

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H

1

HOUSE BILL 537

Short Title: Alena's Law.

(Public)

Sponsors: Representatives Greene and Stevens (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Emergency Management and Disaster Recovery, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

March 27, 2025

A BILL TO BE ENTITLED
AN ACT TO ALLOW FOR A PRESUMPTION OF DEATH IN INSTANCES WHERE THE
DISAPPEARANCE AND CONTINUED ABSENCE OF A PERSON COINCIDES WITH
A DISASTER DECLARATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28C-1 reads as rewritten:

"§ 28C-1. Death not presumed from seven years' absence; exposure to peril and certain presumptions to be considered.

(a) Death Not to Be Presumed from Mere Absence. – In any action under this Chapter, where the death of a person and the date thereof, or either, is in issue the fact that he has been absent from his place of residence, unheard of for seven years, or for any other period, creates no presumption requiring the judge or the jury to find that he is now deceased. The issue shall be decided by the judge as one of fact upon the evidence.

(b) Exposure to Specific Peril to Be Considered. – If during such absence the person has been exposed to a specific peril of death, this fact shall be considered by the judge; or if there be a jury, shall be sufficient evidence to be submitted to the jury.

(c) Federal Finding of Presumed Death. – A written finding of presumed death, as described in G.S. 8-37.1, shall be prima facie evidence to be considered by the judge; or if there be a jury, shall be sufficient evidence to be submitted to the jury.

(d) Disappearance Coincident to Disaster Declaration. – The disappearance and continued absence for at least 90 days of a person that coincides with a disaster declaration, as defined in G.S. 166A-19.3, or a federally declared disaster, shall create a rebuttable presumption of the death of a person."

SECTION 2. G.S. 28C-2 reads as rewritten:

"§ 28C-2. Action for receiver; contents of complaint; parties.

(a) Action for Receiver to Be Instituted in the Superior Court. – If any person having an interest in any property in this State disappears and is absent from ~~his~~that person's place of residence and after diligent inquiry his whereabouts remains unknown to those persons most likely to know the same, for a period of 30 days or more, anyone who would be entitled to administer the estate of such absentee if ~~he~~the person were deceased, or any interested person, may commence a civil action and file a duly verified complaint in the superior court of either the county of such absentee's domicile, or the county where any of ~~his~~the absentee's property is situated.

(b) Contents of the Complaint. – The complaint shall contain the following:



* H 5 3 7 - V - 1 *

- 1 (1) The name, age, occupation, and last known residence or address of such
2 ~~absentee;~~absentee.
- 3 (2) The date and circumstances of ~~his—disappearance;~~the absentee's
4 disappearance.
- 5 (2a) If applicable, either of the following:
- 6 a. The existence of a written finding of presumed death, as described in
7 G.S. 8-37.1.
- 8 b. An averment of disappearance and continued absence for at least 90
9 days coincident to a disaster declaration under G.S. 166A-19.3 or a
10 federally declared disaster.
- 11 (3) So far as known, a schedule of all his property within this State, including
12 property in which ~~he—the absentee~~ has an interest as tenant by the entirety, and
13 other property in which ~~he—the absentee~~ is co-owner with or without the right
14 of ~~survivorship;~~survivorship.
- 15 (4) The names and addresses of the person who would have an interest in the
16 estate of such absentee if ~~he—the absentee~~ were ~~deceased;~~deceased.
- 17 (5) The names and addresses of all persons known to the complainant to claim an
18 interest in the absentee's ~~property; and~~property.
- 19 (6) A prayer, that ancillary to the principal action, a receiver be appointed by
20 virtue of the provisions of this Chapter to take custody and control of such
21 property of the absentee and to preserve and manage the same pending final
22 disposition of the action as provided in G.S. 28C-11.
- 23 (c) Parties to the Action. – The absentee, all persons who would have an interest in the
24 estate of such absentee if ~~he—the absentee~~ were deceased, all persons known to claim an interest
25 in the absentee's property, and all known insurers of the life of the absentee shall be made parties
26 to the action. A guardian ad litem shall be appointed for the absentee, and shall file an answer in
27 ~~his—the absentee's~~ behalf."

28 **SECTION 3.** This act is effective when it becomes law and applies to complaints for
29 actions for receiver filed on or after that date.