

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 60
Judiciary II Committee Substitute Adopted 3/9/15
PROPOSED HOUSE COMMITTEE SUBSTITUTE S60-PCS45373-TV-19

Short Title: No Contact Order/No Expiration.

(Public)

Sponsors:

Referred to:

February 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A NONEXPIRING, PERMANENT CIVIL NO-CONTACT
3 ORDER MAY BE ISSUED AGAINST A SEX OFFENDER ON BEHALF OF THE
4 CRIME VICTIM, TO ESTABLISH THE PROCEDURE FOR OBTAINING SUCH AN
5 ORDER, TO CLARIFY ENHANCED PENALTIES FOR VIOLATIONS OF
6 PROTECTIVE ORDERS, AND TO ALLOW EXTENSION OF ORDERS ENTERED IN
7 STREET GANG NUISANCE ABATEMENT CASES AFTER A COURT HEARING.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

10 **"Chapter 50D.**

11 **"Permanent Civil No-Contact Order Against Sex Offender On Behalf of Crime Victim.**

12 **"§ 50D-1. Definitions.**

13 The following definitions apply in this Chapter:

- 14 (1) Permanent civil no-contact order. – A permanent injunction that prohibits
15 any contact by a respondent with the victim of a sex offense for which the
16 respondent is convicted.
17 (2) Respondent. – The person who committed the sex offense.
18 (3) Sex offense. – Any criminal offense that requires registration under Article
19 27A of Chapter 14 of the General Statutes.
20 (4) Victim. – The person against whom the sex offense was committed.

21 **"§ 50D-2. Commencement of action; filing fees not permitted; assistance.**

22 (a) An action is commenced under this Chapter by filing a verified complaint for a
23 permanent civil no-contact order in district court or by filing a motion in any existing civil
24 action, by any of the following:

- 25 (1) A person who is the victim of a sex offense that occurs in this State.
26 (2) A competent adult who resides in this State on behalf of a minor child who
27 is the victim of a sex offense that occurs in this State.
28 (3) A competent adult who resides in this State on behalf of an incompetent
29 adult who is the victim of a sex offense that occurs in this State.

30 (b) No court costs or attorneys' fees shall be assessed for the filing or service of the
31 complaint, or the service of any orders, except as provided in G.S. 1A-1, Rule 11.

32 (c) An action commenced under this Chapter may be filed in any county permitted
33 under G.S. 1-82 or where the respondent was convicted of the sex offense.

34 (d) If the victim states that disclosure of the victim's address would place the victim or
35 any member of the victim's family or household at risk for further unlawful conduct, the



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1 victim's address may be omitted from all documents filed with the court. If the victim has not
2 disclosed an address under this subsection, the victim shall designate an alternative address to
3 receive notice of any motions or pleadings from the opposing party.

4 **"§ 50D-3. Process for action for permanent civil no-contact order.**

5 (a) Any action for a permanent civil no-contact order requires that a summons be issued
6 and served. The summons issued pursuant to this Chapter shall require the respondent to
7 answer within 10 days of the date of service. Attachments to the summons shall include the
8 complaint for the permanent civil no-contact order.

9 (b) Service of the summons and attachments shall be by the sheriff by personal delivery
10 in accordance with Rule 4 of the Rules of Civil Procedure, and if the respondent cannot with
11 due diligence be served by the sheriff by personal delivery, the respondent may be served by
12 publication by the complainant in accordance with Rule 4(j1) of the Rules of Civil Procedure.

13 (c) The court may enter a permanent civil no-contact order by default for the remedy
14 sought in the complaint if the respondent has been served in accordance with this section and
15 fails to answer as directed, or fails to appear on any subsequent appearance or hearing date
16 agreed to by the parties or set by the court.

17 **"§ 50D-4. Hearsay exception.**

18 In proceedings for an order or prosecutions for violation of an order under this Chapter, the
19 prior sexual activity or the reputation of the victim is inadmissible except when it would be
20 admissible in a criminal prosecution under G.S. 8C, Rule 412.

21 **"§ 50D-5. Remedy.**

22 (a) If the court finds all of the following, the court may issue a permanent civil
23 no-contact order:

- 24 (1) The respondent was convicted of committing a sex offense against the
25 victim.
- 26 (2) The victim did not seek a permanent no-contact order under
27 G.S. 15A-1340.50.
- 28 (3) Reasonable grounds exist for the victim to fear future contact with the
29 respondent.
- 30 (4) Process was properly served on the respondent.
- 31 (5) The respondent answered the complaint and notice of hearing was given, or
32 the respondent failed to answer the complaint and is in default.

33 (b) The court may grant one or more of the following forms of relief in a permanent
34 civil no-contact order under this Chapter:

- 35 (1) Order the respondent not to threaten, visit, assault, molest, or otherwise
36 interfere with the victim.
- 37 (2) Order the respondent not to follow the victim, including at the victim's
38 workplace.
- 39 (3) Order the respondent not to harass the victim.
- 40 (4) Order the respondent not to abuse or injure the victim.
- 41 (5) Order the respondent not to contact the victim by telephone, written
42 communication, or electronic means.
- 43 (6) Order the respondent to refrain from entering or remaining present at the
44 victim's residence, school, place of employment, or other specified places at
45 times when the victim is present.
- 46 (7) Order other relief deemed necessary and appropriate by the court.

47 (c) No permanent civil no-contact order shall be issued under this Chapter without
48 notice to the respondent.

49 **"§ 50D-6. Duration.**

50 A permanent civil no-contact order issued pursuant to this Chapter remains effective for the
51 lifetime of the respondent.

"§ 50D-7. Notice of orders.

(a) The clerk of court shall deliver, on the same day that a permanent civil no-contact order is issued, a certified copy of that order to the sheriff.

(b) If the respondent was not present in court when the order was issued, the respondent may be served in the manner provided for service of process in civil proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure. If the summons has not yet been served upon the respondent, it shall be served with the order.

(c) A copy of the order shall be issued promptly to and retained by the police department of the municipality of the victim's residence. If the victim's residence is not located in a municipality or is located in a municipality with no police department, copies shall be issued promptly to and retained by the sheriff and the county police department, if any, of the county in which the victim's residence is located.

(d) Any order modifying or revoking any permanent civil no-contact order shall be promptly delivered to the sheriff by the clerk of court and served in a manner provided for service of process in accordance with the provisions of this section.

"§ 50D-8. Enforcement.

A victim may file a motion for contempt for violation of an order entered pursuant to this Chapter.

"§ 50D-9. Rescission.

At any time after the issuance of the order, the victim may make a motion to rescind the permanent no-contact order. If the court determines that reasonable grounds for the victim to fear any future contact with the respondent no longer exist, the court may rescind the permanent no-contact order.

"§ 50D-10. Violation.

(a) A person who knowingly violates an order entered pursuant to this Chapter is guilty of a Class A1 misdemeanor.

(b) A permanent civil no-contact order entered pursuant to this Chapter shall be enforced by all North Carolina law enforcement agencies without further order of the court. A law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the officer has probable cause to believe that the person knowingly has violated a permanent civil no-contact order.

"§ 50D-11. Remedies not exclusive.

The remedies provided by this Chapter are not exclusive but are additional to other remedies provided under law."

SECTION 2. The Administrative Office of the Courts shall develop the appropriate forms to implement the processes provided under Chapter 50D of the General Statutes as enacted by this act, including amending the Rules of Recordkeeping to require the Clerk of Superior Court to retain the records of an action filed under this Chapter.

SECTION 3. This act becomes effective October 1, 2015.