



# SENATE BILL 60: No-Contact Order/No Expiration

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-91

**Date:**

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Staff Attorney

**SUMMARY:** *S.L. 2015-91 allows a victim (or a competent adult on behalf of a minor victim or incompetent person) of a sexual offense to obtain a permanent civil no-contact order against the person convicted of committing the offense, establishes the procedure for obtaining such an order, clarifies the penalties for violations of protective orders, and allows an extension of orders entered in street gang nuisance abatement cases after a court hearing. The provisions pertaining to permanent civil no-contact order orders became effective October 1, 2015. The provision on penalties for violations of protective orders became effective December 1, 2015, and applies to offenses committed on or after that date.*

*Except as otherwise provided, this act became effective June 19, 2015.*

**CURRENT LAW:** North Carolina law currently provides several procedures to grant relief to a victim of domestic violence or sexual offense against the person who committed the prohibited acts.

- Chapter 50B of the General Statutes authorizes a court to issue a protective order that offers various types of relief to a victim of domestic violence.
- Chapter 50C of the General Statutes permits a victim of non-consensual sexual conduct or stalking to obtain a temporary or a permanent civil no-contact order against the person who committed the conduct if the victim is not in a personal relationship with the person. A permanent no-contact order issued under this Chapter is effective for a specific period of time not to exceed one year, but may be extended one or more times.
- G.S. 15A-1340.50 allows a crime victim to obtain a permanent no-contact order prohibiting future contact by a convicted sex offender when the sex offender is sentenced at trial. The no-contact order is effective for the lifetime of the defendant.
- G.S. 14-50.43 declares street gangs a public nuisance and provides any person engaged in criminal street gang activity can be made a defendant in an action to abate any public nuisance resulting from street gang activity.

## **BILL ANALYSIS:**

Session Law 2015-91 creates a new Chapter 50D of the North Carolina General Statutes to allow a sexual assault victim to obtain a permanent civil no-contact order against a registered sex offender when the victim did not request a permanent no-contact order at the time the sex offender was sentenced. Further, the act provides the permanent civil no-contact order may be issued on behalf of the victim of a sex offense that requires registration under the Sex Offender and Public Protection Registration Program against the person convicted of committing the offense against the victim. Specifically, the act does the following:

### **Section 1**

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- Provides that any of the following persons may file a complaint or motion in district court to obtain the no-contact order (G.S. 50D-2(a)):
  - A victim of a sex offense that occurred in the State.
  - A competent adult who is a North Carolina resident, on behalf of a minor who resides in the State and is the victim of a sex offense that occurred in the State.
  - A competent adult who is a North Carolina resident, of behalf of an incompetent adult who resides in the State and is a victim of a sex offense that occurred in the State.
- Establishes the civil procedure for filing a complaint or motion for a no-contact order, the procedure for serving summons on the respondent, and the procedure for the issuance of the no-contact order.(G.S. 50D-2, G.S. 50D-3.)
- Provides that information as to the prior sexual activity or reputation of the victim is inadmissible in proceedings under this Chapter unless it would be admissible under the Rules of Evidence in a criminal prosecution. (G.S. 50D-4.)
- Provides that the Court must find all of the following before issuing a no-contact order (G.S. 50D-5(a)):
  - The respondent was convicted of committing a sex offense against the complaining victim.
  - The victim did not seek a permanent criminal no-contact order under G.S. 15A-1340.50.
  - Reasonable grounds exist for the victim to fear future contact with the respondent.
  - Process was properly served on the respondent.
  - The respondent answered the complaint and notice of hearing was given, or the respondent failed to answer the complaint and is in default.
- Sets out the various forms of relief the court may include in the no-contact order. (G.S. 50D-5(b)).
- Provides that the duration of the no-contact order is for the lifetime of the respondent. (G.S. 50D-6.)
- Specifies the requirements for giving the respondent notice of the issuance of a no-contact order. (G.S. 50D-7.)
- Provides that a victim who is granted a no-contact order may file a motion for contempt against the respondent for a violation of the no-contact order. (G.S. 50D-8.)
- Provides that the victim may make a motion to rescind the permanent no-contact order and the court may rescind the order upon a finding that reasonable grounds for the victim to fear future contact with the respondent no longer exist. (G.S. 50D-9.)
- Provides that a respondent who knowingly violates a no-contact order is guilty of a Class A1 misdemeanor, and direct law enforcement agencies to enforce the no-contact order without further order of the court. (G.S. 50D-10.)
- Provides that the remedies provided under Chapter 50D are not exclusive. (G.S. 50D-11.)

## **Section 2**

Directs the Administrative Office of the Courts to develop appropriate forms or rules necessary to implement the processes established in Chapter 50D, including any rules relating to records retention.

## **Section 3**

Amends the statute pertaining to the penalties for violations of protective orders to clarify the enhanced sentencing provisions are based on the offense level of the conviction and not the original charge.

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## **Section 4**

Amends the statute declaring criminal street gangs a public nuisance to provide that the order entered under this section shall expire one year after entry unless extended by the court for good cause established by the plaintiff after a hearing.

**EFFECTIVE DATE:** The sections pertaining to permanent civil no-contact order orders became effective October 1, 2015. The section on penalties for violations of protective orders became effective December 1, 2015, and applies to offenses committed on or after that date. The remainder of this act became effective June 19, 2015.