

Civil No-Contact Orders for the Protection of People Who are Victims of Stalking or Nonconsensual Sexual Conduct

This Act authorizes courts to issue protective orders, similar to domestic violence orders, in situations where someone has been a victim of stalking or nonconsensual sexual conduct committed by a person with whom the victim is not in a domestic relationship. Upon a finding that the victim has suffered unlawful conduct, the court is authorized to issue temporary or permanent orders restraining the conduct of the perpetrator. “Unlawful conduct” is defined to include nonconsensual sexual conduct and stalking. “Nonconsensual sexual conduct” is defined as any intentional or knowing touching, fondling or sexual penetration by a person, directly or through clothing, of the sexual organs of another for the purpose of sexual gratification or arousal where consent is not freely given. A “victim” is defined as a person against whom unlawful conduct is committed other than in a situation where an action could be brought under the domestic violence laws.

Under this Act, the victim, or a person acting on the behalf of an incompetent victim, may bring an action. The Act allows an action under this law to be brought without paying filing fees to the clerk of court or service fees to the sheriff. If the court finds that the victim suffered unlawful conduct, the court may order the perpetrator not to visit, assault, molest or otherwise interfere with the victim, and order the perpetrator to cease stalking, harassing, abusing, injuring, or contacting the victim by telephone, written communication or electronic means. The court may also order the perpetrator to stay away from the victim including prohibitions against entering the victim’s residence, school, place of employment or other specified places at times when the victim is present. Temporary orders may be granted for up to 10 days and may be issued ex parte and after normal business hours under certain circumstances. Permanent orders may be granted for up to one year. All orders may be renewed. Violations of an order are punished as contempt of court.

Submitted as:

North Carolina

[Session Law 2004-194](#)

Status: Enacted into law in 2004.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Establish Civil No-
2 Contact Orders for the Protection of People Who are Victims of Unlawful Conduct.”

3

4 Section 2. [*Definitions.*]

5 (a) As used in this Act:

6 (1) Abuse. - To physically or mentally harm, harass, intimidate, or interfere
7 with the personal liberty of another.

8 (2) Civil no-contact order. - An order granted under this Act which includes a
9 remedy authorized by section 6 of this Act.

10 (3) Nonconsensual. - A lack of freely given consent.

11 (4) Sexual conduct. - Any intentional or knowing touching, fondling, or sexual
12 penetration by a person, either directly or through clothing, of the sexual organs, anus, or
13 breast of another, whether an adult or a minor, for the purpose of sexual gratification or
14 arousal. For purposes of this subdivision, the term shall include the transfer or transmission
15 of semen.

16 (5) Sexual penetration. - The penetration, however slight, by any object into
17 the genital or anal opening of another person's body. Evidence of emission of semen is not
18 required to prove sexual penetration.

19 (6) Stalking. - Following on more than one occasion or otherwise harassing, as
20 defined in [insert citation], another person without legal purpose with the intent to do any of
21 the following:

22 I. Place the person in reasonable fear either for the person's safety or
23 the safety of the person's immediate family or close personal associates.

24 II. Cause that person to suffer substantial emotional distress by
25 placing that person in fear of death, bodily injury, or continued harassment and that in fact
26 causes that person substantial emotional distress.

27 (7) Unlawful conduct. - The commission of one or more of the following acts
28 upon a person, but does not include acts of self-defense or defense of others:

29 I. Nonconsensual sexual conduct, including single incidences of
30 nonconsensual sexual conduct.

31 II. Stalking.

32 (8) Victim. - A person against whom an act of unlawful conduct has been
33 committed by another person not involved in a personal relationship with the person as
34 defined in [insert citation].

35
36 Section 3. [*Commencement of Action; Filing Fees Not Permitted; Assistance.*]

37 (a) An action is commenced under this Act by filing a verified complaint for a civil
38 no-contact order in [district court] or by filing a motion in any existing civil action, by any of
39 the following:

40 (1) A person who is a victim of unlawful conduct that occurs in this State.

41 (2) A competent adult who resides in this State on behalf of a minor child or
42 an incompetent adult who is a victim of unlawful conduct that occurs in this State.

43 (b) No court costs shall be assessed for the filing or service of the complaint, or the
44 service of any orders.

45 (c) An action commenced under this Act may be filed in any county permitted under
46 [insert citation] or where the unlawful conduct took place.

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

52
53 Section 4. [*Process for Action for No-Contact Order.*]

54 (a) Any action for a civil no-contact order requires that a separate summons be issued
55 and served. The summons issued pursuant to this Act shall require the respondent to answer
56 within [10 days] of the date of service. Attachments to the summons shall include the
57 complaint for the civil no-contact order, and any temporary civil no-contact order that has
58 been issued and the notice of hearing on the temporary civil no-contact order.

59 (b) Service of the summons and attachments shall be by the sheriff by personal
60 delivery in accordance with [insert citation], and if the respondent cannot with due diligence
61 be served by the sheriff by personal delivery, the respondent may be served by publication by
62 the complainant in accordance with [insert citation].

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

67
68 Section 5. [*Hearsay Exception.*] In proceedings for an order or prosecutions for
69 violation of an order under this Act, the prior sexual activity or the reputation of the victim is
70 inadmissible except when it would be admissible in a criminal prosecution under [insert
71 citation.]

72
73 Section 6. [*Civil No-Contact Order; Remedy.*]

74 (a) Upon a finding that the victim has suffered unlawful conduct committed by the
75 respondent, the court may issue temporary or permanent civil no-contact orders as authorized
76 in this Act. In determining whether or not to issue a civil no-contact order, the court shall not
77 require physical injury to the victim.

78 (b) The court may grant one or more of the following forms of relief in its orders
79 under this Act:

80 (1) Order the respondent not to visit, assault, molest, or otherwise interfere
81 with the victim.

82 (2) Order the respondent to cease stalking the victim, including at the victim's
83 workplace.

84 (3) Order the respondent to cease harassment of the victim.

85 (4) Order the respondent not to abuse or injure the victim.

86 (5) Order the respondent not to contact the victim by telephone, written
87 communication, or electronic means.

88 (6) Order the respondent to refrain from entering or remaining present at the
89 victim's residence, school, place of employment, or other specified places at times when the
90 victim is present.

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

92 (c) A civil no-contact order shall include the following notice, printed in conspicuous
93 type: "A knowing violation of a civil no-contact order shall be punishable as contempt of
94 court which may result in a fine or imprisonment."
95

96 Section 7. [*Temporary Civil No-Contact Order; Court Holidays and Evenings.*]

97 (a) A temporary civil no-contact order may be granted ex parte, without evidence of
98 service of process or notice, only if both of the following are shown:

99 (1) It clearly appears from specific facts shown by a verified complaint or
100 affidavit that immediate injury, loss, or damage will result to the victim before the respondent
101 can be heard in opposition.

102 (2) Either one of the following:

103 I. The complainant certifies to the court in writing the efforts, if any,
104 that have been made to give the notice and the reasons supporting the claim that notice
105 should not be required.

106 II. The complainant certified to the court that there is good cause to
107 grant the remedy because the harm that the remedy is intended to prevent would likely occur
108 if the respondent were given any prior notice of the complainant's efforts to obtain judicial
109 relief.

110 (b) Every temporary civil no-contact order granted without notice shall:

111 (1) Be endorsed with the date and hour of issuance.

112 (2) Be filed immediately in the clerk's office and entered of record.

113 (3) Define the injury, state why it is irreparable and why the order was granted
114 without notice.

115 (4) Expire by its terms within such time after entry, not to exceed [10 days].

116 (5) Give notice of the date of hearing on the temporary order as provided in
117 section 9 (a) of this Act.

118 (c) If the respondent appears in court for a hearing on a temporary order, the
119 respondent may elect to file a general appearance and testify. Any resulting order may be a
120 temporary order, governed by this section. Notwithstanding the requirements of this section,
121 if all requirements of [insert citation] have been met, the court may issue a permanent order.

122 (d) When the court is not in session, the complainant may file for a temporary order
123 before any judge or magistrate designated to grant relief under this Act. If the judge or
124 magistrate finds that there is an immediate and present danger of harm to the victim and that
125 the requirements of subsection (a) of this section have been met, the judge or magistrate may
126 issue a temporary civil no-contact order. The [chief district court judge] may designate for
127 each [county] at least one judge or magistrate to be reasonably available to issue temporary
128 civil no-contact orders when the court is not in session.

129
130 Section 8. [*Permanent Civil No-Contact Order.*] Upon a finding that the victim has
131 suffered unlawful conduct committed by the respondent, a permanent civil no-contact order
132 may issue if the court additionally finds that process was properly served on the respondent,
133 the respondent has answered the complaint and notice of hearing was given, or the
134 respondent is in default. No permanent civil no-contact order shall be issued without notice
135 to the respondent.

136
137 Section 9. [*Duration; Extension of Orders.*]

138 (a) A temporary civil no-contact order shall be effective for not more than [10 days]
139 as the court fixes, unless within the time so fixed the temporary civil no-contact order, for
140 good cause shown, is extended for a like period or a longer period if the respondent consents.
141 The reasons for the extension shall be stated in the temporary order. In case a temporary civil
142 no-contact order is granted without notice and a motion for a permanent civil no-contact
143 order is made, it shall be set down for hearing at the earliest possible time and takes
144 precedence over all matters except older matters of the same character. When the motion for
145 a permanent civil no-contact order comes on for hearing, the complainant may proceed with
146 a motion for a permanent civil no-contact order, and, if the complainant fails to do so, the
147 judge shall dissolve the temporary civil no-contact order. On [two days'] notice to the
148 complainant or on such shorter notice to that party as the judge may prescribe, the respondent
149 may appear and move its dissolution or modification. In that event the judge shall proceed to
150 hear and determine such motion as expeditiously as the ends of justice require.

151 (b) A permanent civil no-contact order shall be effective for a fixed period of time not
152 to exceed [one year].

153 (c) Any order may be extended one or more times, as required, provided that the
154 requirements of section 7 or section 8 of this Act, as appropriate, are satisfied. The court may

155 renew an order, including an order that previously has been renewed, upon a motion by the
156 complainant filed before the expiration of the current order. The court may renew the order
157 for good cause. The commission of an act of unlawful conduct by the respondent after entry
158 of the current order is not required for an order to be renewed. If the motion for extension is
159 uncontested and the complainant seeks no modification of the order, the order may be
160 extended if the complainant's motion or affidavit states that there has been no material
161 change in relevant circumstances since entry of the order and states the reason for the
162 requested extension. Extensions may be granted only in open court and not under the
163 provisions of [insert citation].

164 (d) Any civil no-contact order expiring on a day the court is not open for business
165 shall expire at the close of the next court business day.

166
167 Section 10. [*Notice of Orders.*]

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

170 (b) Unless the respondent was present in court when the order was issued, the sheriff
171 shall serve the order on the respondent and file proof of service in the manner provided for
172 service of process in civil proceedings. If the summons has not yet been served upon the
173 respondent, it shall be served with the order.

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

179 (d) Any order extending, modifying, or revoking any civil no-contact order shall be
180 promptly delivered to the sheriff by the clerk and served by the sheriff in accordance with the
181 provisions of this section.

182
183 Section 11. [*Violation.*] A knowing violation of an order entered pursuant to this Act
184 is punishable as contempt of court.

185
186 Section 12. [*Remedies not Exclusive.*] The remedies provided by this Act are not
187 exclusive but are additional to other remedies provided under law.

188
189 Section 13. [*Severability.*] [Insert severability clause.]

190
191 Section 14. [*Repealer.*] [Insert repealer clause.]

192
193 Section 15. [*Effective Date.*] [Insert effective date.]