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## Women, Domestic Violence, and Law

By: Allen Brotherton



For much of American history, the law has treated women differently, whether for protection or control of the supposedly "weaker sex." Under the laws of most states before 1900, all property in a marriage was owned and controlled by the husband, and women

could not enter into enforceable contracts.

And the U.S. Supreme Court allowed all of this, for example holding in 1872 that a state could constitutionally prohibit women from practicing law.

In 1874, the court further held that the Constitution did not require that states allow women to vote, although the court did note "If the law is wrong, it ought to be changed; but the power for that is not with us."

Finally, in 1920 the Nineteenth Amendment to U.S. Constitution was ratified, declaring: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

Today, there are very few areas of the law that expressly discriminate against, or provide a preference for, women solely on the basis of gender. In North Carolina, one of the few exceptions is N.C.G.S. 14-33, which provides significantly higher penalties against a man for assaulting a woman than for a woman assaulting a man.

A challenge to this law was rejected in 1979 by the North Carolina Court of Appeals, based upon "the demonstrable and observable fact that the average male is taller, heavier and possesses greater strength than the average female... We recognize that classifications based upon average physical differences between the

sexes could be invalid in certain situations involving equal employment opportunity, participation in sports and other areas.

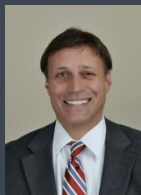
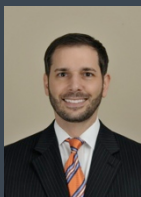
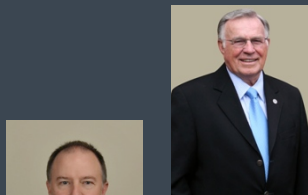
We believe that an analytical approach taking into account such average differences is an entirely valid approach, however, when distinguishing classes of direct physical violence.

This is particularly true where, as here, the acts of violence classified are all criminal when engaged in by any person whatsoever and have no arguably productive end. Certainly some individual females are larger, stronger and more violent than many males. The General Assembly is not, however, required by the Fourteenth Amendment to modify criminal statutes which have met the test of time in order to make specific provisions for any such individuals.

The Constitution of the United States has not altered certain virtually immutable facts of nature, and the General Assembly of North Carolina is not required to undertake to alter those facts. G.S 14-33(b)(2) establishes classifications by gender which serve important governmental objectives and are substantially related to achievement of those objectives."

N.C. law provides both civil and criminal remedies for victims of domestic violence. In addition to the assault on a female charge, it is also a crime for a separated partner to trespass at the other partner's residence, even if the trespasser owns the property. Also, available are charges of stalking, communicating threats, and making harassing phone calls.

As a civil remedy, a victim of domestic violence can get a protective order to require that the abuser stay away from the victim's residence, workplace, etc., and have no contact with the victim. Any violation can be enforced as contempt of court and is also a separate crime.



## Our Lawyers

Due to our recent “blizzard” we have included some tips for driving during snow related inclement weather.

-Decrease your speed and leave yourself plenty of room to stop. You should allow at least three times more space than usual between you and the car in front of you.

-Brake gently to avoid skidding. If your wheels start to lock up, ease off the brake.

-Turn on your lights to increase your visibility to other motorists.

-Keep your lights and windshield clean.

-Use low gears to keep traction, especially on hills.

-Don't use cruise control or overdrive on icy roads.

-Be especially careful on bridges, overpasses and infrequently traveled roads, which will freeze first. Even at temperatures above freezing, if the conditions are wet, you might encounter ice in shady areas or on exposed roadways like bridges.

-Don't assume your vehicle can handle all conditions. Even four-wheel and front-wheel drive vehicles can encounter trouble on winter roads.

## Grand Juries in North Carolina



By: Mike Knox

There should always be eighteen members and their service should typically be one year. However, there are procedures where the resident Superior Court Judge can limit terms to six months if a disproportionate burden is being placed on the jurors.

2. The Resident Superior Court Judge of a judicial district may impanel a second grand jury to serve concurrently with the first grand jury.
3. There must be a concurrence of at least twelve members of the grand jury to issue an indictment. The other members he/she serves with select the foreperson of the grand jury. It is the job of the foreperson to preside over the hearings of the grand jury and to administer oaths to those testifying before the grand jury.
4. During grand jury deliberations, only the members of the jury are present. All grand jury proceedings are secret. All testimony given is to be kept

confidential.

5. Typically, a prosecutor for the State submits Bills of Indictments for the grand jury's consideration. The grand jury listens to the sworn testimony of witnesses and then deliberates as to whether there is probable cause for the charge that has been presented. If so, they issue a True Bill of Indictment, which is then served on the accused, and the case proceeds on through the court system. If not, then they issue Not a True Bill. They may request the prosecutor to submit a bill for a lesser offense.
6. Many feel that the system has become nothing more than a rubber stamp, in that, all the jury hears is the officer's version of events leading to the charge being brought. Case in point, on the day the Kerrick matter was heard and a true bill found, it was one of 276 True Bills returned out of 276 presented... all within four hours.



**See Above:** Attorney Allen Brotherton volunteering as a Presiding Judge.  
**See Left:** Federal Court Judge Albert Diaz presided over the final round in the day long competition.

## NCAJ Mock Trial

On February 1, 2014 the Regional NCAJ Mock Trial competition was held at the Mecklenburg County Courthouse in Charlotte, NC.

The mission of the NCAJ Mock Trial is to educate North Carolina High School students about our justice system by transforming courtrooms into Classrooms.

The Knox Law Center attorneys and staff have been volunteering with the Regional Mock Trial Competition since 2005.

Volunteers serve as sitting Judges, scoring jurors, and support administrative staff. Attorney Frances Knox has served as the regional coordinator for several years

By connecting students with attorneys and judges in this hands-on learning environment it allows the students to form a more realistic opinion of how our justice system works.

The impact of this program far exceeds the courtroom by building analytical, writing, and

public speaking skills. These skills have proven to go hand in hand with confidence, teamwork, and leadership. These are the building blocks for success regardless of the paths these students choose to pursue.

The success of this recent event can be credited to those who have volunteered their personal time in an effort to provide guidance and assistance to the participating students.

### Court Telephone

#### Directory

#### Mecklenburg County

Information:

704.686.0400

Child Support:

704.686.0500

Civil Department:

704.686.0520

Criminal Department:

704.686.0600

Small Claims:

704.686.0560

Juvenile Services:

704.347.7842

Child's Care Center:

704.686.0285

Pretrial Services:

704.336.2027

Public Defender:

704.686.0900

Arrest Processing:

704.336.6121

#### Lincoln County

Information:

704.742.7800

## Our Monthly Q&A Legal Tips

**Q:** I want to start my own business. What is the first step?

**A:** Depending upon the type of business the following may be required:

- Business License
- City/State/Federal Permit
- Compliance w/ Zoning Regulations/Ordinances
- Building Inspections
- Business Registration

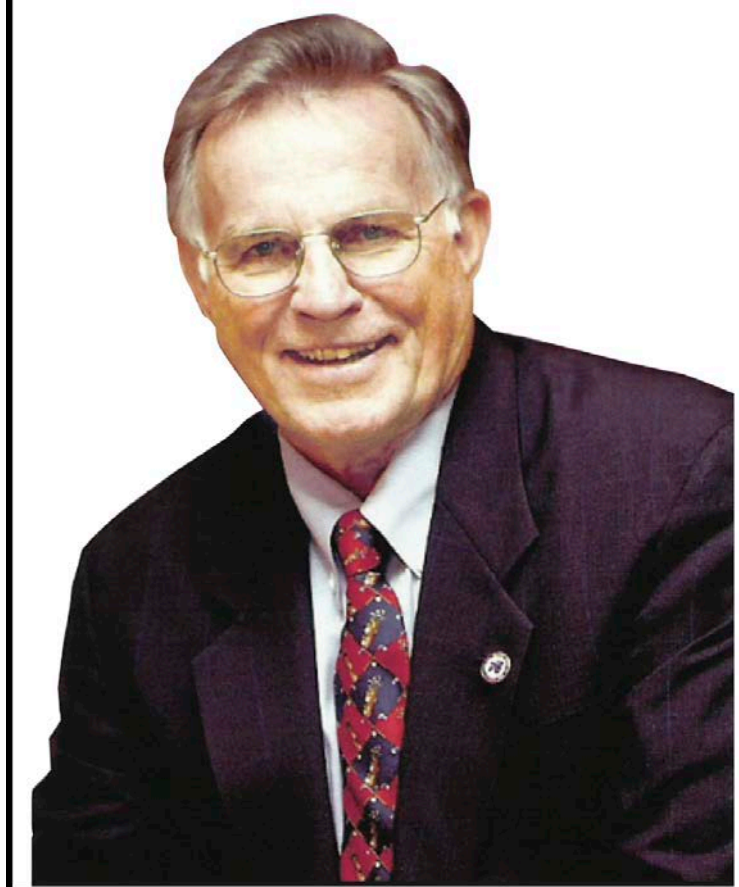
Let our attorneys advise you of the requirements for your small business.

Please contact our office to set up a consultation.



# Super Lawyers

**Congratulations to Eddie Knox**  
9<sup>th</sup> consecutive year selected as North  
Carolina Super Lawyer by his peers.



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