

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 893
HOUSE BILL 826

AN ACT TO AMEND CHAPTER 50B BY CLARIFYING THE DEFINITION OF BODILY INJURY FOR CHILDREN IN DOMESTIC VIOLENCE CASES, BY ALLOWING THE FILING OF A MOTION IN CERTAIN EXISTING ACTIONS FOR DOMESTIC VIOLENCE RELIEF, AND BY REQUIRING NOTICE OF HEARINGS FOR EMERGENCY RELIEF.

The General Assembly of North Carolina enacts:

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

"§ 50B-1. **Domestic violence; definition.**—(a) Domestic violence means the ~~occurrence~~ commission of one or more of the following acts ~~between past or present spouses or between persons of the opposite sex who are living together or have lived together as if married, or between one of such persons and a minor child who is in the custody of or residing with the other person:~~ upon an aggrieved party by a current or former spouse of the aggrieved party or by a person of the opposite sex with whom the aggrieved party lives or has lived as if married:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing ~~another person~~ the aggrieved party in fear of imminent serious bodily injury by the threat of force.

(b) Notwithstanding the provisions of subsection (a) above, domestic violence also means the commission of one or more of the following acts upon a minor residing with or in the custody of the aggrieved party by a current or former spouse of the aggrieved party or by a person of the opposite sex with whom the aggrieved party lives or has lived as if married:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury;
- (2) Placing the minor in fear of imminent serious bodily injury by the threat of force; or
- (3) Committing any act defined in G.S. 14-27.2 through 14-27.7."

Sec. 2. G.S. 50B-2 reads as rewritten:

"§ 50B-2. **Institution of civil action; motion for emergency relief; temporary orders.**—(a) A person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. The district court division of

the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter.

(b) Emergency relief. A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no **ex parte** order is entered, shall be held within 10 days of the filing of the motion after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party.

(c) **Ex parte** orders. ~~Prior to the hearing and upon a finding of good cause, the court shall enter such temporary, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter such orders as it deems necessary to protect the victim-aggrieved party or minor children from such acts of domestic violence provided, however, that a temporary order for custody **ex parte** and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. Immediate and present danger of such acts against the victim or minor children shall constitute good cause—~~Upon the issuance of an **ex parte** order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later."

Sec. 3. Chapter 828 of the 1987 Session Laws of North Carolina is repealed.

Sec. 3.1. G.S. 50-13.5(d) is amended by adding a new subdivision to read:

"(3) A temporary order for custody which changes the living arrangements of a child or changes custody shall not be entered **ex parte** and prior to service of process or notice, unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse or that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts."

Sec. 4. This act shall become effective October 1, 1988.

In the General Assembly read three times and ratified this the 21st day of June, 1988.