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SESSION 2009

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PROPOSED SENATE COMMITTEE SUBSTITUTE H1255-PCS11013-SA-61

Short Title: Sex Offenders/Permanent No Contact Order.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT WHEN SENTENCING A DEFENDANT CONVICTED OF A
3 SEX OFFENSE AND UPON REQUEST OF THE DISTRICT ATTORNEY, THE COURT
4 MAY ENTER A PERMANENT NO CONTACT ORDER PROHIBITING ANY FUTURE
5 CONTACT OF A CONVICTED SEX OFFENDER WITH THE CRIME VICTIM IF THE
6 COURT DETERMINES THAT APPROPRIATE GROUNDS EXIST FOR THE ORDER.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 81D.

11 "Permanent No Contact Order Against Convicted Sex Offender.

12 "**§ 15A-1340.50. Permanent no contact order prohibiting future contact by convicted sex
13 offender with crime victim.**

14 (a) The following definitions apply in this Article:

15 (1) Permanent no contact order. – A permanent injunction that prohibits any
16 contact by a defendant with the victim of the sex offense for which the
17 defendant is convicted. The duration of the injunction is the lifetime of the
18 defendant.

19 (2) Sex offense. – Any criminal offense that requires registration under Article
20 27A of Chapter 14 of the General Statutes.

21 (3) Victim. – The person against whom the sex offense was committed.

22 (b) When sentencing a defendant convicted of a sex offense, the judge, at the request of
23 the district attorney, shall determine whether to issue a permanent no contact order. The judge
24 shall order the defendant to show cause why a permanent no contact order shall not be issued
25 and shall hold a show cause hearing as part of the sentencing procedures for the defendant.

26 (c) The victim shall have a right to be heard at the show cause hearing.

27 (d) The judge sentencing the defendant is the trier of fact regarding the show cause
28 hearing.

29 (e) At the conclusion of the show cause hearing the judge shall enter a finding for or
30 against the defendant. If the judge determines that reasonable grounds exist for the victim to
31 fear any future contact with the defendant, the judge shall issue the permanent no contact order.
32 The judge shall enter written findings of fact and the grounds on which the permanent no



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1 contact order is issued. The no contact order shall be incorporated into the judgment imposing
2 the sentence on the defendant for the conviction of the sex offense.

3 (f) The court may grant one or more of the following forms of relief in a permanent no
4 contact order under this Article:

5 (1) Order the defendant not to threaten, visit, assault, molest, or otherwise
6 interfere with the victim.

7 (2) Order the defendant not to follow the victim, including at the victim's
8 workplace.

9 (3) Order the defendant not to harass the victim.

10 (4) Order the defendant not to abuse or injure the victim.

11 (5) Order the defendant not to contact the victim by telephone, written
12 communication, or electronic means.

13 (6) Order the defendant to refrain from entering or remaining present at the
14 victim's residence, school, place of employment, or other specified places at
15 times when the victim is present.

16 (7) Order other relief deemed necessary and appropriate by the court.

17 (g) A permanent no contact order entered pursuant to this Article shall be enforced by
18 all North Carolina law enforcement agencies without further order of the court. A law
19 enforcement officer shall arrest and take a person into custody, with or without a warrant or
20 other process, if the officer has probable cause to believe that the person knowingly has
21 violated a permanent no contact order. A person who knowingly violates a permanent no
22 contact order is guilty of a Class A1 misdemeanor.

23 (h) At any time after the issuance of the order, the State, at the request of the victim, or
24 the defendant may make a motion to rescind the permanent no contact order. If the court
25 determines that reasonable grounds for the victim to fear any future contact with the defendant
26 no longer exist, the court may rescind the permanent no contact order.

27 (i) The remedy provided by this Article is not exclusive but is in addition to other
28 remedies provided under law."

29 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
30 offenses committed on or after that date.