

1 Article 23.

2 Workplace Violence Prevention.

3 **§ 95-260. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Civil no-contact order. – An order granted under this Article, which includes
6 a remedy authorized by G.S. 95-264.
- 7 (2) Employer. – Any person or entity that employs one or more employees.
8 Employer also includes the State of North Carolina and its political
9 subdivisions.
- 10 (3) Unlawful conduct. – Unlawful conduct means the commission of one or
11 more of the following acts upon an employee, but does not include acts of
12 self-defense or defense of others:
- 13 a. Attempting to cause bodily injury or intentionally causing bodily
14 injury.
- 15 b. Willfully, and on more than one occasion, following, being in the
16 presence of, or otherwise harassing, as defined in G.S. 14-277.3A,
17 without legal purpose and with the intent to place the employee in
18 reasonable fear for the employee's safety.
- 19 c. Willfully threatening, orally, in writing, or by any other means, to
20 physically injure the employee in a manner and under circumstances
21 that would cause a reasonable person to believe that the threat is
22 likely to be carried out and that actually causes the employee to
23 believe that the threat will be carried out. (2004-165, s. 1; 2009-58,
24 s. 7.)
25

26 **§ 95-261. Civil no-contact orders; persons protected.**

27 An action for a civil no-contact order may be filed as a civil action in district court by an
28 employer on behalf of an employee who has suffered unlawful conduct from any individual
29 that can reasonably be construed to be carried out, or to have been carried out, at the
30 employee's workplace. The employee that is the subject of unlawful conduct shall be consulted
31 prior to seeking an injunction under this Article in order to determine whether any safety
32 concerns exist in relation to the employee's participation in the process. Employees who are
33 targets of unlawful conduct who are unwilling to participate in the process under this Article
34 shall not face disciplinary action based on their level of participation or cooperation.
35 (2004-165, s. 1.)
36

37 **§ 95-262. Commencement of action; venue.**

- 38 (a) An action for a civil no-contact order is commenced by filing a verified complaint
39 for a civil no-contact order in any civil district court or by filing a motion in any existing civil
40 action.
- 41 (b) A complaint or motion for a civil no-contact order shall be filed in the county where
42 the unlawful conduct took place. (2004-165, s. 1.)
43

44 **§ 95-263. Process for action for no-contact order.**

- 45 (a) Any action for a civil no-contact order requires that a separate summons be issued
46 and served. The summons issued pursuant to this Article shall require the respondent to answer
47 within 10 days of the date of service. Attachments to the summons shall include the verified
48 complaint for the civil no-contact order and any temporary civil no-contact order that has been
49 issued and the notice of hearing on the temporary civil no-contact order.
- 50 (b) Service of the summons and attachments shall be by the sheriff by personal delivery
51 in accordance with Rule 4 of the Rules of Civil Procedure, and if the respondent cannot with

1 due diligence be served by the sheriff by personal delivery, the respondent may be served by
2 publication by the complainant in accordance with Rule 4(j1) of the Rules of Civil Procedure.

3 (c) The court may enter a civil no-contact order by default for the remedy sought in the
4 complaint if the respondent has been served in accordance with this section and fails to answer
5 as directed, or fails to appear on any subsequent appearance or hearing date agreed to by the
6 parties or set by the court. (2004-165, s. 1.)
7

8 **§ 95-264. Civil no-contact order; remedy.**

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

13 (b) The court may grant one or more of the following forms of relief in its orders under
14 this Article:

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

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

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

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

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

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

29 (c) A civil no-contact order shall include the following notice, printed in conspicuous
30 type: "A knowing violation of a civil no-contact order shall be punishable as contempt of court
31 which may result in a fine or imprisonment." (2004-165, s. 1.)
32

33 **§ 95-265. Temporary civil no-contact order; court holidays and evenings.**

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

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

40 (2) Either one of the following:

41 a. The complainant certifies to the court in writing the efforts, if any,
42 that have been made to give the notice and the reasons supporting the
43 claim that notice should not be required.

44 b. The complainant certified to the court that there is good cause to
45 grant the remedy because the harm that the remedy is intended to
46 prevent would likely occur if the respondent were given any prior
47 notice of the complainant's efforts to obtain judicial relief.

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

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

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

- 1 (3) Define the injury, state why it is irreparable and why the order was granted
2 without notice.
3 (4) Expire by its terms within such time after entry, not to exceed 10 days.
4 (5) Give notice of the date of hearing on the temporary order as provided in G.S.
5 95-267(a).

6 (c) If the respondent appears in court for the hearing for a temporary order, the
7 respondent may elect to file a general appearance and testify. Any resulting order may be a
8 temporary order, governed by this section. Notwithstanding the requirements of this section, if
9 all requirements of G.S. 95-266 have been met, the court may issue a permanent order.

10 (d) When the court is not in session, the complainant may file a complaint for a
11 temporary order before any judge or magistrate designated to grant relief under this Article. If
12 the judge or magistrate finds that there is an immediate and present danger of abuse against the
13 complainant or employee of the complainant and that the complainant has satisfied the
14 prerequisites set forth in subsection (a) of this section, the judge or magistrate may issue a
15 temporary civil no-contact order. The chief district court judge may designate for each county
16 at least one judge or magistrate to be reasonably available to issue temporary civil no-contact
17 orders when the court is not in session. (2004-165, s. 1; 2006-264, s. 9.)
18

19 **§ 95-266. Permanent civil no-contact order.**

20 Upon a finding that the employee has suffered unlawful conduct committed by the
21 respondent, a permanent civil no-contact order may issue if the court additionally finds that
22 process was properly served on the respondent, the respondent has answered the complaint and
23 notice of hearing was given, or the respondent is in default. No permanent civil no-contact
24 order shall be issued without notice to the respondent. (2004-165, s. 1.)
25

26 **§ 95-267. Duration; extension of orders.**

27 (a) A temporary civil no-contact order shall be effective for not more than 10 days as
28 the court fixes, unless within the time so fixed the temporary civil no-contact order, for good
29 cause shown, is extended for a like period or a longer period if the respondent consents. The
30 reasons for the extension shall be stated in the temporary order. In case a temporary civil
31 no-contact order is granted without notice and a motion for a permanent civil no-contact order
32 is made, it shall be set down for hearing at the earliest possible time and takes precedence over
33 all matters except older matters of the same character. When the motion for a permanent civil
34 no-contact order comes on for hearing, the complainant may proceed with a motion for a
35 permanent civil no-contact order, and, if the complainant fails to do so, the judge shall dissolve
36 the temporary civil no-contact order. On two days' notice to the complainant or on such shorter
37 notice to that party as the judge may prescribe, the respondent may appear and move its
38 dissolution or modification. In that event the judge shall proceed to hear and determine such
39 motion as expeditiously as the ends of justice require.

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

42 (c) Any temporary or permanent order may be extended one or more times, as required,
43 provided that the requirements of G.S. 95-265 or G.S. 95-266, as appropriate, are satisfied. The
44 court may renew a temporary or permanent order, including an order that previously has been
45 renewed, upon a motion by the complainant filed before the expiration of the current order. The
46 court may renew the order for good cause. The commission of an act of unlawful conduct by
47 the respondent after entry of the current order is not required for an order to be renewed. If the
48 motion for extension is uncontested and the complainant seeks no modification of the order, the
49 order may be extended if the complainant's motion or affidavit states that there has been no
50 material change in relevant circumstances since entry of the order and states the reason for the

1 requested extension. Extensions may be granted only in open court and not under the
2 provisions of G.S. 95-265(d).

3 (d) Any civil no-contact order expiring on a court holiday shall expire at the close of the
4 next court business day. (2004-165, s. 1.)

5
6 **§ 95-268. Notice of orders.**

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

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

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

18 (d) Any order extending, modifying, or revoking any civil no-contact order shall be
19 recorded, issued, and served in accordance with the provisions of this Article. (2004-165, s. 1.)
20

21 **§ 95-269. Violation of valid order.**

22 A violation of an order entered pursuant to this Article is punishable as contempt of court.
23 (2004-165, s. 1.)
24

25 **§ 95-270. Employment discrimination unlawful.**

26 (a) No employer shall discharge, demote, deny a promotion, or discipline an employee
27 because the employee took reasonable time off from work to obtain or attempt to obtain relief
28 under Chapter 50B or Chapter 50C. An employee who is absent from the workplace shall
29 follow the employer's usual time-off policy or procedure, including advance notice to the
30 employer, when required by the employer's usual procedures, unless an emergency prevents the
31 employee from doing so. An employer may require documentation of any emergency that
32 prevented the employee from complying in advance with the employer's usual time-off policy
33 or procedure, or any other information available to the employee which supports the employee's
34 reason for being absent from the workplace.

35 (b) The Commissioner of Labor shall enforce the provisions of this section according to
36 Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued
37 pursuant to the Article. (2004-165, s. 1.)
38

39 **§ 95-271. Scope of Article; other remedies available.**

40 This Article does not expand, diminish, alter, or modify any duty of any employer to
41 provide a safe workplace for employees and other persons. This Article does not limit the
42 ability of an employer, employee, or victim to pursue any other civil or criminal remedy
43 provided by law. This Article does not apply in circumstances where an employee or
44 representative of employees is engaged in union organizing, union activity, a labor dispute, or
45 any activity or action protected by the National Labor Relations Act, 29 U.S.C. § 151, et seq.
46 Nothing in this Article is intended to change the National Labor Relations Act's preemptive
47 regulation of legally protected activities, nor to change the right of the State and its courts to
48 regulate activities not protected by the National Labor Relations Act. (2004-165, s. 1;
49 2004-199, s. 58.)