GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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SENATE BILL 1057 Judiciary II Committee Substitute Adopted 4/24/01

Short Title:	Amend DV Laws.	(Public)
Sponsors:		
Referred to:		

April 5, 2001

A BILL TO BE ENTITLED

AN ACT PROHIBITING THE ASSESSMENT OF COURT COSTS AS RELATED

TO PROTECTIVE ORDERS IN DOMESTIC VIOLENCE CASES AND

AMENDING THE LAWS RELATING TO DOMESTIC VIOLENCE AND

MAKING AN APPROPRIATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-2(a) reads as rewritten:

"(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. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with 42 U.S.C. § 3796gg-5."

SECTION 2. G.S. 1-110(a)(6) is repealed.

SECTION 3. G.S. 50B-2(c1) reads as rewritten:

"(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter such orders as it deems necessary to protect the aggrieved party or minor children from such acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not

be entered unless the magistrate finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge within 72 hours of the filing for relief under this subsection, 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 occurs first. filed. A party who has paid court costs due for seeking an order from the magistrate under this subsection shall not be liable for court costs for a hearing before the district court judge scheduled and heard pursuant to an order entered by the magistrate under this subsection. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section."

SECTION 4. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of three hundred thousand dollars (\$300,000) for the 2001-2002 fiscal year to implement the bill.

SECTION 5. This act is effective when it becomes law.