

Civil No-Contact Orders for the Protection of Employees from Workplace Violence

This Act creates a new procedure to allow an employer to obtain a civil no-contact order against a person who has harmed, threatened to harm, or stalked an employee of the employer. Upon a finding that the employee has been the victim of unlawful conduct, the court is authorized to issue temporary or permanent orders restraining the conduct of the perpetrator. “Unlawful conduct” is defined to include bodily injury, attempted bodily injury, stalking and communicating a threat. Permissible remedies include ordering the perpetrator not to:

- Visit, assault, molest or interfere with the employee or the employer at the workplace;
- Stalk the employee at the workplace;
- Harass, abuse or injure the employee or employer at the workplace; or
- Contact the employee or employer by any means at the workplace.

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.

Submitted as:

North Carolina

[Session Law 2004-165](#)

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 Employees from Workplace Violence.”

3
4 Section 2. [*Definitions.*] As used in this Act:

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

7 (b) Employer. - Any person or entity that employs one or more employees. Employer
8 also includes [this State] and its political subdivisions.

9 (c) Unlawful conduct. - Unlawful conduct means the commission of one or more of
10 the following acts upon an employee, but does not include acts of self-defense or defense of
11 others:

12 (1) Attempting to cause bodily injury or intentionally causing bodily injury.

13 (2) Willfully, and on more than one occasion, following, being in the presence
14 of, or otherwise harassing, as defined in [insert citation], without legal purpose and with the
15 intent to place the employee in reasonable fear for the employee’s safety.

16 (3) Willfully threatening, orally, in writing, or by any other means, to
17 physically injure the employee in a manner and under circumstances that would cause a

18 reasonable person to believe that the threat is likely to be carried out and that actually causes
19 the employee to believe that the threat will be carried out.

20
21 Section 3. [*Civil No-Contact Orders; Persons Protected.*] An action for a civil no-
22 contact order may be filed as a civil action in [district court] by an employer on behalf of an
23 employee who has suffered unlawful conduct from any individual that can reasonably be
24 construed to be carried out, or to have been carried out, at the employee's workplace. The
25 employee that is the subject of unlawful conduct shall be consulted prior to seeking an
26 injunction under this Act in order to determine whether any safety concerns exist in relation
27 to the employee's participation in the process. Employees who are targets of unlawful
28 conduct who are unwilling to participate in the process under this Act shall not face
29 disciplinary action based on their level of participation or cooperation.

30
31 Section 4. [*Commencement of Action; Venue.*]

32 (a) An action for a civil no-contact order is commenced by filing a verified complaint
33 for a civil no-contact order in any [civil district court] or by filing a motion in any existing
34 civil action.

35 (b) A complaint or motion for a civil no-contact order shall be filed in the county
36 where the unlawful conduct took place.

37
38 Section 5. [*Process for Action for No-contact Order.*]

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

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

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

52
53 Section 6 [*Civil No-Contact Order; Remedy.*]

54 (a) Upon a finding that the employee has suffered unlawful conduct committed by the
55 respondent, the court may issue a temporary or permanent civil no-contact order. In
56 determining whether or not to issue a civil no-contact order, the court shall not require
57 physical injury to the employee or injury to the employer's property.

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

60 (1) Order the respondent not to visit, assault, molest, or otherwise interfere
61 with the employer or the employer's employee at the employer's workplace, or otherwise
62 interfere with the employer's operations.

63 (2) Order the respondent to cease stalking the employer's employee at the
64 employer's workplace.

65 (3) Order the respondent to cease harassment of the employer or the
66 employer's employee at the employer's workplace.

67 (4) Order the respondent not to abuse or injure the employer, including the
68 employer's property, or the employer's employee at the employer's workplace.

69 (5) Order the respondent not to contact by telephone, written communication,
70 or electronic means the employer or the employer's employee at the employer's workplace.

71 (6) Order other relief deemed necessary and appropriate by the court.

72 (c) A civil no-contact order shall include the following notice, printed in conspicuous
73 type: "A knowing violation of a civil no-contact order shall be punishable as contempt of
74 court which may result in a fine or imprisonment."
75

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

77 (a) A temporary civil no-contact order may be granted ex parte, without written or
78 oral notice to the respondent, only if both of the following are shown:

79 (1) It clearly appears from specific facts shown by a verified complaint or
80 affidavit that immediate injury, loss, or damage will result to the complainant, or the
81 complainant's employee before the respondent can be heard in opposition.

82 (2) Either one of the following:

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

86 II. The complainant certified to the court that there is good cause to
87 grant the remedy because the harm that the remedy is intended to prevent would like occur if
88 the respondent were given any prior notice of the complainant's efforts to obtain judicial
89 relief.

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

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

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

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

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

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

98 (c) If the respondent appears in court for the hearing for a temporary order, the
99 respondent may elect to file a general appearance and testify. Any resulting order may be a
100 temporary order, governed by this section. Notwithstanding the requirements of this section,
101 if all requirements of section 8 of this Act have been met, the court may issue a permanent
102 order.

103 (d) When the court is not in session, the complainant may file a complaint for a
104 temporary order before any judge or magistrate designated to grant relief under this Act. If
105 the judge or [magistrate] finds that there is an immediate and present danger of abuse against
106 the complainant or employee of the complainant and that the complainant has satisfied the
107 prerequisites set forth in subsection (a) of this section, the judge or magistrate may issue a
108 temporary civil no-contact order. The [chief district court judge] may designate for each
109 county at least one judge or magistrate to be reasonably available to issue temporary civil no-
110 contact orders when the court is not in session.

111
112 Section 8. [*Permanent Civil No-Contact Order.*] Upon a finding that the employee
113 has suffered unlawful conduct committed by the respondent, a permanent civil no-contact
114 order may issue if the court additionally finds that process was properly served on the

115 respondent, the respondent has answered the complaint and notice of hearing was given, or
116 the respondent is in default. No permanent civil no-contact order shall be issued without
117 notice to the respondent.

118
119 Section 9. [*Duration; Extension of Orders.*]

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

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

135 (c) Any temporary or permanent order may be extended one or more times, as
136 required, provided that the requirements of section 7 or section 8 of this Act, as appropriate,
137 are satisfied. The court may renew a temporary or permanent order, including an order that
138 previously has been renewed, upon a motion by the complainant filed before the expiration
139 of the current order. The court may renew the order for good cause. The commission of an
140 act of unlawful conduct by the respondent after entry of the current order is not required for
141 an order to be renewed. If the motion for extension is uncontested and the complainant seeks
142 no modification of the order, the order may be extended if the complainant's motion or
143 affidavit states that there has been no material change in relevant circumstances since entry
144 of the order and states the reason for the requested extension. Extensions may be granted
145 only in open court and not under the provisions of section 7(d) of this Act.

146 (d) Any civil no-contact order expiring on a court holiday shall expire at the close of
147 the [next court business day].

148
149 Section 10. [*Notice of Orders.*]

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

152 (b) Unless the respondent was present in court when the order was issued, the sheriff
153 shall serve that order upon the respondent and file proof of service in the manner provided
154 for service of process in civil proceedings. If process has not yet been served upon the
155 respondent, it shall be served with the order.

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

161 (d) Any order extending, modifying, or revoking any civil no-contact order shall be
162 recorded, issued, and served in accordance with the provisions of this Act.

163

164 Section 11. [*Violation of Valid Order.*] A violation of an order entered pursuant to
165 this Act is punishable as contempt of court.

166
167 Section 12. [*Employment Discrimination Unlawful.*]

168 (a) No employer shall discharge, demote, deny a promotion, or discipline an
169 employee because the employee took reasonable time off from work to obtain or attempt to
170 obtain relief under this Act. An employee who is absent from the workplace shall follow the
171 employer's usual time-off policy or procedure, including advance notice to the employer,
172 when required by the employer's usual procedures, unless an emergency prevents the
173 employee from doing so. An employer may require documentation of any emergency that
174 prevented the employee from complying in advance with the employer's usual time-off
175 policy or procedure, or any other information available to the employee which supports the
176 employee's reason for being absent from the workplace.

177 (b) The [Commissioner of Labor] shall enforce the provisions of this section,
178 including the rules and regulations issued pursuant to the Act.

179
180 Section 13. [*Scope of Article; Other Remedies Available.*] This Act does not expand,
181 diminish, alter, or modify the duty of any employer to provide a safe workplace for
182 employees and other persons. This Act does not limit the ability of an employer, employee,
183 or victim to pursue any other civil or criminal remedy provided by law. This Act does not
184 apply in circumstances where an employee or representative of employees is engaged in
185 union organizing, union activity, a labor dispute, or any activity or action protected by the
186 National Labor Relations Act, 29 U.S.C. § 151, et seq. Nothing in this Act is intended to
187 change the National Labor Relations Act's preemptive regulation of legally protected
188 activities, nor to change the right of the State and its courts to regulate activities not protected
189 by the National Labor Relations Act.

190
191 Section 14. [*Severability.*] [Insert severability clause.]

192
193 Section 15. [*Repealer.*] [Insert repealer clause.]

194
195 Section 16. [*Effective Date.*] [Insert effective date.]