

THE INSIDE PERSPECTIVE

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SMITH MOORE LLP
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New Statute Addresses Workplace Violence

The North Carolina Workplace Violence Protection Act was enacted on August 2, 2004, in response to growing concerns regarding employee violence. The statute specifically provides that an employer may obtain a “civil no-contact order” from the Court to protect employees, as well as the employer’s property, from individuals who threaten violence. It takes effect on December 1, 2004, and provides:

- The employer may file an action in state district court in the county in which the “unlawful conduct” took place.
- “Unlawful conduct” means attempts to cause bodily injury; following or otherwise harassing; and willfully threatening to physically injure employees.
- The sheriff serves the action on the potentially violent individual. If the Court issues an order, a copy of that order is sent to the sheriff for service on the individual, as well as to the police department of the municipality of the employer’s workplace. (If the employer is not located in a municipality, the order is sent to the sheriff or the county police department.)
- The employer may apply for a temporary (10 day) order while the action for a permanent order is pending. In many cases, the temporary order may be granted *ex parte*, without the potentially violent employee being notified and present.
- A “permanent” civil no-contact order is effective for one year. However, both a temporary and a permanent order can be extended one or more times.
- Discrimination against an employee who takes “reasonable time off” to obtain relief is prohibited. However, an employee must follow the employer’s usual time-off policy, including advance notice to the employer, unless an emergency prevents the employee from doing so.
- The Act does not alter the duty of any employer to provide a safe workplace, and it does not limit the employer or employee from pursuing any other civil or criminal remedy. It does not apply in circumstances where an employee is engaged in union organizing or other activity protected by the National Labor Relations Act.

TIP

Employers are well advised to consider the use of Civil No-Contact Orders as a tool to help deter and prevent occurrences of violence in the workplace.



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