

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 53  
PROPOSED COMMITTEE SUBSTITUTE S53-PCS15198-TY-12

Short Title: Law Enforcement Authority/Custody of Child.

(Public)

Sponsors:

Referred to:

February 9, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE A LAW ENFORCEMENT OFFICER TO OBTAIN CUSTODY  
3 OF A CHILD UPON DETERMINATION BY THE COURT THAT THE CHILD IS IN  
4 DANGER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 50-13.5(d)(3) reads as rewritten:

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

8 ...

9 (3) A temporary order for custody which changes the living arrangements of a  
10 child or changes custody shall not be entered ex parte and prior to service of  
11 process or notice, unless the court finds that the child is exposed to a  
12 substantial risk of bodily injury or sexual abuse or that there is a substantial  
13 risk that the child may be abducted or removed from the State of North  
14 Carolina for the purpose of evading the jurisdiction of North Carolina courts.  
15 A temporary custody order that requires a law enforcement officer to take  
16 physical custody of a minor child shall be accompanied by a Warrant to  
17 Take Physical Custody of a Minor Child as set forth in G.S. 50A-311."

18 SECTION 2. G.S. 50-13.3 is amended by creating a new subsection to read:

19 "(c) Notwithstanding subsections (a) and (b) of this section, upon the filing of a verified  
20 application for a warrant to take physical custody of a minor child that alleges the child is in  
21 imminent danger of suffering serious physical harm or of being removed from the State, any  
22 court of this State having jurisdiction to make an award of custody of a minor child may issue a  
23 warrant to take physical custody of a minor child pursuant to G.S. 50A-311, and such  
24 provisions are applicable in foreign or domestic child custody determinations."

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

26 "§ 50A-311. Warrant to take physical custody of child.

27 ...

28 (e) A warrant to take physical custody of a child is enforceable throughout this State. ~~If~~  
29 ~~the court finds on the basis of the testimony of the petitioner or other witness that a less~~  
30 ~~intrusive remedy is not effective, it may authorize law enforcement officers to enter private~~  
31 ~~property to take physical custody of the child. If required by exigent circumstances of the case,~~  
32 ~~the court may authorize law enforcement officers to make a forcible entry at any hour.~~If the  
33 court finds on the basis of the petition and request for custody or the testimony of the petitioner  
34 that a less intrusive remedy is not reasonably available, the court may authorize a law  
35 enforcement officer to enter private property to take physical custody of the child or children. If  
36 required by exigent circumstances, the court may authorize a law enforcement officer to make a



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1 forcible entry at any hour and to use such reasonable force as is necessary to effectuate the  
2 terms and purposes of the order or warrant for custody. The officer is not required to inquire  
3 into the regularity or continued validity of the order and shall not incur criminal or civil liability  
4 for its due service.

5 ...."

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