

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 83
Judiciary II (Criminal) Committee Substitute Adopted 4/30/07

Short Title: Amend Domestic Crim. Trespass.

(Public)

Sponsors:

Referred to:

February 12, 2007

A BILL TO BE ENTITLED

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

12 The General Assembly of North Carolina enacts:

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

14 **"§ 14-134.3. Domestic criminal trespass.**

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

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

1 (4) Separate places of residence for the complainant and the person
2 charged.

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

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

9 (c) It is unlawful for a person who is subject to a valid protective order that is
10 enforceable under Chapter 50B of the General Statutes to enter property being operated
11 as a safe house or haven for victims of domestic violence after being forbidden to do so
12 or to remain on the premises after being ordered to leave by the lawful occupant, unless
13 the person enters upon the premises pursuant to a judicial order or written separation
14 agreement that gives the person the right to enter upon the premises for the purpose of
15 visiting with minor children. A person who violates this subsection is guilty of this
16 offense regardless of whether any of the parties protected by the protective order are
17 present on the property. A person who violates this subsection is guilty of a Class H
18 felony."

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

21 "(12) The defendant was the subject of a valid protective order enforceable
22 under Chapter 50B of the General Statutes at the time of the
23 commission of the capital felony and committed the capital felony on
24 the premises of a safe house or haven for victims of domestic
25 violence."

26 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
27 offenses committed on or after that date.