

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 677
SENATE BILL 89

AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO
ESTABLISH PROCEDURES TO INSURE PAYMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new section to read as follows:

"§ 50-13.9. Procedure to insure payment of child support. – (a) Upon its own motion or upon motion of either party, the court may order at any time that support payments be made to the clerk of court for remittance to the party entitled to receive the payments.

(b) After entry of such an order by the court, the clerk of court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.

(c) The parties affected by the order shall inform the clerk of court of any change of address or of other condition that may affect the administration of the order. The court may provide in the order that a party failing to inform the court of a change of address within a reasonable period of time may be held in civil contempt.

(d) When a supporting party fails to make a required payment of child support, and is in arrears of said payment, the clerk of superior court shall mail by regular mail to the last known address of the supporting party a notice of delinquency which shall set out the amount of child support currently due and shall demand immediate payment of said amount. The notice shall also state that failure to make immediate payment may result in the issuance of an order of the court requiring the supporting party to appear before a district court judge and show cause why he should not be adjudged in contempt of the order of the court. The failure to receive said notice shall not be a defense in any proceedings thereafter. If the supporting party is subsequently found in contempt of an order of the court, thereafter notice shall be in the discretion of the clerk.

If the arrearage is not paid in full within 21 days after the mailing of said notice or is not paid within 30 days after the supporting party becomes delinquent, if the clerk has elected not to send a delinquency notice, the clerk shall cause to be issued an order ordering the supporting party to show cause why he should not be adjudged in contempt of orders of the court and shall issue a notice of hearing before a district court judge. Said order may be signed by the clerk or a district court judge, and shall be served upon the supporting party pursuant to the North Carolina Rules of Civil Procedure. The clerk shall also notify the party to whom support is owed of the pending hearing. The clerk may withdraw the order to the supporting party upon receipt of the delinquent payment.

On motion of the recipient, with the approval of the district court judge, if he finds it is in the best interest of the child, no order shall be issued.

(e) The clerk of court shall maintain and make available to the district court judge a list of attorneys who are willing to undertake representation, pursuant to this section, of persons to whom child support is owed. No attorney shall be placed on such list without his permission.

(f) At least seven days prior to a contempt hearing set forth in subsection (d), the clerk must notify the district court judge of all cases to be heard on contempt charges at the next term of district court and the judge shall appoint an attorney to represent each party to whom support payments are owed from the list described in (e) if the judge deems it to be in the best interest of the child for whom support is being paid, unless:

- (1) The attorney of record for the party to whom support payments are owed has notified the clerk of court that he will appear for said party; or
- (2) The party to whom support payments are owed requests the judge not to appoint an attorney; or
- (3) An attorney for the enforcement of child support obligations pursuant to Title IV, Part D, of the Social Security Act as amended is available.

The judge may order payment of reasonable attorney's fees as provided in G.S. 50-13.6.

(g) Nothing in this section shall preclude the independent initiation of proceedings for civil contempt by a party."

Sec. 2. This act shall become effective October 1, 1983. The Director of the Budget is authorized to transfer for the fiscal years 1983-84 and 1984-85 related savings from the Department of Human Resources, Division of Social Services to the Judicial Department sufficient for the establishment of necessary positions and other expenses to implement this act. It is not mandatory that this act be implemented until such funds are available.

In the General Assembly read three times and ratified, this the 5th day of July, 1983.