

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 61
House Committee Substitute Favorable 7/28/05
House Committee Substitute #2 Favorable 8/30/05

Short Title: Felony Death by Vehicle/Sex Offender Amend.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO STRENGTHEN THE LAWS AGAINST IMPAIRED DRIVING BY
3 INCREASING THE PUNISHMENT FOR FELONY DEATH BY VEHICLE AND
4 TO PROVIDE THAT A VICTIM OF A SEXUALLY VIOLENT OFFENSE OR
5 THE VICTIM'S FAMILY MAY OBTAIN A CIVIL NO-CONTACT ORDER
6 AGAINST A REGISTERED OFFENDER WHO RESIDES OR WORKS AT A
7 PLACE OF EMPLOYMENT WITHIN A QUARTER MILE OF THE VICTIM.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 20-141.4 reads as rewritten:

10 "**§ 20-141.4. Felony and misdemeanor death by vehicle.**

11 (a) Repealed by Session Laws 1983, c. 435, s. 27.

12 (a1) Felony Death by Vehicle. – A person commits the offense of felony death by
13 vehicle if he unintentionally causes the death of another person while engaged in the
14 offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of
15 that offense is the proximate cause of the death.

16 (a2) Misdemeanor Death by Vehicle. – A person commits the offense of
17 misdemeanor death by vehicle if he unintentionally causes the death of another person
18 while engaged in the violation of any State law or local ordinance applying to the
19 operation or use of a vehicle or to the regulation of traffic, other than impaired driving
20 under G.S. 20-138.1, and commission of that violation is the proximate cause of the
21 death.

22 (b) Punishments. – Felony death by vehicle is a Class ~~G~~E felony. Misdemeanor
23 death by vehicle is a Class 1 misdemeanor.

24 (c) No Double Prosecutions. – No person who has been placed in jeopardy upon
25 a charge of death by vehicle may be prosecuted for the offense of manslaughter arising
26 out of the same death; and no person who has been placed in jeopardy upon a charge of
27 manslaughter may be prosecuted for death by vehicle arising out of the same death."

1 **SECTION 2.** G.S. 50C-1 is amended by adding the following new
2 subdivisions to read:

3 "(3a) Registered offender means a person who is required to register under
4 Article 27A of Chapter 14 of the General Statutes.

5 (4b) Sexually violent offense is as defined in G.S. 14-208.6."

6 **SECTION 3.** G.S. 50C-2(a) reads as rewritten:

7 "(a) An action is commenced under this Chapter by filing a verified complaint for
8 a civil no-contact order in district court or by filing a motion in any existing civil action,
9 by any of the following:

10 (1) A person who is a victim of unlawful conduct that occurs in this
11 State.State or who is a victim of a sexually violent offense.

12 (2) A competent adult who resides in this State on behalf of a minor child
13 or an incompetent adult who is a victim of unlawful conduct that
14 occurs in this State.State or who is a victim of a sexually violent
15 offense."

16 **SECTION 4.** Chapter 50C of the General Statutes is amended by adding a
17 new section to read:

18 "**§ 50C-5.1. Civil no-contact order for victim of sexually violent offense against**
19 **registered offender; remedy.**

20 (a) The court may also issue temporary or permanent civil no-contact orders as
21 authorized in this Chapter if it makes the following findings:

22 (1) The victim is the victim of a sexually violent offense committed by the
23 respondent.

24 (2) The respondent is a registered offender.

25 (3) The respondent resides or works at a place of employment located
26 within a quarter of a mile of the victim's residence, school, place of
27 employment, or other specified place.

28 (b) The court may grant one or more of the following forms of relief in its orders
29 under this section:

30 (1) Order the respondent to refrain from entering or remaining present at
31 the victim's residence, school, place of employment, or other specified
32 places at times when the victim is present.

33 (2) Order other relief deemed necessary and appropriate by the court.

34 (c) A civil no-contact order issued under this section shall include the following
35 notice, printed in conspicuous type: 'A knowing violation of a civil no-contact order
36 shall be punishable as contempt of court which may result in a fine or imprisonment'."

37 **SECTION 5.** G.S. 50C-7 reads as rewritten:

38 "**§ 50C-7. Permanent civil no-contact order.**

39 Upon a finding that the ~~victim~~-victim: (i) has suffered unlawful conduct committed
40 by the ~~respondent~~,-respondent, or (ii) is the victim of a sexually violent offense and the
41 respondent is a registered offender who resides or works at a place of employment
42 located within a quarter of a mile of the victim's residence, school, place of
43 employment, or other specified place, a permanent civil no-contact order may issue if
44 the court additionally finds that process was properly served on the respondent, the

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

4 **SECTION 6.** Section 1 of this act becomes effective December 1, 2005, and
5 applies to offenses committed on or after that date. The remainder of this act becomes
6 effective October 1, 2005.