

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

HOUSE BILL 1255
RATIFIED BILL

AN ACT TO PROVIDE THAT WHEN SENTENCING A DEFENDANT CONVICTED OF A SEX OFFENSE AND UPON REQUEST OF THE DISTRICT ATTORNEY, THE COURT MAY ENTER A PERMANENT NO CONTACT ORDER PROHIBITING ANY FUTURE CONTACT OF A CONVICTED SEX OFFENDER WITH THE CRIME VICTIM IF THE COURT DETERMINES THAT APPROPRIATE GROUNDS EXIST FOR THE ORDER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 81D.

"Permanent No Contact Order Against Convicted Sex Offender.

"§ 15A-1340.50. Permanent no contact order prohibiting future contact by convicted sex offender with crime victim.

(a) The following definitions apply in this Article:

(1) Permanent no contact order. – A permanent injunction that prohibits any contact by a defendant with the victim of the sex offense for which the defendant is convicted. The duration of the injunction is the lifetime of the defendant.

(2) Sex offense. – Any criminal offense that requires registration under Article 27A of Chapter 14 of the General Statutes.

(3) Victim. – The person against whom the sex offense was committed.

(b) When sentencing a defendant convicted of a sex offense, the judge, at the request of the district attorney, shall determine whether to issue a permanent no contact order. The judge shall order the defendant to show cause why a permanent no contact order shall not be issued and shall hold a show cause hearing as part of the sentencing procedures for the defendant.

(c) The victim shall have a right to be heard at the show cause hearing.

(d) The judge sentencing the defendant is the trier of fact regarding the show cause hearing.

(e) At the conclusion of the show cause hearing the judge shall enter a finding for or against the defendant. If the judge determines that reasonable grounds exist for the victim to fear any future contact with the defendant, the judge shall issue the permanent no contact order. The judge shall enter written findings of fact and the grounds on which the permanent no contact order is issued. The no contact order shall be incorporated into the judgment imposing the sentence on the defendant for the conviction of the sex offense.

(f) The court may grant one or more of the following forms of relief in a permanent no contact order under this Article:

(1) Order the defendant not to threaten, visit, assault, molest, or otherwise interfere with the victim.

(2) Order the defendant not to follow the victim, including at the victim's workplace.

(3) Order the defendant not to harass the victim.

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

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

(6) Order the defendant 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.



(g) A permanent no contact order entered pursuant to this Article 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 no contact order. A person who knowingly violates a permanent no contact order is guilty of a Class A1 misdemeanor.

(h) At any time after the issuance of the order, the State, at the request of the victim, or the defendant 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 defendant no longer exist, the court may rescind the permanent no contact order.

(i) The remedy provided by this Article is not exclusive but is in addition to other remedies provided under law."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of July, 2009.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2009