

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

S

2

SENATE BILL 156
House Committee Substitute Favorable 5/15/24

Short Title: Clarify DV Misdemeanor.

(Public)

Sponsors:

Referred to:

February 27, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 14-32.5 reads as rewritten:

5 "§ 14-32.5. Misdemeanor crime of domestic violence.

6 (a) Offense and Punishment. – A person is guilty of a Class A1 misdemeanor if that
7 person uses or attempts to use physical force, or threatens the use of a deadly weapon, against
8 another person and the person who commits the offense is:

9 (1) A current or former spouse, parent, or guardian of the victim.

10 (2) A person with whom the victim shares a child in common.

11 (3) A person who is cohabitating with or has cohabitated with the victim as a
12 spouse, parent, or guardian.

13 (4) A person similarly situated to a spouse, parent, or guardian of the victim.

14 (5) A person who has a current or recent former dating relationship with the
15 victim.

16 (b) Definition. – For purposes of this section, ~~the term "dating relationship" is as defined~~
17 ~~in 18 U.S.C. § 921-a~~ a current or recent former dating relationship is a relationship between
18 individuals who have or have within the preceding 12 months had a continuing serious
19 relationship of a romantic or intimate nature. Whether a relationship constitutes a dating
20 relationship shall be determined based on consideration of the length of the relationship, the
21 nature of the relationship, and the frequency and type of interaction between the individuals
22 involved in the relationship. A casual acquaintance or ordinary fraternization between persons in
23 a business or social context is not a dating relationship.

24 (c) Assault Not Lesser Included. – An offense under G.S. 14-33 shall not be considered
25 a lesser included offense of this section."

26 SECTION 2. G.S. 14-33.2 reads as rewritten:

27 "§ 14-33.2. Habitual misdemeanor assault.

28 A person commits the offense of habitual misdemeanor assault if that person (i) violates any
29 of the provisions of G.S. 14-33 and causes physical injury, ~~or~~ G.S. 14-34, or G.S. 14-32.5, and
30 (ii) has two or more prior convictions for ~~either~~ misdemeanor ~~or~~ assault, felony assault, or a
31 violation of G.S. 14-32.5, with the earlier of the two prior convictions occurring no more than 15
32 years prior to the date of the current violation. A conviction under this section shall not be used
33 as a prior conviction for any other habitual offense statute. A person convicted of violating this
34 section is guilty of a Class H felony."

35 SECTION 3. G.S. 15A-401(b)(2) reads as rewritten:



- 1 "(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant
2 any person who the officer has probable cause to ~~believe~~believe any of the
3 following:
4 a. Has committed a ~~felony~~felony.
5 b. Has committed a misdemeanor, and:
6 1. Will not be apprehended unless immediately arrested, or
7 2. May cause physical injury to himself or others, or damage to
8 property unless immediately ~~arrested~~arrested.
9 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3,
10 20-138.1, or ~~20-138.2~~or 20-138.2.
11 d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1),
12 14-33(c)(2), or 14-34 when the offense was committed by a person
13 with whom the alleged victim has a personal relationship as defined in
14 ~~G.S. 50B-1~~or G.S. 50B-1.
15 e. Has committed a misdemeanor under ~~G.S. 50B-4.1(a)~~;
16 ~~or G.S. 50B-4.1(a)~~.
17 f. Has violated a pretrial release order entered under G.S. 15A-534 or
18 G.S. 15A-534.1(a)(2).
19 g. Has committed a misdemeanor under G.S. 14-32.5."

20 **SECTION 4.** G.S. 15A-534.1(a) reads as rewritten:

21 "(a) In all cases in which the defendant is charged with assault on, stalking,
22 communicating a threat to, or committing a felony provided in Articles 7B, 8, 10, or 15 of Chapter
23 14 of the General Statutes upon a spouse or former spouse, a person with whom the defendant
24 lives or has lived as if married, or a person with whom the defendant is or has been in a dating
25 relationship as defined in G.S. 50B-1(b)(6), with domestic criminal trespass, with violation of
26 G.S. 14-32.5, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence,
27 of the General Statutes, the judicial official who determines the conditions of pretrial release shall
28 be a judge. The judge shall direct a law enforcement officer or a district attorney to provide a
29 criminal history report for the defendant and shall consider the criminal history when setting
30 conditions of release. After setting conditions of release, the judge shall return the report to the
31 providing agency or department. No judge shall unreasonably delay the determination of
32 conditions of pretrial release for the purpose of reviewing the defendant's criminal history report.
33 The following provisions shall apply in addition to the provisions of G.S. 15A-534:

- 34 (1) Upon a determination by the judge that the immediate release of the defendant
35 will pose a danger of injury to the alleged victim or to any other person or is
36 likely to result in intimidation of the alleged victim and upon a determination
37 that the execution of an appearance bond as required by G.S. 15A-534 will
38 not reasonably assure that such injury or intimidation will not occur, a judge
39 may retain the defendant in custody for a reasonable period of time while
40 determining the conditions of pretrial release.
41 (2) A judge may impose the following conditions on pretrial release:
42 a. That the defendant stay away from the home, school, business or place
43 of employment of the alleged victim.
44 b. That the defendant refrain from assaulting, beating, molesting, or
45 wounding the alleged victim.
46 c. That the defendant refrain from removing, damaging or injuring
47 specifically identified property.
48 d. That the defendant may visit his or her child or children at times and
49 places provided by the terms of any existing order entered by a judge.
50 e. That the defendant abstain from alcohol consumption, as verified by
51 the use of a continuous alcohol monitoring system, of a type approved

by the Division of Community Supervision and Reentry of the Department of Adult Correction, and that any violation of this condition be reported by the monitoring provider to the district attorney.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- (3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply."

SECTION 5. G.S. 50B-1(b) reads as rewritten:

"(b) For purposes of this section, the term "personal relationship" means a relationship wherein the parties involved:

- (1) Are current or former spouses;
(2) Are persons of opposite sex who live together or have lived together;
(3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16;
(4) Have a child in common;
(5) Are current or former household members;
(6) Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship. For purposes of this subdivision, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. is a relationship between individuals who have or have within the preceding 12 months had a continuing serious relationship of a romantic or intimate nature. Whether a relationship constitutes a dating relationship shall be determined based on consideration of the length of the relationship, the nature of the relationship, and the frequency and type of interaction between the individuals involved in the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship."

SECTION 6. This act becomes effective December 1, 2024, and applies to offenses committed and actions for protective orders filed on or after that date.