

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 1268

Short Title: Domestic Violence/Represent Self.

(Public)

Sponsors: Representatives S. Thompson; Bowie, Colton, Duncan, Easterling, Gardner, Holt, Judy Hunt, Perdue, Stamey, and Wisser.

Referred to: Judiciary.

April 12, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR PRO SE REPRESENTATION BY A VICTIM OF
2 DOMESTIC VIOLENCE AND TO PROVIDE FORMS TO FACILITATE PRO SE
3 REPRESENTATION.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 50B-2 reads as rewritten:

7 "**§ 50B-2. Institution of civil action; motion for emergency relief; temporary**
8 **orders.**

9 Any person residing in this State may seek relief under this Chapter by filing a civil
10 action or by filing a motion in any existing action filed under Chapter 50 of the General
11 Statutes alleging acts of domestic violence against himself or herself or a minor child
12 who resides with or is in the custody of such person. Any aggrieved party entitled to
13 relief under this Chapter may file a civil action and proceed **pro se**, without the
14 assistance of legal counsel. The district court division of the General Court of Justice
15 shall have original jurisdiction over actions instituted under this Chapter.

16 (b) Emergency relief. – A party may move the court for emergency relief if he or
17 she believes there is a danger of serious and immediate injury to himself or herself or a
18 minor child. A hearing on a motion for emergency relief, where no **ex parte** order is
19 entered, shall be held after five days' notice of the hearing to the other party or after five
20 days from the date of service of process on the other party, whichever occurs first,
21 provided, however, that no hearing shall be required if the service of process is not
22 completed on the other party. If the party is proceeding **pro se** and does not request an
23 **ex parte** hearing, the clerk shall set a date for hearing and issue a notice of hearing

1 within the time periods provided in this subsection, and shall effect service of the
2 summons, complaint, notice, and other papers through the appropriate law enforcement
3 agency where the defendant is to be served, upon payment of the required service fees.

4 (c) **Ex parte** orders. – Prior to the hearing, if it clearly appears to the court from
5 specific facts shown, that there is a danger of acts of domestic violence against the
6 aggrieved party or a minor child, the court may enter such orders as it deems necessary
7 to protect the aggrieved party or minor children from such acts provided, however, that
8 a temporary order for custody **ex parte** and prior to service of process and notice shall
9 not be entered unless the court finds that the child is exposed to a substantial risk of
10 bodily injury or sexual abuse. Upon the issuance of an **ex parte** order under this
11 subsection, a hearing shall be held within 10 days from the date of issuance of the order
12 or within seven days from the date of service of process on the other party, whichever
13 occurs later. If an aggrieved party acting **pro se** requests **ex parte** relief, the Clerk of
14 Superior Court shall schedule an **ex parte** hearing with the district court division of the
15 General Court of Justice within 72 hours of the filing for said relief, or by the end of the
16 next day on which the district court is in session in the county in which the action was
17 filed, whichever shall first occur. If the district court is not in session in said county, the
18 aggrieved party may contact the Clerk of Superior Court in any other county within the
19 same judicial district who shall schedule an **ex parte** hearing with the district court
20 division of the General Court of Justice by the end of the next day on which said court
21 division is in session in that county. Upon the issuance of an **ex parte** order under this
22 subsection, if the party is proceeding **pro se**, the Clerk shall set a date for hearing and
23 issue a notice of hearing within the time periods provided in this subsection, and shall
24 effect service of the summons, complaint, notice, order and other papers through the
25 appropriate law enforcement agency where the defendant is to be served, upon payment
26 of the required service fees.

27 (d) **Pro se** Forms. The Clerk of Superior Court of each county shall provide
28 forms to **pro se** complainants, including summons, complaint, motion, affidavit and
29 order to proceed in **forma pauperis**, **ex parte** protective order, notice of hearing,
30 protective order, and notice and motion for contempt for violation of protective order."

31 Sec. 2. G.S. 50B-4(a) reads as rewritten:

32 "(a) A party may file a motion for contempt for violation of any order entered
33 pursuant to this Chapter. Said party may file and proceed with such motion **pro se**,
34 using forms provided by the Clerk of Superior Court. Upon the filing **pro se** of a
35 motion for contempt under this subsection, the clerk shall schedule and issue notice of a
36 show cause hearing with the district court division of the General Court of Justice at the
37 earliest possible date pursuant to 5A-23. The Clerk shall effect service of the motion,
38 notice, and other papers through the appropriate law enforcement agency where the
39 defendant is to be served, upon payment of the required service fees."

40 Sec. 3. The Administrative Office of the Courts shall develop the following
41 forms by October 1, 1989, for filing actions and motions **pro se**: complaint, **ex parte**
42 protective order, notice of hearing, protective order, and notice and motion for contempt
43 for violation of protective order. The Administrative Office of the Courts shall

1 distribute the forms to the Office of the Clerk of Superior Court in each county of the
2 State.

3 Sec. 4. This act shall become effective October 1, 1989.