

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 993
SENATE BILL 939

AN ACT TO PROVIDE FOR EXPEDITING CHILD SUPPORT CASES AS
REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. All existing provisions in Chapter 50 of the General Statutes are designated as Article 1. Sections 50-22 through 50-29 of Chapter 50 are reserved for future codification. A new Article 2 is added to Chapter 50 to read:

"Article 2.

"Expedited Process for Child Support Cases.

"§ 50-30. Findings; policy; and purpose. – (a) Findings. The General Assembly makes the following findings:

- (1) There is a strong public interest in providing fair, efficient, and swift judicial processes for establishing and enforcing child support obligations. Children are entitled to support from their parents, and court assistance is often required for the establishment and enforcement of parental support obligations. Children who do not receive support from their parents often become financially dependent on the State.
- (2) The State shall have laws that meet the federal requirements on expedited processes for obtaining and enforcing child support orders for purposes of federal reimbursement under Title IV-D of the Social Security Act, 42 U.S.C. § 66(a)(2). The Secretary of the Department of Health and Human Services may waive the expedited process requirement with respect to one or more judicial districts on the basis of the effectiveness and timeliness of support order issuance and enforcement within the district.
- (3) The State has a strong financial interest in complying with the expedited process requirement, and other requirements, of Title IV-D of the Social Security Act, but the State would incur substantial expense in creating statewide an expedited child support process as defined by federal law.
- (4) The State's judicial system is largely capable of processing child support cases in a timely and efficient manner and has a strong commitment to an expeditious system.

- (5) The substantial expense the State would incur in creating a new system for obtaining and enforcing child support orders would be reduced and better spent by improving the present system.

(b) Purpose and policy. It is the policy of this State to ensure, to the maximum extent possible, that child support obligations are established and enforced fairly, efficiently, and swiftly through the judicial system by means that make the best use of the State's resources. It is the purpose of this Article to facilitate this policy. The Administrative Office of the Courts and judicial officials in each judicial district shall make a diligent effort to ensure that child support cases, from the time of filing to the time of disposition, are handled fairly, efficiently, and swiftly. The Administrative Office of the Courts and the Department of Human Resources shall work together to improve procedures for the handling of child support cases in which the State or county has an interest, including all cases that qualify in any respect for federal reimbursement under Title IV-D of the Social Security Act.

"§ 50-31. Definitions. – As used in this Article, unless the context clearly requires otherwise:

- (1) 'Child support case' means the part of any civil action or proceeding, whether intrastate or interstate, that involves a claim for the establishment or enforcement of a child support obligation.
- (2) 'Dispose' or 'Disposition' of a child support case means the entry of an order in a child support case that:
 - a. dismisses the claim for establishment or enforcement of the child support obligation; or
 - b. establishes a child support obligation, either temporary or permanent, and directs how that obligation is to be satisfied; or
 - c. orders a particular child support enforcement remedy.
- (3) 'Expedited process' means a procedure for having child support orders established and enforced by a magistrate or clerk who has been designated as a child support hearing officer pursuant to this Article.
- (4) 'Federal expedited process requirement' means the provision in Title IV, Part D of the Social Security Act, 42 U.S.C. § 666(a)(2), that requires as a condition of the receipt of federal funds that a state have laws that require the use of federally defined expedited processes for obtaining and enforcing child support orders.
- (5) 'Filing' means the date the defendant is served with a pleading that seeks establishment or enforcement of a child support obligation, or the date written notice or a pleading is sent to a party seeking establishment or enforcement of a child support obligation.
- (6) 'Hearing officer' or 'child support hearing officer' means a clerk or assistant clerk of superior court or a magistrate who has been designated pursuant to this Article to hear and enter orders in child support cases.
- (7) 'Initiating party' means the party, the attorney for a party, a child support enforcement agency established pursuant to Title IV, Part D of

the Social Security Act, or the clerk of superior court who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation.

"§ 50-32. Except where paternity is at issue, in all child support cases the district court judge shall dispose of the case from filing to disposition within 60 days, except that this period may be extended for a maximum of 30 days by order of the court if:

- (1) Either party or his attorney cannot be present for the hearing; or
- (2) The parties have consented to an extension.

"§ 50-33. Waiver of expedited process requirement. – (a) DHR to seek waiver. The Department of Human Resources, with the assistance of the Administrative Office of the Courts, shall vigorously pursue application to the Secretary of the Department of Health and Human Services for waivers of the federal expedited process requirement.

(b) Districts that do not qualify. In any judicial district that does not qualify for a waiver of the federal expedited process requirement, an expedited process shall be established as provided in G.S. 50-34.

"§ 50-34. Establishment of an expedited process. – (a) Districts required to have expedited process. In any judicial district that is required by G.S. 50-33(b) to establish an expedited child support process, the Director of the Administrative Office of the Courts shall notify the chief district court judge and the clerk or clerks of superior court in the district in writing of the requirement. The Director of the Administrative Office of the Courts, the chief district court judge, and the clerk or clerks of superior court in the district shall implement an expedited child support process as provided in this section.

(b) Procedure for establishing expedited process. When a judicial district is required to implement an expedited process, the Director of the Administrative Office of the Courts, the chief district judge, and the clerk of superior court in an affected county shall determine by agreement whether the child support hearing officer or officers for that county shall be one or more clerks or one or more magistrates. If such agreement has not been reached within 15 days after the notice required by subsection (a) when implementation is required, the Director of the Administrative Office of the Courts shall make the decision. If it is decided that the hearing officer or officers for a county shall be magistrates, the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position. If it is decided that the hearing officer or officers for a county shall be the clerk or assistant clerks, the clerk of superior court in the county shall designate the person or persons to serve as hearing officer, and the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position.

(c) Public to be informed. When an expedited process is to be implemented in a county or judicial district, the chief district court judge, the clerk or clerks of superior court in affected counties in the district, and the Administrative Office of the Courts shall take steps to ensure that attorneys, the general public, and parties to pending child support cases in the county or district are informed of the change in procedures and helped to understand and use the new system effectively.

"§ 50-35. Authority and duties of a child support hearing officer. – A child support hearing officer who is properly qualified and designated under this Article has the following authority and responsibilities in all child support cases:

- (1) To conduct hearings and to ensure that the parties' due process rights are protected;
- (2) To take testimony and establish a record;
- (3) To evaluate evidence and make decisions regarding the establishment or enforcement of child support orders;
- (4) To accept and approve voluntary acknowledgements of support liability and stipulated agreements setting the amount of support obligations;
- (5) To accept and approve voluntary acknowledgements and affirmations of paternity;
- (6) Except as otherwise provided in this Article, to enter child support orders that have the same force and effect as orders entered by a district court judge;
- (7) To enter temporary child support orders pending the resolution of unusual or complicated issues by a district court judge;
- (8) To enter default orders; and
- (9) To subpoena witnesses and documents.

"§ 50-36. Child support procedures in districts with expedited process. – (a) Scheduling of cases. The procedures of this section shall apply to all child support cases in any judicial district or county in which an expedited process has been established. All claims for the establishment or enforcement of a child support obligation, whether the claim is made in a separate action or as part of a divorce or any other action, shall be scheduled for hearing before the child support hearing officer. The initiating party shall send a notice of the date, time, and place of the hearing to all other parties. Service of process shall be made and notices given as provided by G.S. 1A-1, Rules of Civil Procedure.

(b) Place of hearing. The hearing before the child support hearing officer need not take place in a courtroom, but shall be conducted in an appropriate judicial setting.

(c) Hearing procedures. The hearing of a case before a child support hearing officer is without a jury. The rules of evidence applicable in the trial of civil actions generally are observed; however, the hearing officer may require the parties to produce and may consider financial affidavits, State and federal tax returns, and other financial or employment records. Except as otherwise provided in this Article, the hearing officer shall determine the parties' child support rights and obligations and enter an appropriate order based on the evidence and the child support laws of the State. All parties shall be provided with a copy of the order.

(d) Record of proceeding. The record of a proceeding before a child support hearing officer shall consist of the pleadings filed in the child support case, documentation of proper service or notice or waiver, and a copy of the hearing officer's order. No verbatim recording or transcript shall be required or provided at State expense.

(e) Transfer to district court judge. Upon his own motion or upon motion of any party, the hearing officer shall transfer a case for hearing before a district court judge when the case involves:

- (1) a contested paternity action;
- (2) a custody dispute;
- (3) contested visitation rights;
- (4) the ownership, possession, or transfer of an interest in property to satisfy a child support obligation; or
- (5) other complex issues.

Upon ordering such a transfer, except in cases of contested paternity, the hearing officer shall also enter a temporary order that provides for the payment of a money amount or otherwise addresses the child's need for support pending the resolution of the case by the district court judge. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge.

"§ 50-37. Enforcement authority of child support hearing officer; contempt. – When a child support case is before a child support hearing officer for enforcement of a child support order, the hearing officer has the same authority that a district court judge would have, except in cases of contempt. Orders that commit a party to jail for civil or criminal contempt for the nonpayment of child support, or for otherwise failing to comply with a child support order, may be entered only by a district court judge. When it appears to a hearing officer that there is probable cause for finding such contempt in a case before the child support hearing officer and that no other enforcement remedy would be effective or sufficient, the hearing officer shall enter an order finding probable cause and referring the case for hearing before a district court judge. The order may indicate the amount of payment the responsible parent may make, or other action he may take, or both, to comply with the child support order. If proof of compliance is made to the hearing officer within a time specified in the order, the hearing officer may cancel the referral of the contempt case to district court. Except as specifically limited by this section, a clerk or magistrate acting as a child support hearing officer retains all of the contempt powers he or she otherwise has by virtue of being a clerk or magistrate.

"§ 50-38. Appeal from orders of the child support hearing officer. – (a) Appeal; hearing de novo. Any party may appeal an order of a child support hearing officer for a hearing de novo before a district court judge by giving notice of appeal at the hearing or in writing within 10 days after entry of judgment. Upon appeal noted, the clerk of superior court shall place the case on the civil issue docket of the district court. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge. Unless appealed from, the order of the hearing officer is final.

(b) Order not stayed pending appeal. Appeal from an order of a child support hearing officer does not stay the execution or enforcement of the order unless, on application of the appellant, a district court judge orders such a stay.

"§ 50-39. Qualifications of child support hearing officer. – (a) Qualifications. A clerk or assistant clerk of superior court or a magistrate, to be designated and serve as a child support hearing officer, shall satisfy each of the following qualifications:

- (1) Be at least 21 years of age and not older than 70 years of age, and have a high school degree or its equivalent.
- (2) Be qualified by training and temperament to be effective in relating to parties in child support cases and in conducting hearings fairly and efficiently.
- (3) Be certified by the Administrative Office of the Courts as having completed the training required by subsection (b).
- (4) Establish that he has one of the following qualifications:
 - a. election or appointment as the Clerk of Superior Court; or
 - b. three years experience as an assistant clerk of superior court working in child support or related matters; or
 - c. six years experience as an assistant clerk of superior court; or
 - d. four years experience as a magistrate whose duties have included, in substantial part, the disposition of civil matters; or
 - e. pursuant to G.S. 7A-171.1, five to seven years eligibility for pay as a magistrate; or
 - f. three years experience working in the field of child support enforcement or a related field.

(b) Training required. Before a clerk or assistant clerk or a magistrate may conduct hearings as a child support hearing officer he must satisfactorily complete a course of instruction in the conduct of such hearings established by the Administrative Office of the Courts. The Administrative Office of the Courts shall establish a course in the conduct of such hearings. The Administrative Office of the Courts may contract with qualified educational organizations to conduct the course of instruction and must reimburse the clerks or magistrates attending for travel and subsistence incurred in taking such training."

Sec. 2. Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-178. Magistrate as child support hearing officer. – A magistrate who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50."

Sec. 3. Chapter 7A of the General Statutes is amended by adding a new section to read as follows:

"§ 7A-183. Clerk or assistant clerk as child support hearing officer. – A clerk or assistant clerk of superior court who meets the qualifications of G.S. 50-39 and is properly designated pursuant to G.S. Chapter 50, Article 2, to serve as a child support hearing officer, may serve in that capacity and has the authority and responsibility assigned to child support hearing officers by Chapter 50."

Sec. 4. This act shall become effective October 1, 1986.

In the General Assembly read three times and ratified, this the 12th day of July, 1986.