

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 61
House Committee Substitute Favorable 7/28/05
House Committee Substitute #2 Favorable 8/30/05
House Committee Substitute #3 Favorable 8/31/05

Short Title: Felony Death by Vehicle/Sex Offender Amend.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO STRENGTHEN THE LAWS AGAINST IMPAIRED DRIVING BY
3 INCREASING THE PUNISHMENT FOR FELONY DEATH BY VEHICLE AND
4 TO PROVIDE THAT A VICTIM OF A SEXUALLY VIOLENT OFFENSE OR
5 THE VICTIM'S FAMILY MAY OBTAIN A CIVIL NO-CONTACT ORDER
6 AGAINST A REGISTERED OFFENDER WHO RESIDES OR WORKS AT A
7 PLACE OF EMPLOYMENT WITHIN A QUARTER MILE OF THE VICTIM
8 AND TO FUND CERTAIN POSITIONS FROM THE DWI RESERVE FUND
9 AND TO CHANGE THE COUNTIES ELIGIBLE FOR TIER ONE
10 DESIGNATIONS UNDER THE BILL LEE ACT FOR LAST QUARTER OF
11 CALENDAR YEAR 2005.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 20-141.4 reads as rewritten:

14 "**§ 20-141.4. Felony and misdemeanor death by vehicle.**

15 (a) Repealed by Session Laws 1983, c. 435, s. 27.

16 (a1) Felony Death by Vehicle. – A person commits the offense of felony death by
17 vehicle if he unintentionally causes the death of another person while engaged in the
18 offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of
19 that offense is the proximate cause of the death.

20 (a2) Misdemeanor Death by Vehicle. – A person commits the offense of
21 misdemeanor death by vehicle if he unintentionally causes the death of another person
22 while engaged in the violation of any State law or local ordinance applying to the
23 operation or use of a vehicle or to the regulation of traffic, other than impaired driving
24 under G.S. 20-138.1, and commission of that violation is the proximate cause of the
25 death.

26 (b) Punishments. – Felony death by vehicle is a Class ~~G~~E felony. Misdemeanor
27 death by vehicle is a Class 1 misdemeanor.

1 (c) No Double Prosecutions. – No person who has been placed in jeopardy upon
2 a charge of death by vehicle may be prosecuted for the offense of manslaughter arising
3 out of the same death; and no person who has been placed in jeopardy upon a charge of
4 manslaughter may be prosecuted for death by vehicle arising out of the same death."

5 **SECTION 2.** G.S. 50C-1 is amended by adding the following new
6 subdivisions to read:

7 "(3a) Registered offender means a person who is required to register under
8 Article 27A of Chapter 14 of the General Statutes.

9 "(4b) Sexually violent offense is as defined in G.S. 14-208.6."

10 **SECTION 3.** G.S. 50C-2(a) reads as rewritten:

11 "(a) An action is commenced under this Chapter by filing a verified complaint for
12 a civil no-contact order in district court or by filing a motion in any existing civil action,
13 by any of the following:

14 (1) A person who is a victim of unlawful conduct that occurs in this
15 State.State or who is a victim of a sexually violent offense.

16 (2) A competent adult who resides in this State on behalf of a minor child
17 or an incompetent adult who is a victim of unlawful conduct that
18 occurs in this State.State or who is a victim of a sexually violent
19 offense."

20 **SECTION 4.** Chapter 50C of the General Statutes is amended by adding a
21 new section to read:

22 "**§ 50C-5.1. Civil no-contact order for victim of sexually violent offense against**
23 **registered offender; remedy.**

24 (a) The court may also issue temporary or permanent civil no-contact orders as
25 authorized in this Chapter if it makes the following findings:

26 (1) The victim is the victim of a sexually violent offense committed by the
27 respondent.

28 (2) The respondent is a registered offender.

29 (3) The respondent resides or works at a place of employment located
30 within a quarter of a mile of the victim's residence, school, place of
31 employment, or other specified place.

32 (b) The court may grant one or more of the following forms of relief in its orders
33 under this section:

34 (1) Order the respondent to refrain from entering or remaining present at
35 the victim's residence, school, place of employment, or other specified
36 places at times when the victim is present.

37 (2) Order other relief deemed necessary and appropriate by the court.

38 (c) A civil no-contact order issued under this section shall include the following
39 notice, printed in conspicuous type: 'A knowing violation of a civil no-contact order
40 shall be punishable as contempt of court which may result in a fine or imprisonment'."

41 **SECTION 5.** G.S. 50C-7 reads as rewritten:

42 "**§ 50C-7. Permanent civil no-contact order.**

43 Upon a finding that the ~~victim~~-victim: (i) has suffered unlawful conduct committed
44 by the ~~respondent~~,-respondent, or (ii) is the victim of a sexually violent offense and the

1 respondent is a registered offender who resides or works at a place of employment
 2 located within a quarter of a mile of the victim's residence, school, place of
 3 employment, or other specified place, a permanent civil no-contact order may issue if
 4 the court additionally finds that process was properly served on the respondent, the
 5 respondent has answered the complaint and notice of hearing was given, or the
 6 respondent is in default. No permanent civil no-contact order shall be issued without
 7 notice to the respondent."

8 **SECTION 6.(a)** Effective December 1, 2005, G.S. 7A-133(a) reads as
 9 rewritten:

10 "(a) Each district court district shall have the numbers of judges as set forth in the
 11 following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin
		Beaufort
		Tyrrell
		Hyde
3A	5	Washington
		Pitt
3B	5	Craven
		Pamlico
4	8	Carteret
		Sampson
		Duplin
		Jones
5	8	Onslow
		New Hanover
6A	2	Pender
		Halifax
6B	3	Northampton
		Bertie
7	7	Hertford
		Nash
		Edgecombe
8	6	Wilson
		Wayne
		Greene
		Lenoir

1	9	4	Granville
2			(part of Vance
3			see subsection (b))
4			Franklin
5	9A	2	Person
6			Caswell
7	9B	2	Warren
8			(part of Vance
9			see subsection (b))
10	10	15	Wake
11	11	8	Harnett
12			Johnston
13			Lee
14	12	9	Cumberland
15	13	6	Bladen
16			Brunswick
17			Columbus
18	14	6 <u>7</u>	Durham
19	15A	4	Alamance
20	15B	4	Orange
21			Chatham
22	16A	3	Scotland
23			Hoke
24	16B	5	Robeson
25	17A	2	Rockingham
26	17B	4	Stokes
27			Surry
28	18	12	Guilford
29	19A	4	Cabarrus
30	19B	6	Montgomery
31			Moore
32			Randolph
33	19C	4	Rowan
34	20	7	Stanly
35			Union
36			Anson
37			Richmond
38	21	9	Forsyth
39	22	9	Alexander
40			Davidson
41			Davie
42			Iredell
43	23	4	Alleghany
44			Ashe

1			Wilkes
2			Yadkin
3	24	4	Avery
4			Madison
5			Mitchell
6			Watauga
7			Yancey
8	25	8	Burke
9			Caldwell
10			Catawba
11	26	17	Mecklenburg
12	27A	6	Gaston
13	27B	4	Cleveland
14			Lincoln
15	28	6	Buncombe
16	29	7	Henderson
17			McDowell
18			Polk
19			Rutherford
20			Transylvania
21	30	5	Cherokee
22			Clay
23			Graham
24			Haywood
25			Jackson
26			Macon
27			Swain."

28 **SECTION 6.(b)** The Governor shall appoint the additional district court
 29 judge for District 14 authorized by subsection (a) of this section, and that judge's
 30 successor shall be elected in the 2006 general election for a four-year term commencing
 31 on the first Monday in December 2006.

32 **SECTION 6.(c)** Effective December 1, 2006, G.S. 7A-133(a), as amended
 33 by subsection (a) of this section, reads as rewritten:

34 "(a) Each district court district shall have the numbers of judges as set forth in the
 35 following table:

District	Judges	County
1	5	Camden
		Chowan
		Currituck
		Dare
		Gates
		Pasquotank
		Perquimans
2	4	Martin

1			Beaufort
2			Tyrrell
3			Hyde
4			Washington
5	3A	5	Pitt
6	3B	5	Craven
7			Pamlico
8			Carteret
9	4	8	Sampson
10			Duplin
11			Jones
12			Onslow
13	5	8	New Hanover
14			Pender
15	6A	2	Halifax
16	6B	3	Northampton
17			Bertie
18			Hertford
19	7	7	Nash
20			Edgecombe
21			Wilson
22	8	6	Wayne
23			Greene
24			Lenoir
25	9	4	Granville
26			(part of Vance
27			see subsection (b))
28			Franklin
29	9A	2	Person
30			Caswell
31	9B	2	Warren
32			(part of Vance
33			see subsection (b))
34	10	15	Wake
35	11	8	Harnett
36			Johnston
37			Lee
38	12	9	Cumberland
39	13	6	Bladen
40			Brunswick
41			Columbus
42	14	7	Durham
43	15A	4	Alamance
44	15B	4-5	Orange

1			Chatham
2	16A	3	Scotland
3			Hoke
4	16B	5	Robeson
5	17A	2	Rockingham
6	17B	4	Stokes
7			Surry
8	18	12	Guilford
9	19A	4	Cabarrus
10	19B	6	Montgomery
11			Moore
12			Randolph
13	19C	4	Rowan
14	20	7	Stanly
15			Union
16			Anson
17			Richmond
18	21	9	Forsyth
19	22	9	Alexander
20			Davidson
21			Davie
22			Iredell
23	23	4	Alleghany
24			Ashe
25			Wilkes
26			Yadkin
27	24	4	Avery
28			Madison
29			Mitchell
30			Watauga
31			Yancey
32	25	8	Burke
33			Caldwell
34			Catawba
35	26	17	Mecklenburg
36	27A	6	Gaston
37	27B	4	Cleveland
38			Lincoln
39	28	6	Buncombe
40	29	7	Henderson
41			McDowell
42			Polk
43			Rutherford
44			Transylvania

1	16B	Robeson	10
2	17A	Rockingham	5
3	17B	Stokes, Surry	5 <u>6</u>
4	18	Guilford	27
5	19A	Cabarrus	6
6	19B	Montgomery, Moore, Randolph	11
7	19C	Rowan	5
8	20	Anson, Richmond,	15
9		Stanly, Union	
10	21	Forsyth	17
11	22	Alexander, Davidson, Davie,	16
12		Iredell	
13	23	Alleghany, Ashe, Wilkes,	5
14		Yadkin	
15	24	Avery, Madison, Mitchell,	4
16		Watauga, Yancey	
17	25	Burke, Caldwell, Catawba	15
18	26	Mecklenburg	36
19	27A	Gaston	12
20	27B	Cleveland,	9
21		Lincoln	
22	28	Buncombe	11
23	29	Henderson, McDowell, Polk,	11
24		Rutherford, Transylvania	
25	30	Cherokee, Clay, Graham,	9
26		Haywood, Jackson, Macon,	
27		Swain."	

SECTION 6.(f) There is appropriated from the Reserve for DWI Task Force Recommendations established in S.L. 2005-276 to the Judicial Department the sum of three hundred eighty-one thousand nine hundred seventy-three dollars (\$381,973) for the 2005-2006 fiscal year and the sum of six hundred seventy thousand nine hundred five dollars (\$670,905) for the 2006-2007 fiscal year to establish the additional district court judge for District 14 authorized by subsection (a) of this section, the additional district court judge for District 15B authorized by subsection (c) of this section, the additional assistant district attorney positions established for Districts 9A, 14, 15A, and 17B by subsection (e) of this section, a new deputy clerk position for Durham County, and a new deputy clerk position for Orange County.

SECTION 6.(g) Subsection (c) of this section becomes effective December 1, 2006. The remainder of this section becomes effective December 1, 2005.

SECTION 7.(a) The General Assembly finds that counties with high unemployment need additional assistance to hasten their economic recovery. Therefore, a county whose rank in a ranking of counties from highest to lowest by average rate of unemployment for the applicable 12-month period is one of the 10 highest in the State is designated an enterprise tier one area for the last quarter of calendar year 2005. The

1 applicable 12-month period is November 2003 to October 2004, based upon the
2 unemployment data available in December 2004. This section applies to letters of
3 commitment signed during that quarter and to business activities occurring during that
4 quarter. A county designated as an enterprise tier one area under this section is
5 considered to have the tier one designation for the 2005 calendar year for the purposes
6 of G.S. 105-129.3(c).

7 **SECTION 7.(b)** This section is effective when it becomes law.

8 **SECTION 8.** Section 1 of this act becomes effective December 1, 2005, and
9 applies to offenses committed on or after that date. Except as otherwise provided, the
10 remainder of this act becomes effective October 1, 2005.