

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 613
HOUSE BILL 73

AN ACT TO AMEND G.S. 50-13.4 TO MAKE THE FATHER AND THE MOTHER
PRIMARILY LIABLE FOR SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4 is amended by deleting subsection (b) and substituting a new subsection (b) as follows:

"(b) In the absence of pleading and proof that the circumstances otherwise warrant, the father and mother shall be primarily liable for the support of a minor child, and any other person, agency, organization or institution standing in loco parentis shall be secondarily liable for such support. Such other circumstances may include, but shall not be limited to, the relative ability of all the above-mentioned parties to provide support or the inability of one or more of them to provide support, and the needs and estate of the child. The judge may enter an order requiring any one or more of the above-mentioned parties to provide for the support of the child as may be appropriate in the particular case, and if appropriate the court may authorize the application of any separate estate of the child to his support. However, the judge may not order support to be paid by a person who is not the child's parent or an agency, organization or institution standing in loco parentis absent evidence and a finding that such person, agency, organization or institution has voluntarily assumed the obligation of support in writing. The preceding sentence shall not be construed to prevent any court from ordering the support of a child by an agency of the State or county which agency may be responsible under law for such support."

Sec. 2. This act shall apply to all hearings and trials conducted after the date of ratification and shall not affect the validity of any existing order or judgment.

Sec. 3. G.S. 50-13.4(c) is amended by adding, after the word and comma "parties," in line 4 thereof, the following:

"the child care and homemaker contributions of each party,".

Sec. 4. There is added to Chapter 110 of the General Statutes a new section as follows:

"§ 110-138.1. Duty of judicial officials to assist in support. — Any party to whom child support has been ordered to be paid, and who has failed to receive the ordered support payments for two consecutive months, may make application to a magistrate for issuance of criminal process against the responsible parent for violation of G.S. 14-322. If the magistrate determines that the applicant has failed to receive the ordered support for two consecutive months, and that the responsible parent has willfully neglected or refused to make such payments, he shall make a finding of probable cause and issue criminal process for violation of G.S. 14-322. It shall be the duty of the District Attorney to prosecute such charges according to law. It shall be the duty of the Clerk of Superior Court to assist the applicant in making such application to the magistrate for the issuance of criminal process, and to supply such necessary child support records as are in his possession to the magistrate, District Attorney, and the Court."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.