

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 743
Apr 18, 2023
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10353-ND-143

Short Title: Extend Expiration/Magistrate Ex Parte Orders. (Public)

Sponsors: Representative Carson Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE PERIOD DURING WHICH A MAGISTRATE EX PARTE
3 DOMESTIC VIOLENCE PROTECTIVE ORDER REMAINS VALID.
4 The General Assembly of North Carolina enacts:
5 SECTION 1. G.S. 50B-2(c1) reads as rewritten:
6 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may
7 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to
8 the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex
9 parte the district court is not in session and a district court judge is not and will not be available
10 to hear the motion for a period of four or more hours, the motion may be heard by the magistrate.
11 When the office of the clerk is closed and a magistrate has been authorized under this section to
12 hear a motion for emergency relief ex parte, an authorized magistrate shall accept for filing a
13 complaint alleging domestic violence and motion for emergency relief ex parte, note thereon the
14 filing date, and the magistrate shall issue a summons. Any endorsement or alias and pluries
15 summons pursuant to G.S. 1A-1, Rule 4(d) shall be issued by the clerk, assistant clerk, or deputy
16 clerk of the court in the county in which the action is commenced. Any complaint and motion for
17 emergency relief ex parte and any other documents accepted for filing under this section and any
18 order entered by the magistrate shall be delivered to the clerk's office for processing as soon as
19 that office is open for business. If it clearly appears to the magistrate from specific facts shown
20 that there is a danger of acts of domestic violence against the aggrieved party or a minor child,
21 the magistrate may enter orders as it deems necessary to protect the aggrieved party or minor
22 children from those acts, except that a temporary order for custody ex parte and prior to service
23 of process and notice shall not be entered unless the magistrate finds that the child is exposed to
24 a substantial risk of physical or emotional injury or sexual abuse. If the magistrate finds that the
25 child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request
26 of the aggrieved party, the magistrate shall consider and may order the other party to stay away
27 from a minor child, or to return a minor child to, or not remove a minor child from, the physical
28 care of a parent or person in loco parentis, if the magistrate finds that the order is in the best
29 interest of the minor child and is necessary for the safety of the minor child. If the magistrate
30 determines that it is in the best interest of the minor child for the other party to have contact with
31 the minor child or children, the magistrate shall issue an order designed to protect the safety and
32 well-being of the minor child and the aggrieved party. The order shall specify the terms of contact
33 between the other party and the minor child and may include a specific schedule of time and
34 location of exchange of the minor child, supervision by a third party or supervised visitation
35 center, and any other conditions that will ensure both the well-being of the minor child and the
36 aggrieved party. An ex parte order entered under this subsection shall ~~expire and the magistrate~~



1 ~~shall schedule an ex parte hearing before a district court judge by the end of the next day on~~
2 ~~which the district court is in session in the county in which the action was filed. Ex parte orders~~
3 ~~entered by the district court judge pursuant to this subsection shall be entered and scheduled for~~
4 ~~hearing before a district court judge in accordance with subsection (c) of this section."~~

5 **SECTION 2.** This act becomes effective October 1, 2023, and applies to ex parte
6 orders entered on or after that date.