

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SENATE BILL 60
RATIFIED BILL

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

The General Assembly of North Carolina enacts:

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

Chapter 50D.

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

"§ 50D-1. Definitions.

The following definitions apply in this Chapter:

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

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

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

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

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

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

(d) If the victim states that disclosure of the victim's address would place the victim or any member of the victim's family or household at risk for further unlawful conduct, the victim's address may be omitted from all documents filed with the court. If the victim has not disclosed an address under this subsection, the victim shall designate an alternative address to receive notice of any motions or pleadings from the opposing party.

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

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

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



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

"§ 50D-4. Hearsay exception.

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

"§ 50D-5. Remedy.

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

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

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

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

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

"§ 50D-6. Duration.

A permanent civil no-contact order issued pursuant to this Chapter remains effective for the 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. G.S. 50B-4.1(d) reads as rewritten:

"(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply to ~~a person who is charged with or convicted convictions of a Class A or B1 felony or to a person charged under convictions of the offenses set forth in subsection (f) or subsection (g) of this section.~~"

SECTION 4. G.S. 14-50.43(d) reads as rewritten:

"(d) An order entered under this section shall expire one year after ~~entry; however, the entry unless extended by the court for good cause established by the plaintiff after a hearing.~~ The order may be modified, rescinded, or vacated at any time prior to its expiration date upon the motion of any party if it appears to the court that one or more of the defendants is no longer engaging in criminal street gang activities."

SECTION 5. Sections 1 and 2 of this act become effective October 1, 2015. Section 3 of this act becomes effective December 1, 2015, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2015