

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 53
Judiciary Committee Substitute Adopted 4/25/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S53-PCS45430-TT-24

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. 50-13.3 reads as rewritten:

7 "§ 50-13.3. Enforcement of order for custody.

8 ...

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

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

13 "§ 50-13.5. Procedure in actions for custody or support of minor children.

14 ...

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

16 ...

17 (3) A temporary order for custody which changes the living arrangements of a
18 child or changes custody shall not be entered ex parte and prior to service of
19 process or notice, unless the court finds that the child is exposed to a
20 substantial risk of bodily injury or sexual abuse or that there is a substantial
21 risk that the child may be abducted or removed from the State of North
22 Carolina for the purpose of evading the jurisdiction of North Carolina courts.
23 A temporary custody order that requires a law enforcement officer to take
24 physical custody of a minor child shall be accompanied by a warrant to take
25 physical custody of a minor child as set forth in G.S. 50A-311.

26"

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

28 "§ 50A-311. Warrant to take physical custody of child.

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

33 (b) If the court, upon the testimony of the petitioner or other witness, finds that the child
34 is imminently likely to suffer serious physical harm or be removed from this State, it may issue
35 a warrant to take physical custody of the child. The petition must be heard on the next judicial



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1 day after the warrant is executed unless that date is impossible. In that event, the court shall
2 hold the hearing on the first judicial day possible. The application for the warrant must include
3 the statements required by G.S. 50A-308(b).

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

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

7 (2) Direct law enforcement officers to take physical custody of the child
8 immediately; and

9 (3) Provide for the placement of the child pending final relief.

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

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

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

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