

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SENATE BILL 53
RATIFIED BILL

AN ACT TO AUTHORIZE A LAW ENFORCEMENT OFFICER TO OBTAIN CUSTODY
OF A CHILD UPON DETERMINATION BY THE COURT THAT THE CHILD IS IN
DANGER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.3 reads as rewritten:

"§ 50-13.3. Enforcement of order for custody.

...
(c) Notwithstanding subsections (a) and (b) of this section, a warrant to take physical custody of a child issued by a court pursuant to G.S. 50A-311 is enforceable throughout this State."

SECTION 2. G.S. 50-13.5 reads as rewritten:

"§ 50-13.5. Procedure in actions for custody or support of minor children.

...
(d) Service of Process; Notice; Interlocutory Orders. –

...
(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. A temporary custody order that requires a law enforcement officer to take physical custody of a minor child shall be accompanied by a warrant to take physical custody of a minor child as set forth in G.S. 50A-311.

...."

SECTION 3. G.S. 50A-311 reads as rewritten:

"§ 50A-311. Warrant to take physical custody of child.

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by G.S. 50A-308(b).

(c) A warrant to take physical custody of a child must:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;



- (2) Direct law enforcement officers to take physical custody of the child immediately; and
- (3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not ~~effective, available,~~ it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour. An officer executing a warrant to take physical custody of the child, that is complete and regular on its face, is not required to inquire into the regularity and continued validity of the order. An officer executing a warrant pursuant to this section shall not incur criminal or civil liability for its due service.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian."

SECTION 4. This act becomes effective October 1, 2017, and applies to orders for temporary custody on or after that date.

In the General Assembly read three times and ratified this the 22nd day of May, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____ .m. this _____ day of _____, 2017