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SENATE BILL DRS35215-SA-13 (03/17)

Short Title: Same Firearm Protections for 50C as 50B Order. (Public)

Sponsors: Senators Chaudhuri, Van Duyn, and Woodard (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE SIMILAR FIREARM PROTECTIONS FOR CIVIL NO-CONTACT
3 ORDERS AS ARE PROVIDED FOR DOMESTIC VIOLENCE PROTECTIVE ORDERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 50C-5(b) is amended by adding a new subdivision to read:

6 "(b) The court may grant one or more of the following forms of relief in its orders under
7 this Chapter:

- 8 (1) Order the respondent not to visit, assault, molest, or otherwise interfere with
9 the victim.
- 10 (2) Order the respondent to cease stalking the victim, including at the victim's
11 workplace.
- 12 (3) Order the respondent to cease harassment of the victim.
- 13 (4) Order the respondent not to abuse or injure the victim.
- 14 (5) Order the respondent not to contact the victim by telephone, written
15 communication, or electronic means.
- 16 (6) Order the respondent to refrain from entering or remaining present at the
17 victim's residence, school, place of employment, or other specified places at
18 times when the victim is present.
- 19 (6a) Prohibit a respondent from purchasing a firearm for a time fixed in the order.
- 20 (7) Order other relief deemed necessary and appropriate by the court, including
21 assessing attorneys' fees to either party."

22 **SECTION 2.** Chapter 50C of the General Statutes is amended by adding a new
23 section to read:

24 **§ 50C-5.1. Surrender and disposal of firearms; violations; exemptions.**

25 (a) Required Surrender of Firearms. – Upon issuance of a temporary ex parte civil
26 no-contact order or permanent civil no-contact order pursuant to this Chapter, the court shall
27 order the respondent to surrender to the sheriff all firearms, machine guns, ammunition, permits
28 to purchase firearms, and permits to carry concealed firearms that are in the care, custody,
29 possession, ownership, or control of the respondent if the court finds any of the following
30 factors:

- 31 (1) The use or threatened use of a deadly weapon by the respondent or a pattern
32 of prior conduct involving the use or threatened use of violence with a
33 firearm against persons.
- 34 (2) Threats to seriously injure or kill the complainant or minor child by the
35 respondent.
- 36 (3) Threats to commit suicide by the respondent.



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1 (4) Serious injuries inflicted upon the complainant or minor child by the
2 respondent.

3 (b) Ex Parte Hearing. – If a complainant seeks a temporary civil no-contact order ex
4 parte, the court shall inquire of the complainant, at the ex parte hearing, the presence of,
5 ownership of, or otherwise access to firearms by the respondent, as well as ammunition,
6 permits to purchase firearms, and permits to carry concealed firearms, and include, whenever
7 possible, identifying information regarding the description, number, and location of firearms,
8 ammunition, and permits in the order.

9 (c) Hearing. – The court, at the hearing for a temporary civil no-contact order if the
10 respondent appears in court or at the hearing for a permanent civil no-contact order, shall
11 inquire of the respondent the presence of, ownership of, or otherwise access to firearms by the
12 respondent, as well as ammunition, permits to purchase firearms, and permits to carry
13 concealed firearms, and include, whenever possible, identifying information regarding the
14 description, number, and location of firearms, ammunition, and permits in the order.

15 (d) Surrender. – Upon service of the order, the respondent shall immediately surrender
16 to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase
17 firearms, and permits to carry concealed firearms that are in the care, custody, possession,
18 ownership, or control of the respondent. In the event that weapons cannot be surrendered at the
19 time the order is served, the respondent shall surrender the firearms, ammunitions, and permits
20 to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff
21 shall store the firearms or contract with a licensed firearms dealer to provide storage.

22 (1) If the court orders the respondent to surrender firearms, ammunition, and
23 permits, the court shall inform the complainant and the respondent of the
24 terms of the civil no-contact order and include these terms on the face of the
25 order, including that the respondent is prohibited from possessing,
26 purchasing, or receiving or attempting to possess, purchase, or receive a
27 firearm for so long as the civil no-contact order or any successive civil
28 no-contact order is in effect. The terms of the order shall include instructions
29 as to how the respondent may request retrieval of any firearms, ammunition,
30 and permits surrendered to the sheriff when the civil no-contact order is no
31 longer in effect. The terms shall also include notice of the penalty for
32 violation of G.S. 14-269.8.

33 (2) The sheriff may charge the respondent a reasonable fee for the storage of
34 any firearms and ammunition taken pursuant to a civil no-contact order. The
35 fees are payable to the sheriff. The sheriff shall transmit the proceeds of
36 these fees to the county finance officer. The fees shall be used by the sheriff
37 to pay the costs of administering this section and for other law enforcement
38 purposes. The county shall expend the restricted funds for these purposes
39 only. The sheriff shall not release firearms, ammunition, or permits without a
40 court order granting the release. The respondent must remit all fees owed
41 prior to the authorized return of any firearms, ammunition, or permits. The
42 sheriff shall not incur any civil or criminal liability for alleged damage or
43 deterioration due to storage or transportation of any firearms or ammunition
44 held pursuant to this section.

45 (e) Retrieval. – If the court does not enter a permanent civil no-contact order when the
46 temporary order expires, the respondent may retrieve any weapons surrendered to the sheriff
47 unless the court finds that the respondent is precluded from owning or possessing a firearm
48 pursuant to State or federal law or final disposition of any pending criminal charges committed
49 against the person that is the subject of the current civil no-contact order.

50 (f) Motion for Return. – The respondent may request the return of any firearms,
51 ammunition, or permits surrendered by filing a motion with the court at the expiration of the

1 current order or final disposition of any pending criminal charges committed against the person
2 that is the subject of the current civil no-contact order and not later than 90 days after the
3 expiration of the current order or final disposition of any pending criminal charges committed
4 against the person that is the subject of the current civil no-contact order. Upon receipt of the
5 motion, the court shall schedule a hearing and provide written notice to the complainant who
6 shall have the right to appear and be heard and to the sheriff who has control of the firearms,
7 ammunition, or permits. The court shall determine whether the respondent is subject to any
8 State or federal law or court order that precludes the respondent from owning or possessing a
9 firearm. The inquiry shall include:

10 (1) Whether the civil no-contact order has been renewed.

11 (2) Whether the respondent is subject to any other civil no-contact orders.

12 (3) Whether the respondent is disqualified from owning or possessing a firearm
13 pursuant to 18 U.S.C. § 922 or any State law.

14 (4) Whether the respondent has any pending criminal charges, in either State or
15 federal court, committed against the person that is the subject of the current
16 civil no-contact order.

17 The court shall deny the return of firearms, ammunition, or permits if the court finds that the
18 respondent is precluded from owning or possessing a firearm pursuant to State or federal law or
19 if the respondent has any pending criminal charges, in either State or federal court, committed
20 against the person that is the subject of the current civil no-contact order until the final
21 disposition of those charges.

22 (g) Motion for Return by Third-Party Owner. – A third-party owner of firearms,
23 ammunition, or permits who is otherwise eligible to possess such items may file a motion
24 requesting the return to the third party of any such items in the possession of the sheriff seized
25 as a result of the entry of a civil no-contact order. The motion must be filed not later than 30
26 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the
27 court shall schedule a hearing and provide written notice to all parties and the sheriff. The court
28 shall order return of the items to the third party unless the court determines that the third party
29 is disqualified from owning or possessing said items pursuant to State or federal law. If the
30 court denies the return of the items to the third party, the items shall be disposed of by the
31 sheriff as provided in subsection (h) of this section.

32 (h) Disposal of Firearms. – If the respondent does not file a motion requesting the
33 return of any firearms, ammunition, or permits surrendered within the time period prescribed
34 by this section, if the court determines that the respondent is precluded from regaining
35 possession of any firearms, ammunition, or permits surrendered, or if the respondent or
36 third-party owner fails to remit all fees owed for the storage of the firearms or ammunition
37 within 30 days of the entry of the order granting the return of the firearms, ammunition, or
38 permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to
39 the respondent, and the sheriff shall apply to the court for an order of disposition of the
40 firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the
41 firearms, ammunition, or permits in one or more of the ways authorized by law, including
42 subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any
43 proceeds from the sale after deducting any costs associated with the sale, and, in accordance
44 with all applicable State and federal law, shall be provided to the respondent if requested by the
45 respondent by motion made before the hearing or at the hearing and if ordered by the judge.

46 (i) It is unlawful for any person subject to a civil no-contact order prohibiting the
47 possession or purchase of firearms to:

48 (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and
49 permits to carry concealed firearms to the sheriff as ordered by the court;

1 (2) Fail to disclose all information pertaining to the possession of firearms,
2 ammunition, and permits to purchase and permits to carry concealed
3 firearms as requested by the court; or

4 (3) Provide false information to the court pertaining to any of these items.

5 (j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to
6 possess, purchase, or receive or attempt to possess, purchase, or receive a firearm, as defined in
7 G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed
8 firearms if ordered by the court for so long as that civil no-contact order or any successive civil
9 no-contact order entered against that person pursuant to this Chapter is in effect. Any
10 respondent violating the provisions of this section shall be guilty of a Class H felony.

11 (k) Official Use Exemption. – This section shall not prohibit law enforcement officers
12 and members of any branch of the Armed Forces of the United States, not otherwise prohibited
13 under federal law, from possessing or using firearms for official use only.

14 (l) Nothing in this section is intended to limit the discretion of the court in granting
15 additional relief as provided in other sections of this Chapter."

16 **SECTION 3.** G.S. 14-269.8 reads as rewritten:

17 **"§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence**
18 **order or civil no-contact order prohibited.**

19 (a) In accordance with G.S. 50B-3.1, it is unlawful for any person to possess, purchase,
20 or receive or attempt to possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2),
21 machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the
22 court for so long as that protective order or any successive protective order entered against that
23 person pursuant to Chapter 50B of the General Statutes is in effect.

24 (a1) In accordance with G.S. 50C-5.1, it is unlawful for any person to possess, purchase,
25 or receive or attempt to possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2),
26 machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the
27 court for so long as that civil no-contact order or any successive civil no-contact order entered
28 against that person pursuant to Chapter 50C of the General Statutes is in effect.

29 (b) Any person violating the provisions of this section shall be guilty of a Class H
30 felony."

31 **SECTION 4.** This act becomes effective December 1, 2017, and applies to actions
32 commenced on or after that date.