

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 914

Short Title: Parental Control/Minors.

(Public)

Sponsors: Senator Block.

Referred to: Judiciary II.

April 18, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MAGISTRATES TO ISSUE EX PARTE ORDERS IN CERTAIN CASES.

The General Assembly of North Carolina enacts:

Section 1. 110-44.4 reads as rewritten:

"§ 110-44.4. Enforcement.

The provisions of this Article may be enforced by the parent, guardian, or person standing in loco parentis to the child by filing a civil action in the district court of the county where the child can be found or by filing an action with the magistrate of the district court of the county where the child can be found. Upon the institution of such action by a verified complaint, alleging that the defendant child has left home or has left the place where he has been residing and refuses to return and comply with the direction and control of the plaintiff, the court or the magistrate may issue an order directing the child personally to appear before the court at a specified time to be heard in answer to the allegations of the plaintiff and to comply with further orders of the court. A magistrate's order issued pursuant to this section is ex parte, and is subject to court approval within three calendar days of its issuance. Such orders shall be served by the sheriff upon the child and upon any other person named as a party defendant in such action. At the time of the issuance of the order directing the child to appear the court may in the same order, or by separate order, order the sheriff to enter any house, building, structure or conveyance for the purpose of searching for said child and serving said order and for the purpose of taking custody of the person of said child in order to bring said child before the court. Any order issued at said hearing shall be treated as a mandatory injunction and shall remain in full force and effect until the child reaches the

1 age of 18, or until further orders of the court. Within 30 days after the hearing on the
2 original order, the child, or anyone acting in his behalf, may file a verified answer to the
3 complaint. Upon the filing of an answer by or on behalf of said child, any district court
4 judge holding court in the county or district court district as defined in G.S. 7A-133
5 where said action was instituted shall have jurisdiction to hear the matter, without a
6 jury, and to make findings of fact, conclusions of law, and render judgment thereon.
7 Any aggrieved party may within the time allowed for appeal of civil actions generally
8 appeal to the superior court where trial shall be had without a jury. Appeals from the
9 superior court to the Court of Appeals shall be allowed as in civil actions generally. The
10 district judge issuing the original order or the district judge hearing the matter after
11 answer has been filed shall also have authority to order that any person named
12 defendant in the order or judgment shall not harbor, keep, or allow the defendant child
13 to remain on said person's premises or in said person's home. Failure of any defendant
14 to comply with the terms of said order or judgment shall be punishable as for
15 contempt."

16 Sec. 2. This act shall become effective October 1, 1989, and applies to
17 actions initiated on and after this date.