



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2309

by Rep. Patrick Windhorst

SYNOPSIS AS INTRODUCED:

740 ILCS 21/20
740 ILCS 21/95
740 ILCS 22/202
740 ILCS 22/213
750 ILCS 60/202
750 ILCS 60/217

from Ch. 40, par. 2312-2
from Ch. 40, par. 2312-17

Amends the Stalking No Contact Order Act, the Civil No Contact Order Act, and the Illinois Domestic Violence Act of 1986. Provides that when a petition for an emergency stalking no contact order, a civil no contact order, or an emergency order of protection is filed, the petition shall not be publicly available until the petition is served on the respondent. Provides that when a petition for an emergency stalking no contact order, a civil no contact order, or an emergency order of protection is granted, the order shall not be publicly available until the order is served on the respondent.

LRB101 07196 LNS 52234 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Stalking No Contact Order Act is amended by
5 changing Sections 20 and 95 as follows:

6 (740 ILCS 21/20)

7 Sec. 20. Commencement of action; filing fees.

8 (a) An action for a stalking no contact order is commenced:

9 (1) independently, by filing a petition for a stalking
10 no contact order in any civil court, unless specific courts
11 are designated by local rule or order; or

12 (2) in conjunction with a delinquency petition or a
13 criminal prosecution as provided in Article 112A of the
14 Code of Criminal Procedure of 1963.

15 (a-5) When a petition for an emergency stalking no contact
16 order is filed, the petition shall not be publicly available
17 until the petition is served on the respondent.

18 (b) Withdrawal or dismissal of any petition for a stalking
19 no contact order prior to adjudication where the petitioner is
20 represented by the State shall operate as a dismissal without
21 prejudice. No action for a stalking no contact order shall be
22 dismissed because the respondent is being prosecuted for a
23 crime against the petitioner. For any action commenced under

1 item (2) of subsection (a) of this Section, dismissal of the
2 conjoined case (or a finding of not guilty) shall not require
3 dismissal of the action for a stalking no contact order;
4 instead, it may be treated as an independent action and, if
5 necessary and appropriate, transferred to a different court or
6 division.

7 (c) No fee shall be charged by the clerk of the court for
8 filing petitions or modifying or certifying orders. No fee
9 shall be charged by the sheriff for service by the sheriff of a
10 petition, rule, motion, or order in an action commenced under
11 this Section.

12 (d) The court shall provide, through the office of the
13 clerk of the court, simplified forms for filing of a petition
14 under this Section by any person not represented by counsel.

15 (Source: P.A. 100-199, eff. 1-1-18.)

16 (740 ILCS 21/95)

17 Sec. 95. Emergency stalking no contact order.

18 (a) An emergency stalking no contact order shall issue if
19 the petitioner satisfies the requirements of this subsection

20 (a). The petitioner shall establish that:

21 (1) the court has jurisdiction under Section 50;

22 (2) the requirements of Section 80 are satisfied; and

23 (3) there is good cause to grant the remedy, regardless
24 of prior service of process or of notice upon the
25 respondent, because the harm which that remedy is intended

1 to prevent would be likely to occur if the respondent were
2 given any prior notice, or greater notice than was actually
3 given, of the petitioner's efforts to obtain judicial
4 relief.

5 An emergency stalking no contact order shall be issued by
6 the court if it appears from the contents of the petition and
7 the examination of the petitioner that the averments are
8 sufficient to indicate stalking by the respondent and to
9 support the granting of relief under the issuance of the
10 stalking no contact order.

11 An emergency stalking no contact order shall be issued if
12 the court finds that items (1), (2), and (3) of this subsection
13 (a) are met.

14 (a-5) When a petition for an emergency stalking no contact
15 order is granted, the order shall not be publicly available
16 until the order is served on the respondent.

17 (b) If the respondent appears in court for this hearing for
18 an emergency order, he or she may elect to file a general
19 appearance and testify. Any resulting order may be an emergency
20 order, governed by this Section. Notwithstanding the
21 requirements of this Section, if all requirements of Section
22 100 have been met, the court may issue a plenary order.

23 (c) Emergency orders; court holidays and evenings.

24 (1) When the court is unavailable at the close of
25 business, the petitioner may file a petition for a 21-day
26 emergency order before any available circuit judge or

1 associate judge who may grant relief under this Act. If the
2 judge finds that there is an immediate and present danger
3 of abuse against the petitioner and that the petitioner has
4 satisfied the prerequisites set forth in subsection (a),
5 that judge may issue an emergency stalking no contact
6 order.

7 (2) The chief judge of the circuit court may designate
8 for each county in the circuit at least one judge to be
9 reasonably available to issue orally, by telephone, by
10 facsimile, or otherwise, an emergency stalking no contact
11 order at all times, whether or not the court is in session.

12 (3) Any order issued under this Section and any
13 documentation in support of the order shall be certified on
14 the next court day to the appropriate court. The clerk of
15 that court shall immediately assign a case number, file the
16 petition, order, and other documents with the court, and
17 enter the order of record and file it with the sheriff for
18 service, in accordance with Section 60. Filing the petition
19 shall commence proceedings for further relief under
20 Section 20. Failure to comply with the requirements of this
21 paragraph (3) does not affect the validity of the order.

22 (Source: P.A. 96-246, eff. 1-1-10.)

23 Section 10. The Civil No Contact Order Act is amended by
24 changing Sections 202 and 213 as follows:

1 (740 ILCS 22/202)

2 Sec. 202. Commencement of action; filing fees.

3 (a) An action for a civil no contact order is commenced:

4 (1) independently, by filing a petition for a civil no
5 contact order in any civil court, unless specific courts
6 are designated by local rule or order; or

7 (2) in conjunction with a delinquency petition or a
8 criminal prosecution as provided in Article 112A of the
9 Code of Criminal Procedure of 1963.

10 (a-5) When a petition for a civil no contact order is
11 filed, the petition shall not be publicly available until the
12 petition is served on the respondent.

13 (b) Withdrawal or dismissal of any petition for a civil no
14 contact order prior to adjudication where the petitioner is
15 represented by the State shall operate as a dismissal without
16 prejudice. No action for a civil no contact order shall be
17 dismissed because the respondent is being prosecuted for a
18 crime against the petitioner. For any action commenced under
19 item (2) of subsection (a) of this Section, dismissal of the
20 conjoined case (or a finding of not guilty) shall not require
21 dismissal of the action for a civil no contact order; instead,
22 it may be treated as an independent action and, if necessary
23 and appropriate, transferred to a different court or division.

24 (c) No fee shall be charged by the clerk of the court for
25 filing petitions or modifying or certifying orders. No fee
26 shall be charged by the sheriff for service by the sheriff of a

1 petition, rule, motion, or order in an action commenced under
2 this Section.

3 (d) The court shall provide, through the office of the
4 clerk of the court, simplified forms for filing of a petition
5 under this Section by any person not represented by counsel.

6 (Source: P.A. 100-199, eff. 1-1-18.)

7 (740 ILCS 22/213)

8 Sec. 213. Civil no contact order; remedies.

9 (a) If the court finds that the petitioner has been a
10 victim of non-consensual sexual conduct or non-consensual
11 sexual penetration, a civil no contact order shall issue;
12 provided that the petitioner must also satisfy the requirements
13 of Section 214 on emergency orders or Section 215 on plenary
14 orders. The petitioner shall not be denied a civil no contact
15 order because the petitioner or the respondent is a minor. The
16 court, when determining whether or not to issue a civil no
17 contact order, may not require physical injury on the person of
18 the victim. Modification and extension of prior civil no
19 contact orders shall be in accordance with this Act.

20 (a-5) When a petition for a civil no contact order is
21 granted, the order shall not be publicly available until the
22 order is served on the respondent.

23 (b) (Blank).

24 (b-5) The court may provide relief as follows:

25 (1) prohibit the respondent from knowingly coming

1 within, or knowingly remaining within, a specified
2 distance from the petitioner;

3 (2) restrain the respondent from having any contact,
4 including nonphysical contact, with the petitioner
5 directly, indirectly, or through third parties, regardless
6 of whether those third parties know of the order;

7 (3) prohibit the respondent from knowingly coming
8 within, or knowingly remaining within, a specified
9 distance from the petitioner's residence, school, day care
10 or other specified location;

11 (4) order the respondent to stay away from any property
12 or animal owned, possessed, leased, kept, or held by the
13 petitioner and forbid the respondent from taking,
14 transferring, encumbering, concealing, harming, or
15 otherwise disposing of the property or animal; and

16 (5) order any other injunctive relief as necessary or
17 appropriate for the protection of the petitioner.

18 (b-6) When the petitioner and the respondent attend the
19 same public or private elementary, middle, or high school, the
20 court when issuing a civil no contact order and providing
21 relief shall consider the severity of the act, any continuing
22 physical danger or emotional distress to the petitioner, the
23 educational rights guaranteed to the petitioner and respondent
24 under federal and State law, the availability of a transfer of
25 the respondent to another school, a change of placement or a
26 change of program of the respondent, the expense, difficulty,

1 and educational disruption that would be caused by a transfer
2 of the respondent to another school, and any other relevant
3 facts of the case. The court may order that the respondent not
4 attend the public, private, or non-public elementary, middle,
5 or high school attended by the petitioner, order that the
6 respondent accept a change of placement or program, as
7 determined by the school district or private or non-public
8 school, or place restrictions on the respondent's movements
9 within the school attended by the petitioner. The respondent
10 bears the burden of proving by a preponderance of the evidence
11 that a transfer, change of placement, or change of program of
12 the respondent is not available. The respondent also bears the
13 burden of production with respect to the expense, difficulty,
14 and educational disruption that would be caused by a transfer
15 of the respondent to another school. A transfer, change of
16 placement, or change of program is not unavailable to the
17 respondent solely on the ground that the respondent does not
18 agree with the school district's or private or non-public
19 school's transfer, change of placement, or change of program or
20 solely on the ground that the respondent fails or refuses to
21 consent to or otherwise does not take an action required to
22 effectuate a transfer, change of placement, or change of
23 program. When a court orders a respondent to stay away from the
24 public, private, or non-public school attended by the
25 petitioner and the respondent requests a transfer to another
26 attendance center within the respondent's school district or

1 private or non-public school, the school district or private or
2 non-public school shall have sole discretion to determine the
3 attendance center to which the respondent is transferred. In
4 the event the court order results in a transfer of the minor
5 respondent to another attendance center, a change in the
6 respondent's placement, or a change of the respondent's
7 program, the parents, guardian, or legal custodian of the
8 respondent is responsible for transportation and other costs
9 associated with the transfer or change.

10 (b-7) The court may order the parents, guardian, or legal
11 custodian of a minor respondent to take certain actions or to
12 refrain from taking certain actions to ensure that the
13 respondent complies with the order. In the event the court
14 orders a transfer of the respondent to another school, the
15 parents or legal guardians of the respondent are responsible
16 for transportation and other costs associated with the change
17 of school by the respondent.

18 (c) Denial of a remedy may not be based, in whole or in
19 part, on evidence that:

20 (1) the respondent has cause for any use of force,
21 unless that cause satisfies the standards for justifiable
22 use of force provided by Article 7 of the Criminal Code of
23 2012;

24 (2) the respondent was voluntarily intoxicated;

25 (3) the petitioner acted in self-defense or defense of
26 another, provided that, if the petitioner utilized force,

1 such force was justifiable under Article 7 of the Criminal
2 Code of 2012;

3 (4) the petitioner did not act in self-defense or
4 defense of another;

5 (5) the petitioner left the residence or household to
6 avoid further non-consensual sexual conduct or
7 non-consensual sexual penetration by the respondent; or

8 (6) the petitioner did not leave the residence or
9 household to avoid further non-consensual sexual conduct
10 or non-consensual sexual penetration by the respondent.

11 (d) Monetary damages are not recoverable as a remedy.

12 (Source: P.A. 96-311, eff. 1-1-10; 97-294, eff. 1-1-12;
13 97-1150, eff. 1-25-13.)

14 Section 15. The Illinois Domestic Violence Act of 1986 is
15 amended by changing Sections 202 and 217 as follows:

16 (750 ILCS 60/202) (from Ch. 40, par. 2312-2)

17 Sec. 202. Commencement of action; filing fees; dismissal.

18 (a) How to commence action. Actions for orders of
19 protection are commenced:

20 (1) Independently: By filing a petition for an order of
21 protection in any civil court, unless specific courts are
22 designated by local rule or order.

23 (2) In conjunction with another civil proceeding: By
24 filing a petition for an order of protection under the same

1 case number as another civil proceeding involving the
2 parties, including but not limited to: (i) any proceeding
3 under the Illinois Marriage and Dissolution of Marriage
4 Act, Illinois Parentage Act of 2015, Nonsupport of Spouse
5 and Children Act, Revised Uniform Reciprocal Enforcement
6 of Support Act or an action for nonsupport brought under
7 Article X of the Illinois Public Aid Code, provided that a
8 petitioner and the respondent are a party to or the subject
9 of that proceeding or (ii) a guardianship proceeding under
10 the Probate Act of 1975, or a proceeding for involuntary
11 commitment under the Mental Health and Developmental
12 Disabilities Code, or any proceeding, other than a
13 delinquency petition, under the Juvenile Court Act of 1987,
14 provided that a petitioner or the respondent is a party to
15 or the subject of such proceeding.

16 (3) In conjunction with a delinquency petition or a
17 criminal prosecution as provided in Section 112A-20 of the
18 Code of Criminal Procedure of 1963.

19 (a-5) When a petition for an emergency order of protection
20 is filed, the petition shall not be publicly available until
21 the petition is served on the respondent.

22 (b) Filing, certification, and service fees. No fee shall
23 be charged by the clerk for filing, amending, vacating,
24 certifying, or photocopying petitions or orders; or for issuing
25 alias summons; or for any related filing service. No fee shall
26 be charged by the sheriff for service by the sheriff of a

1 petition, rule, motion, or order in an action commenced under
2 this Section.

3 (c) Dismissal and consolidation. Withdrawal or dismissal
4 of any petition for an order of protection prior to
5 adjudication where the petitioner is represented by the State
6 shall operate as a dismissal without prejudice. No action for
7 an order of protection shall be dismissed because the
8 respondent is being prosecuted for a crime against the
9 petitioner. An independent action may be consolidated with
10 another civil proceeding, as provided by paragraph (2) of
11 subsection (a) of this Section. For any action commenced under
12 paragraph (2) or (3) of subsection (a) of this Section,
13 dismissal of the conjoined case (or a finding of not guilty)
14 shall not require dismissal of the action for the order of
15 protection; instead, it may be treated as an independent action
16 and, if necessary and appropriate, transferred to a different
17 court or division. Dismissal of any conjoined case shall not
18 affect the validity of any previously issued order of
19 protection, and thereafter subsections (b)(1) and (b)(2) of
20 Section 220 shall be inapplicable to such order.

21 (d) Pro se petitions. The court shall provide, through the
22 office of the clerk of the court, simplified forms and clerical
23 assistance to help with the writing and filing of a petition
24 under this Section by any person not represented by counsel. In
25 addition, that assistance may be provided by the state's
26 attorney.

1 (e) As provided in this subsection, the administrative
2 director of the Administrative Office of the Illinois Courts,
3 with the approval of the administrative board of the courts,
4 may adopt rules to establish and implement a pilot program to
5 allow the electronic filing of petitions for temporary orders
6 of protection and the issuance of such orders by audio-visual
7 means to accommodate litigants for whom attendance in court to
8 file for and obtain emergency relief would constitute an undue
9 hardship or would constitute a risk of harm to the litigant.

10 (1) As used in this subsection:

11 (A) "Electronic means" means any method of
12 transmission of information between computers or other
13 machines designed for the purpose of sending or
14 receiving electronic transmission and that allows for
15 the recipient of information to reproduce the
16 information received in a tangible medium of
17 expression.

18 (B) "Independent audio-visual system" means an
19 electronic system for the transmission and receiving
20 of audio and visual signals, including those with the
21 means to preclude the unauthorized reception and
22 decoding of the signals by commercially available
23 television receivers, channel converters, or other
24 available receiving devices.

25 (C) "Electronic appearance" means an appearance in
26 which one or more of the parties are not present in the

1 court, but in which, by means of an independent
2 audio-visual system, all of the participants are
3 simultaneously able to see and hear reproductions of
4 the voices and images of the judge, counsel, parties,
5 witnesses, and any other participants.

6 (2) Any pilot program under this subsection (e) shall
7 be developed by the administrative director or his or her
8 delegate in consultation with at least one local
9 organization providing assistance to domestic violence
10 victims. The program plan shall include but not be limited
11 to:

12 (A) identification of agencies equipped with or
13 that have access to an independent audio-visual system
14 and electronic means for filing documents; and

15 (B) identification of one or more organizations
16 who are trained and available to assist petitioners in
17 preparing and filing petitions for temporary orders of
18 protection and in their electronic appearances before
19 the court to obtain such orders; and

20 (C) identification of the existing resources
21 available in local family courts for the
22 implementation and oversight of the pilot program; and

23 (D) procedures for filing petitions and documents
24 by electronic means, swearing in the petitioners and
25 witnesses, preparation of a transcript of testimony
26 and evidence presented, and a prompt transmission of

1 any orders issued to the parties; and

2 (E) a timeline for implementation and a plan for
3 informing the public about the availability of the
4 program; and

5 (F) a description of the data to be collected in
6 order to evaluate and make recommendations for
7 improvements to the pilot program.

8 (3) In conjunction with an electronic appearance, any
9 petitioner for an ex parte temporary order of protection
10 may, using the assistance of a trained advocate if
11 necessary, commence the proceedings by filing a petition by
12 electronic means.

13 (A) A petitioner who is seeking an ex parte
14 temporary order of protection using an electronic
15 appearance must file a petition in advance of the
16 appearance and may do so electronically.

17 (B) The petitioner must show that traveling to or
18 appearing in court would constitute an undue hardship
19 or create a risk of harm to the petitioner. In granting
20 or denying any relief sought by the petitioner, the
21 court shall state the names of all participants and
22 whether it is granting or denying an appearance by
23 electronic means and the basis for such a
24 determination. A party is not required to file a
25 petition or other document by electronic means or to
26 testify by means of an electronic appearance.

1 (C) Nothing in this subsection (e) affects or
2 changes any existing laws governing the service of
3 process, including requirements for personal service
4 or the sealing and confidentiality of court records in
5 court proceedings or access to court records by the
6 parties to the proceedings.

7 (4) Appearances.

8 (A) All electronic appearances by a petitioner
9 seeking an ex parte temporary order of protection under
10 this subsection (e) are strictly voluntary and the
11 court shall obtain the consent of the petitioner on the
12 record at the commencement of each appearance.

13 (B) Electronic appearances under this subsection
14 (e) shall be recorded and preserved for transcription.
15 Documentary evidence, if any, referred to by a party or
16 witness or the court may be transmitted and submitted
17 and introduced by electronic means.

18 (Source: P.A. 99-718, eff. 1-1-17; 100-199, eff. 1-1-18;
19 100-201, eff. 8-18-17.)

20 (750 ILCS 60/217) (from Ch. 40, par. 2312-17)

21 Sec. 217. Emergency order of protection.

22 (a) Prerequisites. An emergency order of protection shall
23 issue if petitioner satisfies the requirements of this
24 subsection for one or more of the requested remedies. For each
25 remedy requested, petitioner shall establish that:

1 (1) The court has jurisdiction under Section 208;
2 (2) The requirements of Section 214 are satisfied; and
3 (3) There is good cause to grant the remedy, regardless
4 of prior service of process or of notice upon the
5 respondent, because:

6 (i) For the remedies of "prohibition of abuse"
7 described in Section 214(b)(1), "stay away order and
8 additional prohibitions" described in Section
9 214(b)(3), "removal or concealment of minor child"
10 described in Section 214(b)(8), "order to appear"
11 described in Section 214(b)(9), "physical care and
12 possession of the minor child" described in Section
13 214(b)(5), "protection of property" described in
14 Section 214(b)(11), "prohibition of entry" described
15 in Section 214(b)(14), "prohibition of firearm
16 possession" described in Section 214(b)(14.5),
17 "prohibition of access to records" described in
18 Section 214(b)(15), and "injunctive relief" described
19 in Section 214(b)(16), the harm which that remedy is
20 intended to prevent would be likely to occur if the
21 respondent were given any prior notice, or greater
22 notice than was actually given, of the petitioner's
23 efforts to obtain judicial relief;

24 (ii) For the remedy of "grant of exclusive
25 possession of residence" described in Section
26 214(b)(2), the immediate danger of further abuse of

1 petitioner by respondent, if petitioner chooses or had
2 chosen to remain in the residence or household while
3 respondent was given any prior notice or greater notice
4 than was actually given of petitioner's efforts to
5 obtain judicial relief, outweighs the hardships to
6 respondent of an emergency order granting petitioner
7 exclusive possession of the residence or household.
8 This remedy shall not be denied because petitioner has
9 or could obtain temporary shelter elsewhere while
10 prior notice is given to respondent, unless the
11 hardships to respondent from exclusion from the home
12 substantially outweigh those to petitioner;

13 (iii) For the remedy of "possession of personal
14 property" described in Section 214(b)(10), improper
15 disposition of the personal property would be likely to
16 occur if respondent were given any prior notice, or
17 greater notice than was actually given, of
18 petitioner's efforts to obtain judicial relief, or
19 petitioner has an immediate and pressing need for
20 possession of that property.

21 An emergency order may not include the counseling, legal
22 custody, payment of support or monetary compensation remedies.

23 (a-5) When a petition for an emergency order of protection
24 is granted, the order shall not be publicly available until the
25 order is served on the respondent.

26 (b) Appearance by respondent. If respondent appears in

1 court for this hearing for an emergency order, he or she may
2 elect to file a general appearance and testify. Any resulting
3 order may be an emergency order, governed by this Section.
4 Notwithstanding the requirements of this Section, if all
5 requirements of Section 218 have been met, the court may issue
6 a 30-day interim order.

7 (c) Emergency orders: court holidays and evenings.

8 (1) Prerequisites. When the court is unavailable at the
9 close of business, the petitioner may file a petition for a
10 21-day emergency order before any available circuit judge
11 or associate judge who may grant relief under this Act. If
12 the judge finds that there is an immediate and present
13 danger of abuse to petitioner and that petitioner has
14 satisfied the prerequisites set forth in subsection (a) of
15 Section 217, that judge may issue an emergency order of
16 protection.

17 (1.5) Issuance of order. The chief judge of the circuit
18 court may designate for each county in the circuit at least
19 one judge to be reasonably available to issue orally, by
20 telephone, by facsimile, or otherwise, an emergency order
21 of protection at all times, whether or not the court is in
22 session.

23 (2) Certification and transfer. The judge who issued
24 the order under this Section shall promptly communicate or
25 convey the order to the sheriff to facilitate the entry of
26 the order into the Law Enforcement Agencies Data System by

1 the Department of State Police pursuant to Section 302. Any
2 order issued under this Section and any documentation in
3 support thereof shall be certified on the next court day to
4 the appropriate court. The clerk of that court shall
5 immediately assign a case number, file the petition, order
6 and other documents with the court, and enter the order of
7 record and file it with the sheriff for service, in
8 accordance with Section 222. Filing the petition shall
9 commence proceedings for further relief under Section 202.
10 Failure to comply with the requirements of this subsection
11 shall not affect the validity of the order.

12 (Source: P.A. 96-701, eff. 1-1-10; 96-1241, eff. 1-1-11.)