



Sword & Shield

Accountability for Offenders. Safety for Victims.



How to Contact the VAW Resource Prosecutor

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Upcoming Domestic Violence and Sexual Assault Trainings

17th Annual National Conference on Domestic Violence
October 27 – 31, 2007
Orlando, FL

Prosecuting Sexual Assaults and Related Violent Crimes
November 11 – 15, 2007
Albuquerque, NM

National Institute on the Prosecution of Domestic Violence
December 4 – 7, 2007
Austin, TX

For more information on these trainings, please go to www.ndaa.org.

2008 DV Regional Trainings

Throughout the upcoming year, we will be bringing the training to you! Be on the lookout for more information on our DV Regional trainings for law enforcement and prosecutors. The dates and locations will be available soon.

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The 2007 legislative session brought with it many domestic violence and sexual assault bills. Only a few passed and have subsequently been signed into law. Several others remain in committee and will be taken up in the 2008 session. The following is a summary of those domestic and sexual violence bills that may impact how we work with and help victims of violence and how we prosecute these cases. To see these and other bills in their entirety, please see the General Assembly's website at www.ncga.state.nc.us.

2007 Domestic and Sexual Violence Legislation

Domestic Violence Bond Law:

S.L. 2007-14 (H.B. 42) – Adds stalking to the list of crimes covered by the domestic violence bond law (G.S. 15A-534.1); therefore, only a judge may set bond within the first 48 hours. Also instructs Attorney General's Office to create a reporting system and database for domestic violence homicides.
Effective: Offenses committed on or after December 1, 2007.

Violation of Domestic Violence Protective Order while in Possession of Deadly Weapon:

S.L. 2007-190 (H.B. 47) – Creates Class H felony offense for persons who knowingly violate a domestic violence protective order while armed with a deadly weapon. The language includes those who possess a deadly weapon on or about their person or within close proximity to their person (G.S. 50B-4.1(g)).
Effective: Offenses committed on or after December 1, 2007.

Secure Waiting Area for Victims of Domestic Violence:

S.L. 2007-15 (H.B. 46) – Requires, where practical, the Clerk and Sheriff to make available to victims of domestic violence a secure waiting room for civil and criminal proceedings.
Effective: Immediately.

NOTE: The Crime Victims' Rights Act already requires District Attorney's Offices to do so when practical (G.S. 15A-832).

Polygraph Examinations of Victims of Sexual Assault:

S.L. 2007-294 (H.B. 1810) – Adds new section G.S. 15A-831.1 which prohibits law enforcement agencies from requiring polygraph tests as a condition of investigating claims of sexual assault. If a polygraph is conducted on a victim or witness to sexual assault, then the law enforcement agency must inform the person that taking the test is voluntary, that the results of the test are not admissible in court, and that the person's decision to submit or refuse the examination will not be the sole basis for the agency's decision not to investigate the matter. If the person refuses to submit to the examination and the agency decides not to pursue the investigation, the agency must notify the person in writing of the reasons the investigation is not being pursued. Also instructs AOC to create a form to provide to defendants notifying them of the firearm requirements under VAWA by January 1, 2008.
Effective: Offenses committed on or after December 1, 2007.

NOTE: This law was passed in order to achieve compliance with VAWA 2005, allowing NC to continue to receive VAWA funds.

Testing of Certain Persons for Sexually Transmitted Infections:

S.L. 2007-403 (H.B. 118) – Amends G.S. 15A-615(b) by requiring tests ordered on defendants to be done within 48 hours of the Court's order. If a test for HIV is ordered, it must be the HIV-RNA Detection Test.
Effective: Offenses committed on or after December 1, 2007.

Sex Offender Satellite-Based Monitoring Requirements:

S.L. 2007-213 (H.B. 29) – Removes lifetime GPS monitoring of sexually violent, recidivist or aggravated offenders and grants the Court discretion in determining length of time for satellite monitoring; grants DOC the authority to add offenders to the GPS monitoring program that were convicted prior to the start of the program; allows probation officer to conduct a warrantless search of probationer's person, vehicle and premises.
Effective: See H.B. 29 for various effective dates.

Duty to Report Child Pornography:

S.L. 2007-263 (H.B. 27) – Adds new section G.S. 66-67.4 requiring film processors, photo finishers, and computer technicians to report child pornography to the National Center for Missing and Exploited Children or to local law enforcement.
Effective: September 1, 2007.

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Domestic and Sexual Violence Legislation *(cont.)*

Name Change Procedures for Victims of Domestic and Sexual Violence:

S.L. 2007-116 (S.B. 30) – Allows victims of domestic violence, sexual assault and stalking to avoid the public posting requirement of the name change procedure. Also amends Crime Victims' Rights Act (G.S. 15A-830(a)(7)) to include victims of violations of domestic violence protective orders.

Effective: October 1, 2007.

Bail and Pretrial Release in Sex Offenses and Crimes Against Children:

S.L. 2007-172 (S.B. 17) – Amends G.S. 15A-534.4 to *require* judicial officials in sex offenses and crimes of violence against child victims to set pretrial conditions of release that order the defendant to stay away from the victim's school, residence and workplace; refrain from communicating or attempting to communicate with the victim; and refrain from assaulting, beating, intimidating, stalking, threatening or harming the victim.

Effective: December 1, 2007.

Disclosure of Sex Offense Conviction in Custody Proceedings:

S.L. 2007-462 (H.B. 1328) – Amends G.S. 50-13.1 to require that any person seeking custody of a child ex parte must disclose in the pleadings a conviction of a sexually violent offense.

Effective: Actions or proceedings filed on or after October 1, 2007.

Changes to Definitions in G.S. 50C:

S.L. 2007-199 (H.B. 1482) – Amends 50C to provide relief only against persons 16 years of age or older.

Effective: Immediately.

2007 Discovery Legislation

Law Enforcement Records:

S.L. 2007-183 (H.B. 786) – Adds G.S. 15A-903(c) to provide that upon request by the State, a law enforcement agency or prosecutorial agency must make available to the State a complete copy of the complete files related to an investigation in order to be provided in discovery to the defendant.

Effective: Applies to cases set for trial on or after December 1, 2007.

Required Disclosure of Evidence by the State:

S.L. 2007-377 (S.B. 1009) – Amends G.S. 15A-903(a)(1) to provide that oral statements made to a prosecutor outside the presence of a law enforcement officer or investigatory assistant that do not contain *significantly new or different information* than that in a prior statement made by the witness need not be in written or recorded form. Amends G.S. 15A-904 allowing State to protect the identity of confidential informants (unless otherwise required by law) and requiring the State to provide only a witness's name, address, date of birth, and published phone number, unless the court determines upon defendant's motion that additional information is required to identify and locate the witness.

Effective: August 19, 2007, and applies to pending cases.

Definition of Prosecutorial Agency:

S.L. 2007-393 (S.B. 1130) – Amends G.S. 15A-903(a)(1) to define a "prosecutorial agency" as any entity that obtains information on behalf of law enforcement or the State in connection with the investigation of crimes committed or the prosecution of the defendant.

Effective: October 1, 2007.

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