

# North Carolina Criminal Law Blog

## Filling in the Gaps: Changes on the Horizon for Misdemeanor Crime of Domestic Violence

July 30, 2025 [Brittany Bromell](#)

[<https://nccriminallaw.sog.unc.edu/author/bwilliams/>](https://nccriminallaw.sog.unc.edu/author/bwilliams/)

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Several times a year, I teach different groups about criminal domestic violence laws in North Carolina. Last year, I highlighted the misdemeanor crime of domestic violence (MCDV) under **G.S. 14-32.5**

[<https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_14/GS\\_14-32.5.pdf>](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-32.5.pdf) in many of the sessions, but there were many unresolved questions.

Earlier this month, the General Assembly passed **Session Law 2025-70**

[<https://www.ncleg.gov/Sessions/2025/Bills/Senate/PDF/S429v6.pdf>](https://www.ncleg.gov/Sessions/2025/Bills/Senate/PDF/S429v6.pdf) (Senate Bill 429) which, among other things, answers many of those questions. This post reviews the misdemeanor crime of domestic violence and the pending changes to the law.

A person charged with misdemeanor crime of domestic violence—previously **[blogged about here](https://nccriminallaw.sog.unc.edu/new-misdemeanor-crime-of-domestic-violence/)** [<https://nccriminallaw.sog.unc.edu/new-misdemeanor-crime-of-domestic-violence/>](https://nccriminallaw.sog.unc.edu/new-misdemeanor-crime-of-domestic-violence/) —is guilty of a Class A1 misdemeanor if that person uses or attempts to use physical force, or threatens the use of a deadly weapon, against certain victims. The person who commits the offense must have one of the following relationships with the victim:

- A current or former spouse, parent, or guardian of the victim.
- A person with whom the victim shares a child in common.

- A person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian.
- A person similarly situated to a spouse, parent, or guardian of the victim.
- A person who has a current or recent former dating relationship with the victim.

Effective for offenses committed on or after December 1, 2025, **[S.L. 2025-70 \(S 429\)](#)** <<https://www.ncleg.gov/Sessions/2025/Bills/Senate/PDF/S429v6.pdf>> makes the following clarifying changes to issues related to MCDV:

**Misdemeanor assaults are not lesser included offenses of MCDV.**

Under the new law, G.S. 14-33(e) is added to clarify that an offense under **[G.S. 14-33](#)** <[https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_14/GS\\_14-33.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-33.pdf)> is not to be considered a lesser included offense of MCDV. While this may have already been a logical conclusion under the *Blockburger* test for some misdemeanor assault offenses (like assault on a female and assault inflicting serious injury), there was still a lingering question as to simple assault.

It was unclear whether simple assault, as a potential lesser included offense of MCDV, could be charged alongside the new offense. Typically, where one offense is a lesser included offense of the other, there isn't an express prohibition on charging both, but—as Jeff Welty discusses in **[this blog post](https://nccriminallaw.sog.unc.edu/charging-greater-lesser-included-offenses-separately/)** <<https://nccriminallaw.sog.unc.edu/charging-greater-lesser-included-offenses-separately/>>—it is not the best practice. New G.S. 14-33(e) specifies that an offense under G.S. 14-33 is not a lesser included offense of MCDV, so charges may properly be issued for both MCDV and simple assault, provided that there exists probable cause to issue each charge.

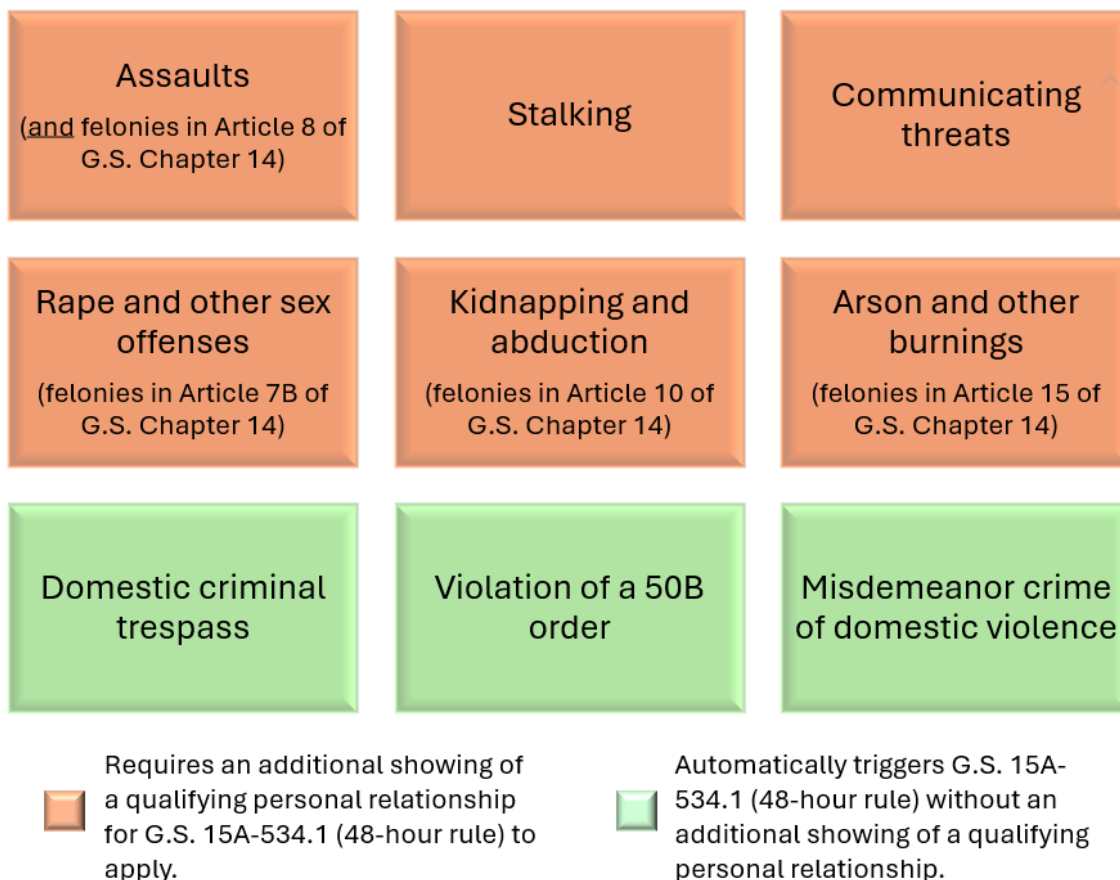
**An arrest for MCDV will automatically trigger the domestic violence 48-hour rule, without an additional showing of a qualifying personal relationship.**

The domestic violence 48-hour rule, set forth in **G.S. 15A-534.1**

[https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_15a/GS\\_15a-534.1.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_15a/GS_15a-534.1.pdf), requires a judge to determine the conditions of pretrial release within 48 hours of arrest for certain crimes related to domestic violence. If a judge has not done so within the statutory time period, then a magistrate must set the conditions.

Under existing law, a number of offenses are subject to the 48-hour statute only if the defendant is charged with an offense listed in that statute and the defendant and victim are or have been in a relationship described in that statute. Two offenses automatically triggered the 48-hour rule—domestic criminal trespass and violation of a domestic violence protective order. The 48-hour statute does not require an additional showing of a qualifying relationship for these offenses because the relationship is an inherent part of the offense.

Previously, for a defendant charged with MCDV to be subject to the 48-hour statute, the relationship between the defendant and the victim needed to satisfy the requirements of both G.S. 14-32.5 and G.S. 15A-534.1. Under the amended law, MCDV is added to the short list of offenses that automatically triggers the 48-hour rule without an additional showing of a qualifying personal relationship.



**A law enforcement officer can conduct a warrantless arrest for MCDV.**

When MCDV was enacted, it was not included in the list of offenses or circumstances that permitted an officer to conduct a warrantless arrest under **G.S. 15A-401(b)(2)**. [https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_15a/GS\\_15a-401.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_15a/GS_15a-401.pdf) for offenses committed out of their presence. Officers who had probable cause to believe that a person committed MCDV were limited to either issuing a citation, referring the victim to the magistrate, or swearing out a charge before an arrest could be effectuated. Now, an officer may conduct a warrantless arrest when the officer has probable cause to believe a person has committed MCDV in or out of the officer's presence.

**MCDV is now a qualifying offense for purposes of habitual misdemeanor assault.**

Under the previous version of **[G.S. 14-33.2](#)**

[https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_14/GS\\_14-33.2.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-33.2.pdf), MDCV was not included as an offense that counted toward the habitual misdemeanor assault status offense. Under the revised statute, it is specifically included alongside **[G.S. 14-34](#)**

[https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_14/GS\\_14-34.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-34.pdf) (assault by pointing a gun) as an offense that can qualify for habitual misdemeanor assault without any additional showing of physical injury.

### **There is a new habitual domestic violence status offense.**

The new law creates a habitual domestic violence status offense, codified as G.S. 14-32.6. This status offense first requires a person to commit MCDV, or to commit an assault where the person is related to the victim by one or more of the relationship descriptions set forth in MCDV statute:

- A current or former spouse, parent, or guardian of the victim.
- A person with whom the victim shares a child in common.
- A person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian.
- A person similarly situated to a spouse, parent, or guardian of the victim.
- A person who has a current or recent former dating relationship with the victim.

The person must also have two or more prior convictions that include either of the following combination of offenses:

- Two or more convictions of MCDV or an offense committed in another jurisdiction substantially similar to MCDV.
- One prior conviction of MCDV and at least one prior conviction—from North Carolina or another jurisdiction—of an offense involving an assault where the person is related to the victim by one or more of the relationship descriptions set forth in the MCDV statute.

The earlier of the two prior convictions must not have occurred more than 15 years prior to the date of the current violation.

Habitual domestic violence is Class H felony for the first offense. Subsequent convictions will each be punished at a level which is one offense class higher than the offense class of the most recent prior conviction under this section, with a Class C felony being the limit. This statute, like the habitual misdemeanor assault statute, specifies that a habitual domestic violence conviction cannot be used as a prior conviction for any other habitual offense statute.

Knapp-Sanders Building  
Campus Box 3330, UNC Chapel Hill  
Chapel Hill, NC 27599-3330  
T: (919) 966-5381 | F: (919) 962-0654

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