

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 216

SHORT TITLE: Domestic Violence/Emergency Relief

SPONSOR(S): Representative Spears

FISCAL IMPACT: **Expenditures:** **Increase ()** **Decrease ()**
 Revenues: **Increase ()** **Decrease ()**
 No Impact (X)
 No Estimate Available ()

FUND AFFECTED: **General Fund ()** **Highway Fund ()** **Local Fund ()**
 Other Fund ()

BILL SUMMARY: Amends G.S. 50B-2 to provide that in cases where a party is seeking emergency ex parte relief from domestic violence in accordance with GS Ch. 50B, and the clerk of superior court is unavailable, the district court is not in session, and a district court judge is not and will not be available for a period of at least eight hours, a magistrate may hear the motion and enter a temporary order. Magistrate must then schedule ex parte hearing before district court judge within 72 hours (with no additional costs to applying party) and magistrate's order will expire at end of 72 hour period.

Amends G.S. 50B-4 to provide that, upon a filing of a pro se motion for contempt based on a violation of a GS Ch. 50B domestic violence order, a magistrate may schedule and issue notice of a show cause hearing before the district court judge if motion for contempt is made when clerk of court is unavailable and the facts show clear danger of acts of domestic violence against aggrieved party or a minor child. Further, a person arrested pursuant to G.S. 50B-4(b) for violation of domestic violence order may be brought before magistrate for show cause hearing if district court is not in session and a district court judge is unavailable and will not be available for at least 8 hours.

Amends G.S. 5A-23(b) and GS 7A-292 to reflect new powers to magistrates.

AMENDMENTS/COMMITTEE SUBSTITUTES - April 12, 1993

House committee substitute authorizes magistrate to hear motions for emergency ex parte relief from domestic violence under G.S. 50B-2(c1) if district court judge is not and will not be available for at least four hours (was, eight hours). Adds new G.S. 50B-2(c2) providing that magistrates may award temporary child custody as authorized under original bill subject to rules to be established by the chief district judge for each district. Deletes changes to GS 5A-23(b) and 7A-292(2) from original bill, which would have given magistrates power to hold person in civil contempt for

violation of domestic violence order when district court was not in session and district court judge was unavailable for specified period of time.

EFFECTIVE DATE: October 1,1993; applies to actions filed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department - District Courts

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
RECURRING					
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions.

ASSUMPTIONS AND METHODOLOGY: The estimated number of these cases now heard statewide by the district court division of the Judicial Department totals 19,500. Numbers vary greatly from day to day. The following chart shows the average estimates, by the clerks of superior court, of ex parte orders per week in their districts.

<u>District</u>	<u>County</u>	<u>No./Week</u>	<u>No./Year</u>
26	Mecklenburg	40	2,080
18	Guilford	8	416
10	Wake	8	416
14	Durham	<u>25</u>	<u>1,300</u>
Total		81	4,212
13	Bladen	2	
	Brunswick	4	
	Columbus	<u>8</u>	
Total		14	728

The Administrative Office of the Courts (AOC) stated that if a large number of these cases were shifted to the magistrates, it would be possible that additional resources would be needed in the districts comprised of counties with larger populations. At this time, however, no additional resources are being requested by the AOC to implement this bill.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

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[FRD#003]



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