

What Clerks  
Need to Know About  
Domestic Violence

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Overview of Law & Procedure:  
  
Civil  
or  
Criminal?

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An action for a DVPO is just like any other civil case.  
 True or False?

An action for a DVPO is different from any other civil case.  
 True or False?

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### Different because

- ▶ No court costs
- ▶ Assistance of attorney not required
- ▶ Law requires court personnel to assist pro se litigants

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### What is a 50B action?

#### GS 50B-2

▶ (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. Any action for a domestic violence protective order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other NC General Statutes - Chapter 50B 2 papers through the appropriate law enforcement agency where the defendant is to be served. In compliance with the federal Violence Against Women Act, no court costs or attorney fees shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena, except as provided in G.S. 1A-1, Rule 11.

#### Translation

- ▶ Any NC resident can file a lawsuit asking for protection for herself or her child because the defendant has committed acts of DV.
- ▶ No lawyer is required, and no court costs or other fees are charged.
- ▶ Begins with a complaint and summons, which informs A he has 10 days to file an answer.

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### Timeline:

- ▶ Request for DVPO initiated by motion in existing case or by request in complaint. Plaintiff may also ask for ex parte protection while waiting for case to be heard.
- ▶ If plaintiff asks for ex parte order, that hearing will be quickly conducted, either by a magistrate or a judge. If a magistrate enters order, it expires by end of next day court is in session, and magistrate schedules 2d ex parte hearing, conducted prior to expiration, before judge.
- ▶ After final [ten-day] hearing, if court determines an act of domestic violence has occurred, DVPO must be entered. Court authorized to order wide range of types of relief, but MUST order defendant to refrain from additional acts of domestic violence.
- ▶ DVPO is valid for up to one year, renewable for up to two years.

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Definition of DV:  
 Personal Relationship + Act

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Personal Relationship: a relationship in which 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 parents to a minor child, or as grandparents and grandchildren. A must be 16+.
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are or have been in a dating relationship. → "one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship."

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An Act:

- ▶ Attempting to cause bodily injury, or intentionally causing bodily injury;
- or
- ▶ Placing the aggrieved party or a member of the aggrieved party's family or household in fear of - imminent serious bodily injury
- or
- continued harassment . . . causing substantial emotional distress;
- or
- ▶ Committing a rape or other sexual offense.

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Special rules for kids . . .



A collage of six black and white photographs of children of various ages and expressions. The photos include a young girl looking down, a toddler with curly hair, a young boy smiling broadly, two children wearing glasses, a girl with her arms raised, and a young boy with a serious expression.

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Special rules for guns . . .



A photograph showing several handguns and a revolver laid out on a dark surface, possibly a table. The guns are of various models and are arranged in a somewhat haphazard manner.

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A DVPO is just a piece of paper, not a bullet-proof shield. So, why is it so important?

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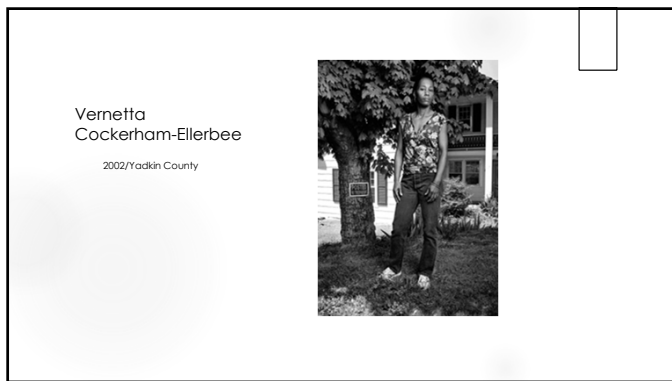
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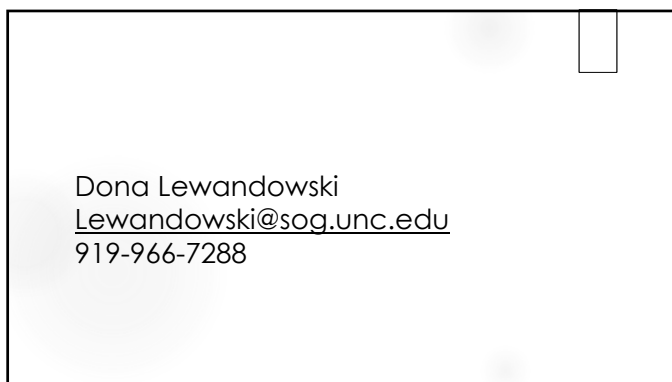
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