultive in nature.
- Any person making a lawful inquiry into a person's criminal history will be able to determine that the person has been convicted of an offense involving domestic violence.

If the judge determines that there was a personal relationship, then the judge is also required to determine whether the defendant should be required to comply with any special conditions of probation. Due to an ambiguity in the statutes, the new provision makes clear that the judge may (but is not required to) sentence the defendant to house arrest with electronic monitoring.

This part is effective December 1, 2004, and applies to offenses committed on or after that date.

**Part XII: Study of Misdemeanor Offense Classifications.** – The act requires the North Carolina Sentencing and Policy Advisory Commission to study the classification of misdemeanor offenses, and to develop a system for classifying misdemeanor offenses based upon their severity. The Commission is required to examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. This section includes a finding by the General Assembly that the classification of assault offenses that cause serious injury as misdemeanors is inconsistent with the Commission's own classification of felonies based upon harm. The Commission is required to report to the 2005 General Assembly, 2005 Regular Session, with its findings and recommendations (status and any completed recommendations). A final report is due to the 2005 General Assembly, 2006 Regular Session.

This part became effective August 12, 2004.

**Part XIII: Warrantless Arrest for Violation of Pretrial Release Conditions.** – The act amends the law to provide that if a law enforcement officer has probable cause to believe that a person has violated a condition of a pretrial release order in a domestic violence case, then the officer may arrest the defendant without a warrant. The arrest must be based upon a violation of one of the following provisions of a release order issued under G.S. 15A-534.1(2):

- That the defendant stay away from the home, school, business or place of employment of the alleged victim;
- That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
- That the defendant refrain from removing, damaging or injuring specifically identified property; or
- That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

A pretrial release order in a domestic violence case may be entered where the defendant has been arrested for assault on, communicating a threat to, domestic criminal trespass, or committing various felonies upon a spouse or former spouse, or upon someone with whom the defendant has lived as if married.

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

**Part XIV: Conform State Firearms Law to Federal Law.** – The act amends North Carolina law to provide that a person who is a convicted felon may not possess any firearm. A "firearm" would be defined to parallel the definition of "firearm" under federal law. Current State law allows a convicted felon to own guns with a barrel length that is 18 inches or longer, or an overall length of 26 inches or more. It also allows convicted felons to possess any firearm in their home or "place of business".

This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

**Part XV: Specifically Allow Cross Warrants.** – The act clarifies that a judicial official cannot refuse to issue a warrant solely because a warrant had been issued for the arrest of another person in the same case.

This part became effective August 12, 2004.

**Part XVI: Clarify Nurse's Privilege.** – The act clarifies that if a written or printed record (as opposed to live testimony) is otherwise admissible (e.g., not excluded by the hearsay rule), then it may be entered into evidence. The nurse's privilege applies to any information that the nurse acquired that was necessary to render professional nursing services. If the information was not necessary to the rendering of services, then the nurse may be required to disclose the information. A presiding judge may compel the disclosure of evidence if the judge believes that its disclosure is necessary for a proper administration of justice.

The act also makes a technical change to add the nurse's privilege (passed last Session), in the provision that excludes evidence of child abuse from the physician-patient privilege in juvenile proceedings.

This part becomes effective December 1, 2004.

**Part XVII: Temporary Child Custody in Domestic Violence Hearings.** – The act removes the current limitations under which courts may address temporary custody under Chapter 50B.

**Custody under Chapter 50B at the ex parte stage.** – The act amends the law regarding ex parte custody orders by allowing the court to enter orders at that stage if the child is exposed to a substantial risk of physical or emotional injury (not "bodily" injury) or sexual abuse. This gives the court more discretion in deciding when a child is at risk.

The changes also require the court, if requested by the aggrieved party, to consider whether the other party should stay away from the child, or return the child to, or not remove the child from, the physical care of a parent or person in loco parentis. If the court decides the other party should have contact with the child, it is required to issue an order specifying the terms of contact to protect the safety of the child and the aggrieved party.

The same provisions apply to an authorized magistrate issuing an ex parte protective order.

**Custody under Chapter 50B at a hearing following notice to the other party.** – The act creates new requirements for the court when deciding whether to award temporary custody and visitation rights at a hearing under Chapter 50B after the other party has received notice or service of process. Rather than being discretionary, the court is required to consider the issue of custody upon the request of either party. However, it ultimately is within the discretion of the court to decide whether to actually grant an award of custody.

In determining whether custody and visitation should be awarded, the court is required to consider the following listed factors:

- Whether the child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
- Whether the child was present during acts of domestic violence.
- Whether a weapon was used or threatened to be used during any act of domestic violence.
- Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the child.
- Whether a party placed the aggrieved party or the child in reasonable fear, of imminent serious bodily injury.
- Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
- Whether there is a pattern of abuse against an aggrieved party or the child.
- Whether a party has abused or endangered the child during visitation.
- Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
- Whether a party has improperly concealed or detained the child.
- Whether a party has otherwise acted in a manner that is not in the best interest of the child.

If the court decides to award temporary custody, then the court is also required to consider visitation. If ordering visitation, the court must provide for the safety and well being of both the child and the aggrieved party. The order must give specific parameters or conditions for the visitation, and may include any of the following:

- Exchange of the child in a protected setting;
- Supervised visitation;
- Treatment for the non-custodial parent;
- Restricting either parent from possessing or consuming controlled substances;
- Requiring the non-custodial parent to pay for supervised visitation;
- Prohibiting overnight visitation;
- Requiring a bond for the return of the child;
- Ordering an investigation or appointment of GAL for the child; and
- Any other conditions deemed necessary.

**Duration of orders.** – The duration of temporary custody orders entered under Chapter 50B are limited to a maximum of one year. While a protective order can generally be renewed indefinitely, any provisions awarding custody are not eligible for renewal beyond the initial one-year period. In addition, any subsequent custody order entered under Chapter 50 will supersede a temporary order entered under Chapter 50B.

**Custody under Chapter 52.** – G.S. 50-13.2 is amended so that the new provisions set out in Chapter 50B, requiring courts to consider specific listed factors, apply in all custody cases where the court finds that domestic violence has occurred.

This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

**Part XVIII: Prohibit Employment Discrimination Against Domestic Violence Victims.** – The act adds a section to Chapter 50B prohibiting employers from discriminating against an employee for taking reasonable time off to appear in court when he or she is seeking relief under Chapter 50B. The employee is required to follow the employer's usual leave procedures, unless an emergency prevents the employee from doing so. An employer may require documentation of the emergency that prevented advance notice of the time off and/or of the need to appear in court.

This provision will be enforced by the Commissioner of Labor pursuant to Article 21 of Chapter 95 (Retaliatory Employment Discrimination). Under Article 21, if an employee feels that a violation has occurred, he or she may file a complaint with the Commissioner, who will initiate an investigation. If the Commissioner determines that there is reason to believe the allegations are true, the Commissioner may try to resolve the alleged violation through informal methods. If the

Commissioner is unsuccessful, he or she must file a civil action on behalf of the employee or issue a right to sue letter to the employee enabling the employee to bring a civil action. The court may award any or all of the following types of relief:

- An injunction to enjoin continued violation;
- Reinstatement of the employee;
- Reinstatement of full fringe benefits and seniority rights; and
- Compensation for lost wages, lost benefits, and other economic losses. (If the court finds that the violation was willful, the court shall treble the amount of damages awarded.)

This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

**Part XIX: Privacy for 50B Intake.** – The act requires the clerk of superior court, whenever feasible, to provide a private area for 50B complainants to fill out forms and make inquiries.

This part became effective August 12, 2004.

**Part XX: Training for Judges and Court Personnel.** – The act requests the North Carolina Supreme Court to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

The act also directs the Administrative Office of the Courts to study the issue of training for court personnel in the area of domestic violence, and to report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

This part became effective August 12, 2004. (SS)

## **Child Restraint Systems Modified**

S.L. 2004-191 (SB 1218). See **Transportation**.

## **Notice for Child Support Enforcement**

S.L. 2004-203, Sec. 42 (HB 281, Sec. 42). See **Civil Law and Procedure**.

## **Studies**

### **New/Independent Studies/Commissions**

#### **Smart Start Funding Study**

S.L. 2004-161, Part XXXV (SB 1152, Part XXXV) establishes a Smart Start Funding Study Commission. The Commission shall study the funding of the North Carolina Partnership for Children, Inc. and shall consider the following:

- The current funding system of the North Carolina Partnership for Children, Inc.
- Strategies for achieving full funding and full service for North Carolina's young children and families.
- Funding equity among all counties and local partnerships.
- Any other information the Commission deems relevant.

# **Task Force on the Safety of the Campus Community**

**The University of North Carolina  
Office of the President**

**Final Report**  
*December 14, 2004*

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## **Executive Summary**

In the spring of 2004, the entire University community was stunned and saddened by the tragic deaths of two students attending the University of North Carolina at Wilmington. In the wake of those events, as well as tragedies involving students at other UNC campuses in recent years, UNC President Molly Corbett Broad and other University leaders expressed a responsibility and a shared resolve to ensure that we are doing everything feasible to provide a safe environment on each and every UNC campus.

In June 2004, President Broad established a University-wide Task Force on the Safety of the Campus Community. This 17-member task force, which included students, faculty, and representatives from a number of related campus departments (e.g., campus police, student affairs, admissions, and legal affairs), was asked to look across the entire University to gauge whether or not further steps could be taken to improve or strengthen current policies and regulations impacting campus safety. In laying out the charge to the task force, President Broad acknowledged that it is beyond our power to completely insulate the campus community from the violence that is increasingly prevalent in our society, and that it is crucial that the University not retreat from its historic commitment to access and openness.

The task force found that the crime rate for UNC campuses is only one-sixth of the statewide crime rate and that the data clearly indicated the vast majority of UNC students will not be directly impacted by or become the victim of a violent crime while enrolled as a student on a UNC campus. Over the past three years, more than 250,000 individuals have been enrolled as students on UNC campuses, yet only 21 students who committed a violent crime on campus during that time had a prior criminal history. Only

13 of these 21 students did not disclose their prior criminal background on their application for admission. After considerable research and deliberation, the task force has offered a number of prudent and reasonable recommendations intended to improve both the UNC admissions process and the overall safety of the campus community.

These recommendations include:

- **Standardize those questions on all UNC admissions applications that address student integrity and behavior.**
- **Develop reasonable and cost-effective methods to verify completeness and accuracy of applicant information. Among others, such methods would include verifying previous attendance at other educational institutions, verifying student disciplinary records, and developing a mechanism through which campuses could request, on a case-by case basis, criminal background checks of applicants, admitted students, and/or enrolling students.**
- **Train campus staff in how to identify and respond appropriately to applicants who may pose a threat to the safety of the campus community if admitted.**
- **Every campus should maintain a Campus Safety Committee.**
- **Each campus should conduct the following:**
  - a) **Campus Threat Assessment – to identify sources from which significant threats to campus safety are most likely to occur;**
  - b) **Campus Safety Inventory – to identify current safety practices, procedures, and resources; and**
  - c) **Safety Climate Survey – an annual survey of students, faculty, and staff.**
- **Faculty should receive educational programs to make them aware of indicators in student behavior that can serve to warn us of the potential for danger.**
- **Present students with pending non-academic charges at a campus should be prevented from withdrawing from the University until the judicial process has been completed and recorded.**



Providing a secure and safe university community requires an ongoing commitment and daily attention to the changing environment of our campuses and the communities in which they reside. Working in partnership with members of the campus and surrounding communities, as well as with the public schools, and other institutions of higher education, we can continue to take positive steps to ensure a safer and more secure campus environment.

# **Task Force on the Safety of the Campus Community**

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# **Task Force on the Safety of the Campus Community**

**Final Report**  
December 14, 2004

## **BACKGROUND AND CONTEXT**

The 16 constituent campuses of the University of North Carolina collectively enroll nearly 190,000 students and employ more than 37,000 faculty and staff. While the campuses vary widely by geographic location, size, mission, and culture, each offers a relatively safe environment in which to live, work, and learn. On an ongoing basis, all UNC campuses commit significant resources to promoting the safety of students and employees. Every campus, for example, has a standing committee on campus safety, a crisis management team, and/or a working task force on campus safety, sexual assault, or related safety issues. There are numerous ongoing education and awareness programs provided on every campus, as well. Nonetheless, we know that we cannot entirely insulate members of the University community from the realities of modern society.

In the spring of 2004, the entire University community was stunned and saddened by the tragic deaths of two students attending UNC Wilmington. In the wake of those events, as well as tragedies involving students at other UNC campuses in recent years, UNC President Molly Corbett Broad and other University leaders expressed a responsibility and a shared resolve to ensure that we are doing everything possible to provide a safe environment on each and every UNC campus.

UNCW Chancellor Rosemary DePaolo moved quickly in establishing two campus working groups to carefully review UNCW policies and practices and make

recommendations to enhance the safety of the campus community. And in June 2004, President Broad established a University-wide Task Force on the Safety of the Campus Community. This 17-member task force, which included students, faculty, and representatives from a number of related campus departments (e.g., campus police, student affairs, admissions, and legal affairs), was asked to look across the entire University to gauge whether or not further steps could be taken to improve or strengthen current policies and regulations impacting campus safety. In laying out the charge to the task force, President Broad acknowledged that it is beyond our power to completely insulate the campus community from the violence that is increasingly prevalent in our society, and that it is crucial that the University not retreat from its historic commitment to access and openness.

In its early meetings, the task force reached consensus on the need to examine safety issues in two distinct areas. One area focused on the pre-enrollment process of identifying students who might pose a potential danger to the campus community. The second area of study focused on the safety of the overall campus environment. As a result, the task force broke into two separate working groups, the Admissions Subcommittee and the Campus Environment Subcommittee. Each subcommittee held numerous meetings and conference calls, while additional meetings of the full task force were held to align and synthesize the work of the two groups. The work and findings of each group and the resulting recommendations of each subcommittee are presented below.

## **DATA COLLECTION**

The task force identified several categories of information that it considered essential to understanding the range and scope of safety issues within the campus community. Comparison data on crime statistics for the state of North Carolina, as well as a survey of practices at other universities across the country, were collected. An initial review of the literature on what is known about college students who commit crimes and the possible impact of instituting additional background checks was conducted. In sum, the task force received the following data for review and study:

- General crime statistics for the State of North Carolina (2003);
- Data on violent crimes reported across the 16 UNC campuses from July 2001 – June 2004;
- Number of undergraduate applications, acceptances, and enrolled students on UNC campuses for fall 2004;
- Admissions applications of students who committed violent crimes during the three-year period noted above after enrolling on a UNC campus;
- Responses to a survey of admissions practices and use of criminal background checks by members of the Association of Chief Admissions Officers of Public Universities (ACAOPU) from across the country (Appendix E);
- Responses to a survey of North Carolina Independent Colleges on their use of criminal background checks (Appendix E); and
- An initial review of literature on college students who commit crimes.

Task force members were also provided a copy of *The Gift of Fear* by Gavin de Becker (1997). This book, which draws on de Becker's decades of studying violence, offers practical lessons for protecting ourselves from the dangerous situations people typically face. It addresses the complexities of violent behavior, validates the importance of personal intuition, and details how to tap into and act on the subtle warning signs that

herald danger. After learning of the task force's interest in his work, Mr. de Becker generously offered to have Robert Martin, vice president of Gavin de Becker and Associates, consult *pro bono* with the task force. Mr. Martin met with the task force in September and provided consultation by telephone as requested.

#### **OVERVIEW OF KEY TASK FORCE FINDINGS:**

- The vast majority of UNC students will not be directly impacted by (or become the victim of) a violent crime while enrolled on a campus of the University of North Carolina.
- The crime rate for UNC campuses is only one-sixth of the statewide crime rate.
- The total unduplicated student population for the three-year period July 1, 2001, through June 30, 2004, was approximately 250,000 individuals. During this period, a total of 1,086 campus crimes were reported. A student was identified as the suspect in 532 (49%) of these cases.
- The most prevalent form of crime reported was simple or aggravated assault, with approximately 80% of all assaults being simple assaults.
- Over the three-year period examined, 58% of campus crimes occurred inside residence halls or other campus buildings.
- Excluding simple assaults, approximately 250 serious crimes were committed during this three-year period in which a UNC student was identified as the suspect.
- Among the 250,000 individual students enrolled on a UNC campuses during the three-year time period examined, only 21 who committed a campus crime also had a prior criminal history.
- Only 13 of the 21 students cited above did not disclose their prior criminal history on their application for admission.
- Victims of reported campus crimes were almost evenly divided between men and women.
- In approximately half of all reported incidents, the victim and suspect knew each other.

Taken together, the data and information reviewed confirmed that UNC institutions offer relatively safe environments for members of the campus community to learn, work, and live. In fact, when we compare incidents of violent crime on UNC campuses to the crime rate of North Carolina as a whole, UNC campuses are shown to be substantially safer. For 2003-04, the rate of violent crimes for North Carolina was 450 crimes per 100,000 people. For the three-year period from 2001-2004, we estimate the comparable rate for UNC campuses to be 70 crimes per 100,000 people, or about 15 percent of the statewide rate. Moreover, only 13 of the 250,000 students who attended a UNC campus during this period failed to disclose a prior criminal record at the time of admission and went on to commit a serious crime while enrolled.

#### **ADMISSIONS SUBCOMMITTEE FINDINGS and RECOMMENDATIONS**

The Admissions Subcommittee was chaired by Stephen Farmer, Director of Admissions at UNC-Chapel Hill. The subcommittee addressed four specific questions:

- 1) What information is needed to predict or raise appropriate concern about a prospective student's possible threat to a campus community?
- 2) How can we collect and verify this information?
- 3) When should we collect and verify the information?
- 4) How can we use this information systematically, reliably, and fairly?

The committee began with a review of the literature in what is known about college students who commit crimes and a discussion of the DeBecker book, *The Gift of Fear*. Much of the early discussion centered on the role of the admissions office in screening prospective students who might pose a threat to the university community.

To understand the scope of the issue, the committee examined data on the number of applicants for admission to UNC campuses; the questions currently asked on

admissions applications; the use of criminal background checks by colleges and universities across the country; results of the crime surveys of the campuses; and the admissions applications of students who had committed crimes on the campuses between July 1, 2001, and June 30, 2004. It is noteworthy that for the freshman class entering in fall 2004 alone, there were approximately 100,000 applications for undergraduate admissions to UNC submitted, which resulted in 60,000 offers of admission. Prospective transfer and graduate students generated an additional 39,000 applications for admissions. After several months of debate, discussion, and intensive review of the data, the subcommittee made recommendations in three areas.

**Recommendation 1:**

**Standardize on all UNC admissions applications those questions that address student integrity and behavior.**

- a) Ask clear and consistent questions concerning disciplinary, criminal, military, and enrollment history.*
- b) Emphasize that failing to provide complete and accurate information will constitute grounds for immediate denial of admission, withdrawal of admission, and/or withdrawal of enrollment.*
- c) Require applicants to report criminal history between the date of application and the date of enrollment.*

**Recommendation 2:**

**Develop reasonable and cost-effective methods to verify completeness and accuracy of applicant information.**

- a) Before a student enrolls, compare applicants against the UNC expulsion/suspension database maintained by the Office of the President.*
- b) Before a student enrolls, compare applicants against the National Student Clearinghouse and/or a system-wide enrollment-history database to determine if the student has attended other educational institutions that were not listed on the application.*



- c) *Before a student enrolls from a home school or other non-traditional setting, compare the student against the enrollment database in the NC Department of Public Instruction (DPI).*
- d) *Request that DPI report long-term secondary-school suspensions and expulsions on transcripts or on transcript supplements. Make the same request of independent and parochial schools.*
- e) *Request that the North Carolina Community College System (NCCCS) report campus-based reported crimes and non-academic suspensions and expulsions on transcripts or on transcript supplements.*
- f) *Examine the feasibility of developing a concise, behavior-related checklist that would help screen student applicants for further scrutiny. Work with DPI and NCCCS to determine if such a behavior-related checklist could be attached as a transcript supplement.*
- g) *Develop a mechanism through which campuses could request, on a case-by case basis, criminal background checks of applicants, admitted students, and/or enrolling students. Develop guidelines for the use of such checks that will protect students against profiling and ensure some degree of consistency across the system.*

The Admissions Subcommittee concluded that given the extremely small number of students who failed to provide accurate and truthful information on their applications and went on to commit a campus crime, the widespread and routine use of criminal background checks on all students would be neither cost-effective nor significantly improve safety. However, there are specific “triggers” that can be identified and that do warrant the need for a more thorough background check, e.g., an unexplained gap in time between high school graduation and application for admission. These “triggers” should be included in the guidelines to be developed in *Recommendation 2g*.

**Recommendation 3:**

**Train campus staff in how to identify and respond appropriately to applicants who may pose a threat to the safety of the campus community if admitted.**

- a) *Request that the Office of the President, in consultation with campus admissions directors, develop and implement a training program for admissions officers that would help those officers assess each application for potential risk.*
- b) *Require each campus to develop and follow written policies pertaining to the identification and evaluation of applicants with serious criminal or disciplinary records.*

**[Note: Details of these recommendations may be found in the Subcommittee's final report in Appendix C.]**

### **CAMPUS ENVIRONMENT SUBCOMMITTEE FINDINGS and RECOMMENDATIONS**

The Campus Environment Subcommittee was chaired by Garrie Moore, Vice Chancellor for Student Affairs at East Carolina University. The goal of the subcommittee was to identify salient issues related to the safety of students on campus and to consider possible changes to policies, procedures, or educational programs to further enhance the safety of the campus community.

The subcommittee reviewed the campus crime reports in detail with a focus on the type of incident, its location, the relationship of suspect and victim, and the gender of suspect and victim. Robert Martin from Gavin de Becker and Associates consulted extensively with the committee and with the chair on issues related to predicting violent behavior, being attentive to the warning signs of potential danger, essential components of a threat assessment, and elements of educational programs that help prevent violent acts. As a result, the subcommittee formed the following recommendations.

#### **Recommendation 1:**

**Every campus should maintain a Campus Safety Committee.**

- *The committee should identify a senior-level coordinator to manage a campus-wide safety plan. The committee should have direct input into policy change and implementation*

**Recommendation 2:**

**Each campus should conduct the following:**

- a) Campus Threat Assessment – to identify sources from which significant threats to campus safety are most likely to occur;**
- b) Campus Safety Inventory – to identify current safety practices, procedures, and resources; and**
- c) Safety Climate Survey – an annual survey of students, faculty, and staff.**

*Taken together, this information should be used to formulate the Campus Safety Plan and should identify any changes that are needed in existing policies and procedures, educational programs, and resources to meet any identified threats to safety.*

*The campus should also consider appropriate vehicles for the delivery of educational programs and whether they should be a required course unit with credit or if these educational programs are integrated into alternative delivery programs, e.g., orientation or first-year seminar programs.*

[Note: The Office of the President should provide system-wide guidelines for the assessment, audit, survey, and safety plan.]

**Recommendation 3:**

**Faculty should receive educational programs to make them aware of indicators in student behavior that can serve to warn us of the potential for danger.**

**Recommendation 4:**

**Students with pending non-academic charges at a campus should not be allowed to formally withdraw from the University until the judicial process has been completed and recorded.**

[Note: Details of these recommendations may be found in the Subcommittee's final report in Appendix D.]

## **CONCLUSIONS**

The safety of students, faculty, and staff is a primary concern on every campus of the University of North Carolina. Each campus is an integral part of the surrounding community and strives to promote an open and welcoming environment. Even though the crime rate on UNC campuses is only a small fraction of the overall statewide crime rate, no university community is immune from violent crime that is increasingly prevalent in our society. However, the data clearly indicate that the vast majority of UNC students will not be directly impacted by or become the victim of a violent crime while enrolled as a student on a UNC campus.

More than 250,000 students have been enrolled at UNC campuses over the past three years, and during that time only 21 students who committed a crime on campus had a prior criminal history. Only 13 of these 21 students did not disclose their prior criminal background on their application for admission.

Even though the number of students who falsify their admission information and commit a crime on campus is extremely low, the University-wide Task Force on the Safety of the Campus Community has offered a number of prudent and reasonable recommendations designed to help to screen out applicants who attempt to intentionally mislead the university. These recommendations include:

- **Compare applicants to new and existing databases to ensure complete and accurate information;**
- **Train the admissions staffs on how to identify applicants who may pose a threat to the campus community and require further investigation;**
- **Campuses should perform regular safety audits and threat assessments; and**

- **Review and enhance educational programs on safety for students, faculty, and staff.**

The impact of these recommendations will be assessed periodically by both the campuses and the UNC Office of the President.

Providing a secure and safe university community requires an ongoing commitment and daily attention to the changing environment of our campuses and the communities in which they reside. Working in partnership with members of the campus and surrounding communities, as well as with the public schools and other institutions of higher education, we can continue to take positive steps to ensure a safer and more secure campus environment.

## Appendix A

# **Campus Crime Survey Form**

# UNC Task Force on Safety of the Campus Community

## *Campus Crime Survey*

### Instructions

The UNC Task Force has requested information on violent crimes that have occurred on each campus from **July 1, 2001 through June 30, 2004**. For each incident of a violent crime that occurred during this time period, please complete a survey form for that incident. Please make additional copies of the survey form if needed. Thank you.

UNC Institution: \_\_\_\_\_

Name of person completing survey: \_\_\_\_\_

Telephone # ( ) \_\_\_\_\_

1) Date of reported incident: \_\_\_\_\_

2) What type of crime was committed? (check all that apply)

- ☐ Aggravated/simple assault
- ☐ Forcible/non-forcible sexual offense
- ☐ Kidnapping
- ☐ Manslaughter
- ☐ Murder
- ☐ Robbery
- ☐ Stalking
- ☐ Other, please specify: \_\_\_\_\_

3) Is/was the suspect:

- a) ☐ male  
☐ female

- b) ☐ student at this institution (go to 3c)  
☐ student at another institution (go to 3e)  
☐ non-student (go to 3d)

c) If suspect is/was a student at this institution, was he/she?

- ☐ native student (entered as a freshman)
- ☐ transfer student
- ☐ other, please explain: \_\_\_\_\_

d) If suspect was not a student, was he/she one of the following? (check all that apply)

- ☐ campus employee
- ☐ guest of student
- ☐ community resident
- ☐ unknown
- ☐ other, please explain: \_\_\_\_\_

e) Age of suspect: \_\_\_\_\_

(OVER)

4) Is/was the victim:

- a) ☐ male  
☐ female
- b) ☐ student at this institution (go to 4c)  
☐ student at another institution (go to 4e)  
☐ non-student (go to 4d)
- c) If victim is/was a student at this institution, was he/she?  
☐ native student (entered as a freshman)  
☐ transfer student  
☐ other, please explain: \_\_\_\_\_
- d) If victim was not a student, was he/she one of the following? (check all that apply)  
☐ campus employee  
☐ guest of a student  
☐ community resident  
☐ unknown  
☐ other, please explain: \_\_\_\_\_
- e) Age of victim: \_\_\_\_\_

5) Where did incident occur?

- ☐ on campus, if on campus, please specify:  
☐ residence hall  
☐ other campus building  
☐ outdoor location: \_\_\_\_\_  
☐ other: \_\_\_\_\_
- ☐ off campus

6) When did the incident occur?

- ☐ 6:00am – 12:00 noon ☐ 12:00 noon – 6:00 pm  
☐ 6:00 pm – 12:00 midnight ☐ 12:00 midnight – 6:00 am

Please check the appropriate response to each item:

- |   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| * Was there evidence of alcohol or drug use by suspect? | <input type="checkbox"/> | <input type="checkbox"/> |
| * Was there a firearm involved?                         | <input type="checkbox"/> | <input type="checkbox"/> |
| * Was the suspect formally charged?                     | <input type="checkbox"/> | <input type="checkbox"/> |
| * Was the suspect convicted of the offense?             | <input type="checkbox"/> | <input type="checkbox"/> |

What was suspect's relationship to victim?

- ☐ none  
☐ acquaintance  
☐ friend  
☐ romantic partner: ☐ present or ☐ past  
☐ other: \_\_\_\_\_

Other comments:



## Appendix B

# **Campus Crime Survey Data**

# University of North Carolina Office of the President

## Task Force on the Safety of the Campus Community

### Report on Incidents Occurring on UNC Campuses

To determine the magnitude of crimes against persons at each of the UNC campuses, the Task Force on the Safety of the Campus Community requested that campus safety offices provide incident reports covering July 1st through June 30<sup>th</sup> of 2001-02, 2002-03 and 2003-04. The following table shows the crimes reported.

**Table I**

Incidents Reported on UNC Campuses During Three Year Period								
	Incident Date							
	2001-02		2002-03		2003-04		Total	
Incident	N	%	N	%	N	%	N	%
Simple or Aggravated Assault	271	76%	287	79%	280	77%	838	77%
Sexual Offense	37	10%	22	6%	32	9%	91	8%
Robbery	26	7%	34	9%	29	8%	89	8%
Stalking	6	2%	4	1%	4	1%	14	1%
Assault & Robbery	3	1%	4	1%	4	1%	11	1%
Assault & Other	4	1%	3	1%		0%	7	1%
Assault & Sex Offense	3	1%	2	1%	2	1%	7	1%
Other - Unspecified	3	1%	1	0%	2	1%	6	1%
Kidnapping		0%	2	1%	3	1%	5	0%
Assault & Stalking		0%	1	0%	3	1%	4	0%
Kidnapping & Robbery	1	0%	1	0%	1	0%	3	0%
Assault & Kidnapping	1	0%		0%	1	0%	2	0%
Not Reported	1	0%	1	0%		0%	2	0%
Assault, Sex Off, Kidnapping & Murder		0%		0%	1	0%	1	0%
Assault, Kidnapping & Robbery		0%		0%	1	0%	1	0%
Robbery & Other		0%	1	0%		0%	1	0%
Sex Offense, Kidnapping & Other		0%	1	0%		0%	1	0%
Murder & Other		0%	1	0%		0%	1	0%
Assault, Sex Off & Kidnapping	1	0%		0%		0%	1	0%
Stalking & Other	1	0%		0%		0%	1	0%
Grand Total	358	100%	365	100%	363	100%	1086	100%

This table shows that the most prevalent form of crime was simple or aggravated assault. Note that assault also is found in eight other table lines where it is combined with more serious crimes. As with assault, sexual offenses, the second most prevalent crime, are also found in combination with other crimes against persons. It is estimated that just over 80% of the 838 assaults reported above were classified as simple.

The next table shows that about half of the suspects identified by campus authorities were currently enrolled students. Almost 30% were not identified on the incident reports over the three-year period.

**Table II**

<b>Suspect(s) Identified in Incident Report</b>								
<b>Suspect(s):</b>	<b>Incident Date</b>							
	<b>2001-02</b>		<b>2002-03</b>		<b>2003-04</b>		<b>Total</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
Campus Student	186	52%	174	48%	172	47%	532	49%
Unknown	80	22%	108	30%	118	33%	306	28%
Other - Unspecified	21	6%	16	4%	22	6%	59	5%
Guest of Student	20	6%	20	5%	17	5%	57	5%
Community Resident	22	6%	17	5%	10	3%	49	5%
Campus Employee	18	5%	14	4%	11	3%	43	4%
Not Reported	6	2%	10	3%	6	2%	22	2%
Student From Another Campus	5	1%	6	2%	7	2%	18	2%
<b>Grand Total</b>	<b>358</b>	<b>100%</b>	<b>365</b>	<b>100%</b>	<b>363</b>	<b>100%</b>	<b>1086</b>	<b>100%</b>

While the above table shows that just over half of the suspects were campus students or employees, the next table shows that 85% of the victims were in these two groups.

**Table III**

<b>Victim Identified in Incident Report</b>								
<b>Victim</b>	<b>Incident Date</b>							
	<b>2001-02</b>		<b>2002-03</b>		<b>2003-04</b>		<b>Total</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
Campus Student	266	74%	273	75%	272	75%	811	75%
Campus Employee	44	12%	30	8%	40	11%	114	10%
Unknown	11	3%	13	4%	14	4%	38	3%
Not Reported	8	2%	11	3%	9	2%	28	3%
Other - Unspecified	9	3%	9	2%	8	2%	26	2%
Community Resident	5	1%	12	3%	3	1%	20	2%
Other Student	3	1%	9	2%	6	2%	18	2%
Guest of Student	7	2%	3	1%	2	1%	12	1%
Contractor	2	1%	5	1%	3	1%	10	1%
Law Enforcement	3	1%		0%	6	2%	9	1%
<b>Grand Total</b>	<b>358</b>	<b>100%</b>	<b>365</b>	<b>100%</b>	<b>363</b>	<b>100%</b>	<b>1086</b>	<b>100%</b>

Table IV shows that 80% of crimes were committed by males while Table V shows that only in 2002-03 did male victims out number females.

**Table IV**

<b>Suspect's Gender</b>								
	<b>Incident Date</b>							
	<b>2001-02</b>		<b>2002-03</b>		<b>2003-04</b>		<b>Total</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Suspect's Gender</b>								
Male	273	76%	295	81%	302	83%	870	80%
Female	76	21%	61	17%	51	14%	188	17%
Unknown	9	3%	9	2%	10	3%	28	3%
Grand Total	358	100%	365	100%	363	100%	1086	100%

**Table V**

<b>Victim's Gender</b>								
	<b>Incident Date</b>							
	<b>2001-02</b>		<b>2002-03</b>		<b>2003-04</b>		<b>Total</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Victim's Gender</b>								
Female	204	57%	169	46%	189	52%	562	52%
Male	152	42%	187	51%	168	46%	507	47%
Unknown	2	1%	9	2%	6	2%	17	2%
Grand Total	358	100%	365	100%	363	100%	1086	100%

Table VI shows that about 40% of the victims had no relationship to the suspect while just over 30% were acquainted in some way. About one in six of the incidents involved past or present romantic partners or friends.

**Table VI**

<b>Relationship of Victim to Suspect</b>								
	<b>Incident Date</b>							
	<b>2001-02</b>		<b>2002-03</b>		<b>2003-04</b>		<b>Total</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Relationship to Victim</b>								
No Relationship to Victim	125	35%	144	39%	146	40%	415	38%
Acquaintances	121	34%	108	30%	113	31%	342	31%
Other - Unspecified	41	11%	42	12%	32	9%	115	11%
Past Romantic Partner	17	5%	26	7%	25	7%	68	6%
Present Romantic Partner	18	5%	15	4%	16	4%	49	5%
Friend	18	5%	17	5%	17	5%	52	5%
Not Reported	18	5%	13	4%	14	4%	45	4%
Grand Total	358	100%	365	100%	363	100%	1086	100%

In 2003-04 resident hall incidents dropped by 7 percent compared to the previous two years. The drop in crime in this location was offset by increases in "Outdoor Locations" and "Other Campus Buildings." It should be noted that this report focuses on crimes

against persons and not against property, so stolen property reports are not included in this analysis.

**Table VII**

Incident Location								
Location of Incident	Incident Date							
	2001-02		2002-03		2003-04		Total	
	N	%	N	%	N	%	N	%
Residence Hall	148	41%	149	41%	124	34%	421	39%
Outdoor Location	70	20%	77	21%	91	25%	238	22%
Other Campus Building	64	18%	67	18%	76	21%	207	19%
Parking Lot	25	7%	26	7%	30	8%	81	7%
Not Reported	24	7%	16	4%	16	4%	56	5%
Off-Campus	15	4%	19	5%	19	5%	53	5%
Other - Unspecified	12	3%	11	3%	7	2%	30	3%
Grand Total	358	100%	365	100%	363	100%	1086	100%

Of the 1,086 incidents collected by the task force, further analysis was conducted on reports where students were identified as the suspect. Selected were all 2003-04 incidents and those in the previous two years that were more than a simple or aggravated assault. These selection criteria resulted in a total sample of 230 cases. Of this number, 229 individuals were identified and campuses were asked to provide admission applications for each. At this point, information was collected on whether the assault on campus was simple and aggravated. Of the 229 cases in the sample, 147 individuals were found to have participated in aggravated assaults or higher level crimes. Criminal histories were collected and assembled on these individuals. The following table shows the summary results of this additional analysis.

**Table VIII**

<b>Results of Criminal History Investigations</b>			
	<b>No.</b>	<b>No. of CH* Records Found</b>	<b>CH* Records per Student</b>
Total Number of Students who participated in campus incidents that involved aggravated assaults or other violent crimes in 2001-02 through 2003-04 and for whom the task force requested criminal background checks.	147		
Of the 147, the number of students who had convictions prior to applying for admission to the UNC system.	21	37**	1.8***
Of the 21, the number of students who were asked the question and who did not report the conviction on their admission application to the UNC system.	13	25**	1.9****
* - Criminal History			
** - No. of conviction records found			
*** - No. of convictions per student			

Of the 229 students cited above, 221 were identified as applying to the UNC system as new freshman. A new freshman is defined as a student who is attending college for the first time. This group of 221 was submitted to the National Student Clearinghouse to determine if they had been enrolled at previous institutions before applying to campuses in the UNC system. The final table shows that 13 of the 221 students provided false information about previous college experience on his/her freshman application.

**Table IX**

<b>Students Involved in Incidents at UNC System Campuses During 2001-2004 Who Entered as Freshman and had Previously Attended Another Campus</b>				
<b>Student Identifier*</b>	<b>Applied as a Freshman to:</b>	<b>Date Applied</b>	<b>Previously Attended</b>	<b>Enrolled During a Term Beginning on:</b>
1	WSSU	1/8/2003	CLEVELAND CC	1/6/2003
2	UNCC	1/14/2002	SUNY ALBANY	1/21/1998
2	UNCC	1/14/2002	ROCHESTER INST OF TECH	3/12/2001
3	UNCG	4/15/2003	RANDOLPH CC	1/6/2003
4	WCU	10/16/1997	GUILFORD TECH CC	8/20/1997
5	WSSU	1/4/2002	GUILFORD TECH CC	8/20/1997
6	NCAT	3/13/2001	WILMINGTON COLLEGE	1/10/2000
7	NCAT	6/13/2003	ASHEVILLE BUNCOMBE TECH CC	8/15/2002
8	WSSU	2/17/2000	EDGEcombe CC	8/18/1999
9	WCU	10/14/2002	CFCC	8/13/2002
10	WCU	11/7/2002	FORSYTH TECH CC	8/19/2002
11	ECSU	8/11/2000	RICHMOND CC	8/20/1997
11	ECSU	8/11/2000	NCAT	1/7/1999
12	ECU	2/1/2002	SANDHILLS CC	1/7/2002
13	UNCW	4/23/2003	UNCC	8/19/2002
<b>Source:</b> Admission applications supplied by campuses and prior attendance data supplied by National Student Clearinghouse				
* - Identifier Assigned for this report. Records with same number indicate the same student				
Total Number of Admissions Records Processed against Student Clearinghouse Database – 221				

## Appendix C

# **Report of the Admissions Subcommittee**

## **Provisional Admissions Recommendations**

### ***Final***

## **UNC Task Force on the Safety of the Campus Community**

1. Standardize those portions of UNC-system admissions applications that address student integrity and behavior.
  - Ask applicants clear and consistent questions about their disciplinary, criminal, military, and enrollment histories.
  - Emphasize to applicants that failing to provide complete and accurate information will constitute grounds for immediate denial of admission, withdrawal of admission, and/or withdrawal of enrollment.
  - Require applicants to report criminal history between the date of the application and the date of enrollment.
2. Develop reasonable and cost-effective steps to verify the completeness and the accuracy of information provided by applicants.
  - Before a student enrolls, compare the student against the expulsion/suspension database maintained by the Office of the President. Secure 10 years of expulsion and suspension data. Develop uniform procedures for resolving false positives in a timely way. When an enrolled student is charged with a non-academic disciplinary violation, complete suspension or expulsion proceedings even if the student withdraws enrollment.
  - Before a student enrolls, compare the student against the National Student Clearinghouse and/or a system-wide enrollment-history database to determine if the student has attended other educational institutions that were not listed on the application.
  - Before a student enrolls from a home school or other non-traditional setting, compare the student against the enrollment database in the Department of Public Instruction (DPI).
  - Ask DPI to report long-term secondary-school suspensions and expulsions on transcripts or on transcript supplements. Make the same request of independent and parochial schools.
  - Ask the North Carolina Community College System (NCCCS) to report campus-based reported crimes and non-academic suspensions and expulsions on transcripts or on transcript supplements.
  - Work with secondary-school counselors, community-college personnel, experts on threat assessment and admissions directors to develop a concise, behavior-related checklist that will help screen students for further scrutiny. Work with DPI and NCCCS to include a concise behavior-related checklist on a transcript supplement. Require applicants coming from other schools to submit the checklist before enrolling.
  - Develop a mechanism through which campuses can request, on a case-by case basis, criminal background checks of applicants, admitted students, and/or



enrolling students. Develop guidelines for the use of such checks that will protect students against profiling and ensure some degree of consistency across the system.

3. Train campuses in how to identify, and respond appropriately to, applicants who may pose a threat to the safety of the campus community.
  - Ask the Office of the President, in consultation with campus admissions directors, to develop and disseminate a training program for admissions officers that would help those officers assess each application for risk.
  - Require each campus to develop and follow written policies pertaining to the identification and evaluation of applicants with serious criminal or disciplinary records.

## Appendix D

# **Report of the Campus Environment Subcommittee**

## **UNC Task Force on the Safety of the Campus Community**

### **Campus Environment Subcommittee**

**October 22, 2004**

Members: Dr. Garrie W. Moore (Chair), Mr. Skip Capone, Ms. Dara Edelman, Mr. Bob Fry, Dr. Peter Johnstone, Dr. Patricia Leonard, Dr. Melody Pierce, Mr. Tom Younce, Mr. Kemal Atkins.

The primary goal of the Subcommittee on Campus Environment was to identify salient issues related to safety of students and employees on the campuses of all 16 UNC institutions. For the purpose of this report, **"Campus Environment" is defined as the grounds as well as the buildings of a college or university, on which academic, social and cultural forces shape the lives of our students, faculty, and staff.**

### **System wide Findings**

Using data reported from each UNC institution regarding incidents of crime on the campus, the Campus Environment Subcommittee found that:

1. There is a low incidence of reported crime, especially in comparison to society in general (See attached tables).
2. A significant number of crimes that occur on campus occur in residence halls, and many offenses involve an assailant and victim who knew each other (See attached tables).
3. UNC System campus police are typically held accountable to higher standards of crime reporting than other law enforcement agencies. Refer to attached website re: Campus Safety and Security Act, and The Drug Free Schools Act:  
<http://www.ed.gov/admins/lead/safety/campuscrimestatute.doc>.  
Public expectations have a great influence on the reporting of crime by law enforcement agencies, especially campus police departments.
4. Most suspects involved with campus crime are male (see attached tables).
5. Victims of campus crime are equally divided between males and females (see attached tables).
6. More than half of all incidents on UNC Campuses involved people who know each other. This is even more evident in cases of sex offenses where the data shows that almost two thirds (63%) of these cases involved males and females who knew each other (see attached tables).
7. The current ability of students to withdraw while disciplinary charges are pending is a potential problem for allowing transfers of offenders to other campuses without the receiving campus being aware of the pending charges.

The Campus Environment Subcommittee members acknowledge that there are distinct differences among institutions within the UNC System. Consequently **key issues** related

to Campus Environment and Safety were identified and classified into the following categories:

**Recommended evaluation, planning, and implementation sequence**

**1. Maintain a Campus Safety Committee of Stakeholders and Leaders.**

A Campus Safety Committee should be maintained at each institution to plan, coordinate and implement campus safety efforts. This committee should identify a senior level coordinator to manage a campus-wide safety response. The committee must have authority to influence policy-change and implementation.

**2. Assessment.**

Each campus should conduct: (1) a Campus Threat Assessment which will identify sources from which significant threats to campus safety are most likely to occur; (2) a Campus Safety Inventory which will identify current safety practices, procedures and resources; and (3) annual student, faculty, and staff safety climate surveys. Information from these instruments must be effectively and openly communicated to the campus community. Based on the findings of the assessment, audit, and survey, each campus should develop a campus safety plan that will identify any changes that are needed in policies and procedures, educational programs, and resources necessary to meet the identified threats to safety. The campus safety plan should include an implementation schedule with specific action steps to be taken.

The UNC System should provide system-wide guidelines for the assessment, the audit, the survey, and the safety plan.

**3. Benchmarking.**

Sharing of the findings of campus safety programs/services throughout the UNC system, region and nation must be a common practice. Campuses should aim to maintain the very highest safety standards that can be achieved.

A Campus Safety Plan must be included in each institution's strategic plan.

**4. Education**

Campuses should establish or further develop educational programs that specifically address measures to prevent or minimize the risk of crime in the campus community.

Safety education and awareness must be a shared goal for the entire campus community.

5. Judicial/Disciplinary

A comprehensive and ongoing evaluation of the relationship between campus and off-campus law enforcement and judicial officials is essential (e.g. police, sheriff, DA). In addition, each campus should establish an effective dispute resolution process. If one currently exists, a thorough review of its effectiveness is essential.

6. Serious consideration must be given, system-wide, to denying the withdrawal of students who have pending charges related to behavior and conduct issues. We must also explore how to include suspended students in a database of information available to all institutions within the system.

The UNC Task Force on the Safety of the Campus Community was challenged, by President Molly Broad to read The Gift of Fear by Gavin de Becker. De Becker's business partner, Robert J. Martin, a recognized national expert on crime and violence in American society, discovered the establishment of the Presidents Task force and volunteered to share his experience with its members.

From Robert J. Martin's discussion with the full committee, he concluded that in order to manage fear and improve safety on campus:

1. We must **Communicate** with the campus and keep people informed of issues and solutions.
2. We must have **Confidence** in what we are doing and in ourselves.
3. We must be **Certain** of what we are going to do to address issues of safety.
4. And, we must show that we **Care** about people and the jobs we are doing.

The establishment of the UNC Task Force on the Safety of the Campus Community was a timely act of progress. Committee members learned from each other and were able to share experiences specific to their campus. We believe it is important to keep this committee active, meeting once or twice annually, to review progress made, and make further recommendations if necessary.

## Appendix E

# **Survey of Admissions Practices and use of Criminal Background Checks**

## **UNC Task Force on the Safety of the Campus Community**

Proposed questions for admissions colleagues:

1. Does your campus currently ask for any criminal background information of applicants in the admissions process? If yes, please give details.
2. Do you currently do formal criminal background checks on any applicants for admission? If yes, please give details **as to when and how those checks are made and under what circumstances.**
3. What steps does your office take when/if information concerning an applicant's criminal background is brought to your attention?

7/13/04

## Results

### ACAOPU Membership Responding to Campus Safety Survey

- U. of Washington
- Florida State \*
- U. of Florida
- Iowa State \*
- U. of Georgia
- Georgia Tech
- Georgia State
- NIU
- Colorado State
- George Mason U.
- U of Mississippi
- U of Michigan
- Michigan State
- UCLA
- Miami of Ohio
- Ohio U. \*
- SUNY Buffalo
- U. of Pittsburg
- U of Tenn. \*
- U of Maryland
- U. of Vermont
- U. Cal. San Diego
- SUNY Binghamton
- North Dakota State U. \*
- U of West Florida
- Cal. State Fullerton
- U of Southern Florida \*
- U of Houston
- Temple University
- U. of New Hampshire
- U. of Illinois- Urbana Champaign
- U. of Central Florida
- U of Conn.
- U of Illinois
- Ball State University

\* Indicated that criminal background checks may be conducted on a case by case basis but rarely done.



## NC Independent Colleges Responding to Campus Safety Survey

- Bennett College
- Gardner Webb College \* (Nursing Program)
- Queens College
- Pfeiffer College
- Warren Wilson College
- Barton College
- Meredith College
- Cabarrus College of Health Science
- Campbell Univ.
- Salem College
- Louisburg College
- Greensboro College
- Bennett College
- Belmont Abby College
- Mount Olive College
- Elon University

\* Indicated that criminal background checks may be conducted on a case by case basis but rarely done.



NORTH CAROLINA DEPARTMENT OF JUSTICE  
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REPORT TO THE NORTH CAROLINA GENERAL ASSEMBLY  
ON DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT

Submitted by: Scott Perry, Director *SP*  
N.C. Criminal Justice Education and Training Standards Commission

Date: January 3, 2005

Pursuant to 2004 Session S.L. 2004-186, HOUSE BILL 1354, PART II. "DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT," the Criminal Justice Education and Training Standards Commission (hereinafter referred to as "Commission") was required to:

- (1) establish minimum training standards for the *entry level employment* of law enforcement officers which "... shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions";
- (2) establish minimum standards for *in-service training* for law enforcement officers which "shall include training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions"; and,
- (3) "establish minimum standards and levels of training for *certification of instructors* for the domestic violence training..." as required by this legislation.

In response to this mandate, the Commission established the **Domestic Violence Curriculum Committee** which was composed of representatives from: three (3) municipal police departments, three (3) sheriff's offices, the North Carolina Coalition Against Domestic Violence, the Governor's Crime Commission, the Coalition for Family Peace, K-mart Corporate Security, Victims and Citizens Services (NC DOJ), Pitt County Community College (Basic Law Enforcement Training School Director), Interact of Wake County and the North Carolina Justice Academy.

Committee members were asked to review the 12 hour block of instruction on "Domestic Violence Response" which is currently included in the Basic Law Enforcement Training (BLET) curriculum and present their recommendations at a meeting on September 10, 2004. The Domestic Violence Curriculum Committee ultimately recommended that the material in BLET be updated to



include the latest information on the dynamics of domestic violence as well as recent statutory changes, with no additional hour requirements beyond the 12 hours which were already in the "Domestic Violence Response" block. This material has been revised and will be distributed to all Commission-certified School Directors in the State to comply with the March 1, 2005 implementation date.

The Domestic Violence Curriculum Committee also reviewed the **in-service training issue** and proceeded to adopt four (4) specific objectives relative to domestic violence which must be covered in the in-service training program for law enforcement officers. Additionally, the Committee recommended that **four (4) hours of domestic violence training** be allocated to achieve the identified objectives **for mandatory in-service training in 2005**. The Commission's In-Service Training Subcommittee concurred with the four (4) hour in-service training requirement. This Subcommittee further recommended that domestic violence training be substituted for the four (4) hour block of previously mandated in-service training entitled "Department Topic of Choice" for 2005.

In order to address the General Assembly's concerns dealing with **instructor qualifications** for teaching domestic violence training to law enforcement officers, the Commission established the **Domestic Violence Instructor Subcommittee**. This Subcommittee met on September 21, 2004 and after much discussion concerning the necessary criteria for effectively teaching domestic violence to law enforcement personnel, recommended that instructors who teach the "Domestic Violence Response" block of instruction in the BLET curriculum and who teach the mandated domestic violence in-service training block of instruction **must hold General Instructor Certification** with the Commission. These instructors **must also attend curriculum updates** as required by the Education and Training Committee of the Criminal Justice Education and Training Standards Commission. Lastly, the Subcommittee recommended that experience as a domestic violence advocate qualifies for the related criminal justice experience which is a prerequisite for enrollment in the Commission's Instructor Training Course.

The Commission approved the necessary rule-making changes at its August meeting, and approved the process outlined above for the implementation of upgraded domestic violence training for all law enforcement officers who are certified pursuant to G.S. §17C at its November meeting. On January 1, 2005, temporary administrative rules became effective which **added a four (4) hour block of instruction on "Domestic Violence"** to the 24 hour "Required Annual In-Service Training Topics" for all certified law enforcement officers who come under the jurisdiction of the Commission. In addition, the four (4) hour block of instruction previously known as "Department Topic of Choice" has been renamed "Domestic Violence," also effective January 1, 2005.

Attach. No. 6

January 6, 2005  
By electronic mail

Representative Wilma Sherrill  
North Carolina General Assembly  
Raleigh, NC

Dear Representative Sherrill:

I hope this correspondence finds you well and recovered from the holidays. As promised, I have put together a set of considerations for the House Select Committee on Domestic Violence as they move forward with their work. They are offered, as always, in a spirit of collaboration and partnership.

As you know, I am spending part of my time working for the Z Smith Reynolds Foundation. I am also working part time to implement the recommendations made by the Child Well-Being and Domestic Violence Task Force, on contract with Prevent Child Abuse NC. This memo contains information from both projects and I have delineated clearly in the memo from which project the idea is coming. I have categorized these ideas according to the subcommittees that comprise the House Select Committee on Domestic Violence, for ease in reading, except for one that does not fit neatly under the subcommittees. I will present that first, followed by the subcommittee headings. I look forward to seeing you on the 11<sup>th</sup> and would be happy to talk prior to that time about the contents of this memo.

*Determine the role and dedication of state resources to the Domestic Violence Commission, and both state coalitions, especially as it relates to the legislative committee.* (Z Smith Reynolds Foundation) Given the interrelatedness of sexual assault and domestic violence on a policy and program level and the fact that more than 85% of the service agencies in the state provide services for both types of victims under the same roof, there appears to us to be a significant lack of coordination in these efforts, particularly as it relates to advocacy. Overseeing and coordinating funding, tracking and implementing policy efforts, gathering and applying data, and advocating for changes are all distinct functions that many groups are currently involved in to various degrees. In addition, the establishment of a standing legislative committee suggests the need for a clarification of roles and a review of resource allocation to various public and private bodies.

#### **Civil Law and Judicial Administration**

1. *Maintain and Expand Legal Services Funding* (Z Smith Reynolds Foundation) Realizing the positive impact and cost efficiency of legal services in domestic violence cases, the House Select Committee wisely chose to identify a funding stream to expand these services. After researching the impact of funding for legal services has on domestic violence, we also believe that they are a wise use of resources and should be expanded, whenever possible. It is our belief that the resources dedicated as a result of HB 1354

should be *in addition to* those funds currently dedicated through the Governor's Crime Commission, through the use of Victims of Crime Act (VOCA) dollars.

2. *Decriminalize non-payment of child support under Chapter 50B* (child well-being and domestic violence task force) Please see Attachment A to this document for detailed background and rationale.

3. *Expand the Family Court Model and automate court records to allow queries on civil, criminal and juvenile matters.* (child well-being and domestic violence task force) There is no question that the Select Committee is supportive of the Family Court model and that expansion is largely a question of resources. Until further expansion, we believe there are ways to replicate some of the positive elements of this model, including adopting a "one judge/one family" calendaring procedure.

4. *When there is a request for child custody and support in a Chapter 50B hearing, a financial affidavit by the plaintiff should be required to be served with the complaint, and the defendant should provide a responsive affidavit at the 10-day hearing.* (child well-being and domestic violence task force) Our project staff is currently working with AOC staff to develop a draft. This recommendation supports the idea that financial independence often plays an integral role in victims' efforts to extricate themselves from a battering relationship, and, lessens the hardship on children.

#### Victim Services Subcommittee

1. *Implement a Data Collection System for Domestic Violence and Sexual Assault Service Providers* (Z Smith Reynolds Foundation)

North Carolina decision-makers do not currently have available to them meaningful information regarding the type, volume or effectiveness of services provided to victims of violence by service providers. Service providers of domestic violence and sexual assault services must report data on the services they provide to victims to a variety of funders who require different data, much of which is gathered and reported manually. Even among state government funders, e.g. the Council for Women, the Governor's Crime Commission, and the Division of Social Services, there is little consistency in what is gathered and no uniform efforts to analyze the service data. The lack of meaningful and standardized data greatly effects advocacy efforts and weakens the accountability of funders to measure the impact of their dollars. It also hampers our ability to evaluate which interventions are effective and should be replicated or expanded. And perhaps most importantly, the gathering of data requires service providers to expend significant time and energy that could be applied elsewhere.

We recommend that the state invest in establishing a uniform data collection system for domestic violence and sexual assault service providers.

After conducting research on existing data systems in use in other states, we believe that **requiring reporting by grantees is critical** to the effectiveness of a data collection system. There are multiple examples of states that endorsed permissive reporting and

have worthless data due to low reporting numbers. Security has been paramount to the design of many systems currently in place and should also be a priority of any new system.

We recommend that the state review a system developed by Behavioral Health Associates in Pennsylvania called **R-client**, rather than building a new system. R-client is already being used by some providers in North Carolina. The program allows for the integration of domestic violence and sexual assault services, enables programs to report services according to the funding source that supports those services, allows use by multiple users within the same agency at different locations, and has the flexibility to collect certain information within specific time periods and for program specific purposes. It also contains the data elements that meet requirements of HUD's Homeless Management Information System (HMIS).

We also found in our research that it is critical to have a strong mechanism to assure that the **data that is collected is analyzed** for the purposes of evaluating interventions, and identifying local, regional or statewide gaps and trends, in order to inform policy and funding decisions.

Our plans to continue our evaluation as to the feasibility of adopting such a system in North Carolina involve contracting with an Information Technology specialist to further evaluate R-client, to hold focus groups with potential users, and to estimate start up and ongoing costs of a system.

## *2. Address Funding for Domestic Violence and Sexual Assault Service Providers (Z Smith Reynolds Foundation)*

The Foundation has a long track record of funding direct service providers to support services to victims at the local level. We believe that the giving can be more strategic and collaborative with other funding partners. A chief consideration in that strategy is addressing the extent to which local agencies live "hand to mouth," chasing after small, short term grants and experiencing financial crises that interrupt or interfere with service delivery. The Foundation is committed to assisting these organizations in becoming more sustainable and to that end, plans to contract with a fundraising consultant who will pilot a strategy for raising funds, with a focus on individual and local giving. In addition, we have worked to identify several funding streams that have not traditionally been tapped by these organizations. These include local sources such as the Alcohol Beverage Control boards, which are required by statute to use a percentage of their proceeds on substance abuse evaluation, research and treatment. They also include more sophisticated and complicated third party payee systems such as Medicaid, which may require waivers or changes in state law to allow for reimbursement of treatment for mental health related to domestic violence in adults and children. We have also entered into a partnership with the Governor's Crime Commission who, under their current funding cycle, has instituted a system whereby all grantees must meet certain **standard operating elements**, such as 24 hour coverage in shelters. We are hopeful that this set of standards, or a similar set, will also be adopted by other funders, including the state.

**Revisit the state's current formula for administering state appropriated dollars and marriage license fees to each county on a non-competitive and equitable basis.** We believe that this formula deserves reconsideration. Also, we believe it is worthwhile to consider a consolidation of some services, for example, regionalizing hotlines (including bi-lingual hotlines, and combining 24 hour hotlines for sexual assault victims with 24 hour hotlines for domestic violence victims).

### **Treatment, Prevention, Education and Juvenile Issues Subcommittee**

*1. Restore the position to oversee the Abuser Treatment Program* (child well-being and domestic violence task force) In September 2004, the Rules Review Commission adopted rules to govern the operation of so-called abuser treatment programs in the state. In addition, HB1354 greatly enhanced the role of these programs, particularly as it relates to probation. The position overseeing the Abuser Treatment Program, housed at the Council for Women & Domestic Violence Commission, was eliminated in 2002, amid the budget crisis and elimination of vacant positions. The recommendations from the Task Force noted the important role these programs play in holding offenders accountable and we believe there is potential to integrate issues related to parenting and the impact of battering on children into practice by these providers, whose numbers are certain to increase with the changes in HB1354.

*2. Develop a Model and Establish a Training Institute on Domestic Violence, Sexual Assault and Child Maltreatment* for professionals in the state. (child well-being and domestic violence task force)

Significant evidence indicates that professionals compartmentalize the issues of child maltreatment, intimate partner violence, and sexual assault and abuse making their responses to situations involving these types of victimization fragmented and uncoordinated. This is due to a variety of factors, including most notably, training background and policies that encourage a narrow focus. It is much more difficult to "undo" this learning and integrate these issues later after practices and attitudes are firmly established, than to provide a common foundation upon which to build attitudes, practices and policies.

In addition, the quality and consistency of training that is provided is sometimes questionable. No mechanism currently exists that promotes, encourages, or requires the adoption of certain principles to guide how professionals make decisions when they identify and intervene when victimization has occurred. Development of a standardized curriculum could track current efforts to develop protocol on responding to domestic violence and child maltreatment (child well-being and domestic violence task force).

On a professional practice level, it is anticipated that professionals' time will be better spent being able to recognize multiple forms of victimization and tailoring a response in less time, fewer visits/calls, and a more integrated interpretation of facts. On a client level, the approach upholds the "one-stop shopping" model in that the person or family need not come to the attention of the "right" professional in order to be recognized and

for a plan to be put into place. Finally, it is anticipated that overall savings will be realized by consolidating training initiatives currently underway.

3. *Establish Visitation Centers* (child well-being and domestic violence task force) The House Select Committee is supportive of these critical services and could consider supplementing state or federal funding with DSS contracts for abused and neglected children, and/or, fees from high conflict divorces/separations.



# **ATTACHMENT A**

**DRAFT**

**Background and Rationale for Proposed Changes to Child Support  
Enforcement in Domestic Violence Protective Order Proceedings**

# **D R A F T**

## **Background and Rationale for Proposed Changes to Child Support Enforcement in Domestic Violence Protective Order Proceedings**

In February 2003, the Child Well-Being and Domestic Violence Task Force, co-chaired by Chief Justice I. Beverly Lake and Secretary of Health and Human Services Carmen Hooker Odom, published its final report including 48 recommendations embodying an implementation plan for North Carolina to develop and adopt policies addressing the needs of children affected by domestic violence. One recommendation provides:

When temporary child custody and support orders are set, Chapter 50B should be clarified to show that violations of child support provisions of a domestic violence protective order are enforceable by contempt proceedings (and not by criminal prosecution) and that violations of child custody remain enforceable by criminal prosecution. [Recommendation 4, Legal Changes, Courts and Law Enforcement Committee, page 14].

### **Background**

Central to the discussions by the Committee that proposed this recommendation was the need for clear public policy in this area, evidenced by an apparent reluctance by North Carolina district courts to authorize child support payments in domestic violence protective order cases, putting victims of domestic violence at a disadvantage and increasing the likelihood that they may return to a violent relationship out of financial need. A September 2001 study prepared at the request of the North Carolina Domestic Violence Commission, and conducted by the North Carolina Criminal Justice Analysis Center of the Governor's Crime Commission provides data for supporting this apparent reluctance; the random study of 25 jurisdictions found that child support was authorized in only 21% of the cases filed under Chapter 50B in which child support was requested.

Practitioners, judges, and policy experts contacted for reaction to the recommendation suggest this reluctance is related to a few core concerns. One is that judges do not view 50B court as the proper setting for reviewing and applying child support guidelines.

Another perspective is that criminal sanctions for non-payment of child support under Chapter 50B are superfluous. Some judges reportedly do not want to incarcerate people under Chapter 50B for failure to pay child support since North Carolina law provides for other remedies/sanctions for failure to pay child support (e.g., IV-D<sup>1</sup>). Also, some judges

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<sup>1</sup> Though a domestic violence victim must apply for IV-D services, the proposed change creates no conflict with collection of child support under the IV-D program.

do not want to increase the amount of time a defendant spends in jail for non-payment of child support through prosecution of a separate misdemeanor offense for non-support under 50B. And finally, some judges maintain the position that criminal sanctions result in the erasure of prior child support debts.

### **Rationale**

Proponents for eliminating criminal sanctions for non-payment of child support under Chapter 50B suggest that a fundamental issue to consider is due process/fairness. They contend that the primary purpose of Chapter 50B is to protect victims from domestic violence, and that certain provisions included in that Chapter specifically to protect victims' physical safety, such as warrantless arrest and the so-called 48-hour rule, are of questionable utility and constitutionality when applied to the enforcement of child support payments. Critics further note that warrantless arrest and incarceration is particularly unfair when non-payment of child support is not willful. Some defendants, critics argue, do not have the ability to pay, and in situations in which the court determines that non-payment is indeed willful, the defendant can be held in contempt.

Critics of the current law also point to the disparity of sanctions for non-support, with sanctions for non-support under Chapter 50B being much more punitive than in other parts of North Carolina law. Specifically, Chapter 50B currently provides that violations of valid protective orders are punishable by criminal prosecution. If criminal sanctions are imposed, a first-time offense is punishable as a Class A1 misdemeanor, and an offense following three criminal convictions under Chapter 50B is punishable as a Class H felony. By contrast, Chapter 50 governing general custody provides for civil remedies such as income withholding and licensing revocation. N.C.G.S. §49-2 provides that non-support of an illegitimate child by parents is a Class 2 misdemeanor; and N.C.G.S. § 14-322 makes abandonment and failure to support spouse and children a Class 2 misdemeanor for the first offense, and a Class 1 misdemeanor for subsequent offenses.

Another perspective offered by proponents of change to the current law is that criminal sanctions are much less effective in ensuring payment of child support than are civil sanctions that have a direct economic impact on a defendant, such as income withholding, licensing revocation, and transfer of property. And, criminal sanctions may detrimentally affect the ability of the defendant to attain the means to provide child support (e.g., loss of employment, inability to gain employment because of a criminal record, etc.).

### **Conclusion**

Withholding financial support is a tactic of intimidation used to coerce a victim's return to the abuser. Therefore, allowing for the imposition of child support payments as a form of relief to a victim of domestic violence, as well as sanctions for withholding financial support, are necessary judicial tools. Further, sanctions available under Chapter 50B should be effective in providing financial support necessary for victims' safety. This proposal recognizes the integral role financial independence plays in victims' efforts to

extricate themselves from battering relationships, and aims to increase the number of cases under Chapter 50B in which child support is ordered as a form of relief without weakening the integrity of the chapter or undermining its primary objective to provide protection to plaintiffs and their children.

House Select Committee on Domestic Violence

**Recommendation 1**

A statutory joint committee should be created to examine, on a continuing basis, the issues related to domestic violence in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to reduce domestic violence and provide additional assistance to victims.

**Recommendation 2**

The Administrative Office of the Courts (AOC), in consultation with the Department of Correction, Division of Community Corrections (DCC), shall study and review programs in this State, and other states, that utilize Global Positioning Satellite technology to track criminal offenders. Based upon the study and review, the AOC shall make written recommendations to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Domestic Violence Committee (see Recommendation 1), for a pilot GPS tracking program as a condition for pretrial release pursuant to G.S. 15A-534.1. The recommendations shall include whether the alleged victim of the charged offense should have a receiver for immediate and direct notification of a GPS tracking violation by the defendant. The recommendations shall be made no later than July 1, 2005.

**Recommendation 3**

The Department of Correction, Division of Community Corrections (DCC), shall make a written report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Domestic Violence Committee (see Recommendation 1), on measures the Division is undertaking to address the issue of supervising Domestic Violence offenders. The reports, and any recommendations, shall be made no later than January 1, 2007.

**Recommendation 4**

Chapter 50B of the General Statutes should be amended to clarify that courts have the authority to enter consent agreements in domestic violence protective order cases without making specific findings of fact that an act of domestic violence occurred (see Attachment A).

### **Recommendation 5**

The Department of Health and Human Services report required by S.L. 2004-186, Section 6.1 shall be submitted to the Speaker of the House of Representatives, in addition to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the General Assembly, no later than February 15, 2005.

### **Recommendation 6**

Legal services funding created under S.L. 2004-186, Part IV and other current sources of funding, such as the Victims of Crime Act (VOCA) funds currently dedicated through the Governor's Crime Commission, should be maintained. In addition, additional sources of funding should be explored in order to expand the funding of legal services in domestic violence cases.

### **Recommendation 7**

The Family Court Model should be expanded across the State as resources allow. Until expansion, the elements of the model that might be adopted without additional funding, such as the "one judge/one family" calendaring procedure, should be explored in each jurisdiction. Additionally, court records should be automated to allow queries on civil, criminal and juvenile matters.

### **Recommendation 8**

Funding for domestic violence and sexual assault service providers should be addressed, and the State's current formula for administering state appropriated dollars should be reevaluated.

### **Recommendation 9**

The position to oversee the Abuser Treatment Program should be recreated within the Council for Women and Domestic Violence Commission.

### **Recommendation 10**

Additional sources of funding should be explored to establish additional visitation centers across the State.