

and parent who were victims of domestic violence and provides that orders may designate a time and place for exchange of children away from the abused parent, the participation of a third party, or supervised visitation. Provides that the fact that a parent moves or is absent because of an act of domestic violence cannot be weighed against the parent in determining custody of visitation.

EFFECTIVE DATE: October 1, 1995

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch

FISCAL IMPACT

<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>FY</u> 99-00			

EXPENDITURES

RECURRING NO FISCAL IMPACT

NON-RECURRING

ASSUMPTIONS AND METHODOLOGY:

Section 1: The proposed bill amends G.S. 50B-1 to expand the definition of an offender from a current or former spouse or one with whom the aggrieved party lives or has lived to include a person with whom the aggrieved party has had a "familial relationship." Unlike existing law, a "familial relationship defined in G.S. 50B-1(b) includes parties who are dating or have dated, are engaged or have engaged in a sexual relationship, are related by blood, adoption or marriage as first cousins or closer, or have a child in common.

Although these provisions make protective orders available to more people, the Administrative Office of the Courts is unable to estimate how many additional people would seek a protective order. The Administrative Office of the Courts would not expect a large number of people to do so.

Domestic violence means the commission of certain acts upon an aggrieved party or a minor child residing with or in the custody of the aggrieved party. These acts include: attempting to cause or intentionally causing bodily injury or placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or committing rape or sexual offenses defined by G.S. 14-27.2 to 14-27.7. The proposed bill adds a provision to G.S. 50B-1(a) excluding acts of self-defense from the definition of domestic violence.

Although these changes to the law on domestic violence are significant, they are not likely to result in a significant increase in workload for the court system.

Section 2: The proposed legislation amends G.S. 50B-3(a)(9) to clarify the types of harassing conduct that may be prohibited by a domestic violence order. The order may prohibit a party from threatening, abusing or following the aggrieved party, from harassing, by telephone or otherwise, the aggrieved party, or otherwise interfering with the aggrieved party. Also in section 2, the proposed bill amends G.S. 50B-3(b) to enable a party to seek a renewal of a domestic violence order for up to one additional year. There is no estimate as to how many requests for renewal may arise, but the Administrative Office of the Courts does not expect a significant increase in court workload due to this provision.

Section 3: The proposed bill amends G.S. 50B-4(b) to provide that a person may be held in criminal contempt, as well as civil contempt, for violating a domestic violence order. The issue of criminal contempt would be disposed of at the same time as the issue for civil contempt, and the Administrative Office of the Courts would not expect it to require significant additional court time.

The proposed bill adds subsection (c) to G.S. 50B-4. It appears (based on information from Legal Services and N.C. Coalition Against Domestic Violence) that this subsection was added to clarify that protection orders may be enforced across county lines without further order from the court. The proposed bill also adds subsection (d), which specifies that valid protection orders entered in other states or by Indian tribes "shall be accorded full faith and credit by the courts of North Carolina and shall be enforced by the law-enforcement agencies of North Carolina." This provision is a change from existing law in that it will no longer be necessary to seek new protective orders in North Carolina if such orders have already been issued by another state or tribe. The federal law includes language indicating that the enforcing state must ensure the validity of the jurisdiction asserted in the original order is afforded due process. At any rate, providing for full faith and credit for protective orders will probably not have a substantial impact on the North Carolina system.

Section 4: The proposed legislation amends G.S. 1-110 to provide that persons seeking domestic violence protection orders may sue as indigents. The Administrative Office of the Courts does not expect this provision to have a significant effect on the court system. The statute already includes broad language authorizing the district court judge or clerk to permit a person to sue as an indigent if the person is unable to advance court costs. The Administrative Office of the Courts expects that most "indigent" people seeking protective orders can qualify under existing law, and that this provision would add relatively few in addition.

Section 5: The proposed bill amends G.S. 50-13.2(a) to provide that courts making determinations regarding custody and visitation must consider "the history of domestic violence between the parents" as one of the factors bearing on the best interest and welfare of the child. The Administrative Office of the Courts assumes that this consideration would not require a significant amount of additional court time, as courts likely already consider evidence of domestic violence when making decisions regarding child custody and visitation.

SOURCES OF DATA: Administrative Office of the Courts (Legal Services, Institute of Government, N.C. Coalition Against Domestic Violence).

TECHNICAL CONSIDERATIONS: None

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