

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 461
HOUSE BILL 1268

AN ACT TO PROVIDE FOR PRO SE REPRESENTATION BY A VICTIM OF
DOMESTIC VIOLENCE AND TO PROVIDE FORMS TO FACILITATE PRO SE
REPRESENTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50B-2 reads as rewritten:

"§ **50B-2. Institution of civil action; motion for emergency relief; temporary orders.**

(a) Any 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. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed **pro se**, without the assistance of legal counsel. 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 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. If the party is proceeding **pro se** and does not request an **ex parte** hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, upon payment of the required service fees.

(c) **Ex parte** orders. – Prior to the hearing, 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 aggrieved party or minor children from such acts 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. 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. If an aggrieved party acting **pro se** requests **ex parte** relief, the Clerk of

Superior Court shall schedule an **ex parte** hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the Clerk of Superior Court in any other county within the same judicial district who shall schedule an **ex parte** hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an **ex parte** order under this subsection, if the party is proceeding **pro se**, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served, upon payment of the required service fees.

(d) **Pro Se Forms.** The Clerk of Superior Court of each county shall provide to **pro se** complainants all forms which are necessary or appropriate to enable them to proceed **pro se** pursuant to this section."

Sec. 2. G.S. 50B-4(a) reads as rewritten:

"(a) A party may file a motion for contempt for violation of any order entered pursuant to this Chapter. Said party may file and proceed with such motion **pro se**, using forms provided by the Clerk of Superior Court. Upon the filing **pro se** of a motion for contempt under this subsection, the clerk shall schedule and issue notice of a show cause hearing with the district court division of the General Court of Justice at the earliest possible date pursuant to 5A-23. The Clerk shall effect service of the motion, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served, upon payment of the required service fees."

Sec. 3. The Administrative Office of the Courts shall develop, issue and distribute to the Office of the Clerk of Superior Court in each county of the State by January 1, 1990 all forms which are necessary or appropriate to enable the Clerk to comply with G.S. 50B-2(d).

Sec. 4. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified this the 26th day of June, 1989.