

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1268
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Short Title: Domestic Violence/Represent Self.

(Public)

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

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 (a) Any person residing in this State may seek relief under this Chapter by filing
10 a civil action or by filing a motion in any existing action filed under Chapter 50 of the
11 General Statutes alleging acts of domestic violence against himself or herself or a minor
12 child who resides with or is in the custody of such person. Any aggrieved party entitled
13 to 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

1 ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing
2 within the time periods provided in this subsection, and shall effect service of the
3 summons, complaint, notice, and other papers through the appropriate law enforcement
4 agency where the defendant is to be served, upon payment of the required service fees.

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

28 (d) **Pro Se Forms.** The Clerk of Superior Court of each county shall provide to
29 pro se complainants all forms which are necessary or appropriate to enable them to
30 proceed pro se pursuant to this section."

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, issue and
41 distribute to the Office of the Clerk of Superior Court in each county of the State by
42 January 1, 1990 all forms which are necessary or appropriate to enable the Clerk to
43 comply with G.S. 50B-2(d).

44 Sec. 4. This act shall become effective January 1, 1990.