

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SENATE BILL 409
RATIFIED BILL

AN ACT TO AMEND PROCEDURES, CLARIFY COSTS AND ATTORNEYS' FEES PROVISIONS APPLICABLE WHEN RELIEF IS NOT ORDERED IN CHAPTER 50B PROTECTIVE ORDER AND CHAPTER 50C NO CONTACT ORDER CASES, AND TO PROVIDE FOR ATTORNEYS' FEES UPON THE GRANT OF RELIEF IN CHAPTER 50C CASES.

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; temporary custody.

(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. Any action for a domestic violence protective order requires that a summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. In compliance with the federal Violence Against Women Act, No no court costs or attorneys' fees shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena-subpoena, except as provided in G.S. 1A-1, Rule 11. in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5."

SECTION 2. G.S. 50C-2(b) reads as rewritten:

"(b) No court costs or attorneys' fees shall be assessed for the filing or service of the complaint, or the service of any orders-orders, except as provided in G.S. 1A-1, Rule 11."

SECTION 3. G.S. 50C-7 reads as rewritten:

"§ 50C-7. Permanent civil no-contact order.

Upon a finding that the victim has suffered an act of unlawful conduct committed by the respondent, a permanent civil no-contact order may issue if the court additionally finds that process was properly served on the respondent, the respondent has answered the complaint and notice of hearing was given, or the respondent is in default. No permanent civil no-contact order shall be issued without notice to the respondent."

SECTION 4. G.S. 50C-8(a) reads as rewritten:

"(a) A temporary civil no-contact order shall be effective for not more than 10 days as the court fixes, unless within the time so fixed the temporary civil no-contact order, for good cause shown, is extended for a like period or a longer period if the respondent consents. The reasons for the extension shall be stated in the temporary order. In case-If a temporary ex parte civil no-contact order-order:

- (1) is-Is granted without notice and a motion for a permanent civil no-contact order is made, it shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character-within 10 days from the date of the motion.



(2) Is denied, the trial on the plaintiff's motion for a civil no-contact order shall be set for hearing within 30 days from the date of the denial.

When the motion for a permanent civil no-contact order comes on for hearing, the complainant may proceed with a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve the temporary civil no-contact order. On two days' notice to the complainant or on such shorter notice to that party as the judge may prescribe, the respondent may appear and move its dissolution or modification. In that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require."

SECTION 5. G.S. 50C-5(b)(7) reads as rewritten:

"(b) The court may grant one or more of the following forms of relief in its orders under this Chapter:

...
(7) Order other relief deemed necessary and appropriate by the ~~court~~court, including assessing attorneys' fees to either party."

SECTION 6. This act becomes effective October 1, 2013, and applies to actions commenced on or after that date.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____m. this _____ day of _____, 2013