

AN ACT concerning protective orders.

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

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 112A-3 as follows:

(725 ILCS 5/112A-3) (from Ch. 38, par. 112A-3)

Sec. 112A-3. Definitions. For the purposes of this Article, the following terms shall have the following meanings:

(1) "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(2) "Domestic violence" means abuse as described in paragraph (1).

(3) "Family or household members" include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in paragraph (3) of subsection (b) of Section 12-21 of the Criminal Code of 1961. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

(4) "Harassment" means knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the

evidence, the following types of conduct shall be presumed to cause emotional distress:

(i) creating a disturbance at petitioner's place of employment or school;

(ii) repeatedly telephoning petitioner's place of employment, home or residence;

(iii) repeatedly following petitioner about in a public place or places;

(iv) repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows;

(v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence; or

(vi) threatening physical force, confinement or restraint on one or more occasions.

(5) "Interference with personal liberty" means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

(6) "Intimidation of a dependent" means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Article, regardless of whether the abused person is a family or household member.

(7) "Order of protection" means an emergency order, interim order or plenary order, granted pursuant to this Article, which

includes any or all of the remedies authorized by Section 112A-14 of this Code.

(8) "Petitioner" may mean not only any named petitioner for the order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Article.

(9) "Physical abuse" includes sexual abuse and means any of the following:

(i) knowing or reckless use of physical force, confinement or restraint;

(ii) knowing, repeated and unnecessary sleep deprivation; or

(iii) knowing or reckless conduct which creates an immediate risk of physical harm.

(9.5) "Stay away" means for the respondent to refrain from both physical presence and nonphysical contact with the petitioner whether direct, indirect (including, but not limited to, telephone calls, mail, email, faxes, and written notes), or through third parties who may or may not know about the order of protection.

(10) "Willful deprivation" means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.

(Source: P.A. 92-253, eff. 1-1-02.)

Section 8. The Civil No Contact Order Act is amended by changing Sections 103, 202, 213, 214, 217, and 218 and by adding Sections 204.3 and 218.5 as follows:

(740 ILCS 22/103)

Sec. 103. Definitions. As used in this Act:

~~"Abuse" means physical abuse, harassment, intimidation of a dependent, or interference with personal liberty.~~

"Civil no contact order" means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 213 of this Act.

"Non-consensual" means a lack of freely given agreement.

"Petitioner" means any named petitioner for the no contact order or any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought.

"Sexual conduct" means any intentional or knowing touching or fondling by the petitioner or the respondent, either directly or through clothing, of the sex organs, anus, or breast of the petitioner or the respondent, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the respondent upon any part of the clothed or unclothed body of the petitioner, for the purpose of sexual gratification or arousal of the petitioner or the respondent.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Stay away" means to refrain from both physical presence and nonphysical contact with the petitioner directly, indirectly, or through third parties who may or may not know of the order. "Nonphysical contact" includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/202)

Sec. 202. Commencement of action; filing fees.

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

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

(2) in conjunction with a delinquency petition or a criminal prosecution, by filing a petition for a civil no contact order under the same case number as the delinquency petition or criminal prosecution, to be granted during pre-trial release of a defendant, with any dispositional order issued under Section 5-710 of the Juvenile Court Act of 1987 or as a condition of release, supervision, conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the violation is alleged in an information, complaint, indictment, or delinquency petition on file and the alleged victim is a person protected by this Act, and (ii) the petition, which is filed by the State's Attorney, names a victim of the alleged crime as a petitioner.

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

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

this Section.

(d) The court shall provide, through the office of the clerk of the court, simplified forms for ~~and clerical assistance to help with the writing and~~ filing of a petition under this Section by any person not represented by counsel.

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/204.3 new)

Sec. 204.3. Appointment of counsel. The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

(740 ILCS 22/213)

Sec. 213. Civil no contact order; remedy.

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

(b) A civil no contact order shall order one or more of the following:

(1) order the respondent to stay away from the petitioner; or

(2) other injunctive relief necessary or appropriate.  
~~Order the respondent to stay away from any other person protected by the civil no contact order;~~

~~(3) prohibit the respondent from abuse, as defined in this Act, or stalking of the petitioner, as defined in Section 12-7.3 of the Criminal Code of 1961, if the abuse or stalking has occurred or otherwise appears likely to~~

~~occur if not prohibited; or~~

~~(4) prohibit the respondent from entering or remaining present at the petitioner's school or place of employment, or both, or other specified places at times when the petitioner is present, if reasonable, given the balance of hardships. Hardships need not be balanced for the court to enter a stay away order or prohibit entry if the respondent has no right to enter the premises.~~

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

(1) the respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article VII of the Criminal Code of 1961;

(2) the respondent was voluntarily intoxicated;

(3) the petitioner acted in self-defense or defense of another, provided that, if the petitioner utilized force, such force was justifiable under Article VII of the Criminal Code of 1961;

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

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

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

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

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/214)

Sec. 214. Emergency civil no contact order.

(a) An emergency civil no contact order shall issue if the petitioner satisfies the requirements of this subsection (a). The petitioner shall establish that:

(1) the court has jurisdiction under Section 206 ~~208~~;

- (2) the requirements of Section 213 are satisfied; and
- (3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

An emergency civil no contact order shall be issued by the court if it appears from the contents of the petition and the examination of the petitioner that the averments are sufficient to indicate nonconsensual sexual penetration by the respondent and to support the granting of relief under the issuance of the civil no contact order.

An emergency civil no contact order shall be issued if the court finds that subsections (1), (2), and (3) above are met.

(b) If the respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 215 have been met, the court may issue a plenary order.

(c) Emergency orders; court holidays and evenings.

(1) When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Act. If the judge finds that there is an immediate and present danger of abuse against the petitioner and that the petitioner has satisfied the prerequisites set forth in subsection (a), that judge may issue an emergency civil no contact order.

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



(3) Any order issued under this Section and any documentation in support of the order shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order, and other documents with the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 222. Filing the petition shall commence proceedings for further relief under Section 202. Failure to comply with the requirements of this paragraph (3) does not affect the validity of the order.

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/217)

Sec. 217. Contents of orders.

(a) Any civil no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A civil no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent ~~and the name of each other person protected by the order and that the person is protected by this Act.~~

(2) The date and time the civil no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that civil no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency civil no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency civil no contact orders, that the respondent may petition the court, in accordance with Section 218.5, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 209 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A civil no contact order shall include the following notice, printed in conspicuous type: "Any knowing violation of a civil no contact order is a Class A misdemeanor. Any second or subsequent violation is a Class 4 felony."

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/218)

Sec. 218. Notice of orders.

(a) Upon issuance of any civil no contact order, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 214:

(1) enter the order on the record and file it in accordance with the circuit court procedures; and

(2) provide a file stamped copy of the order to the respondent, if present, and to the petitioner.

(b) The clerk of the issuing judge shall, or the petitioner may, on the same day that a civil no contact order is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or charged with serving the order upon the respondent. If the order was issued in accordance with subsection (c) of Section 214, the clerk shall, on the next court day, file a certified copy of the order with the Sheriff or other law enforcement officials charged with maintaining Department of State Police records.

(c) Unless the respondent was present in court when the order was issued, the sheriff, other law enforcement official, or special process server shall promptly serve that order upon

the respondent and file proof of such service in the manner provided for service of process in civil proceedings. If process has not yet been served upon the respondent, it shall be served with the order or short form notification. ~~A single fee may be charged for service of an order obtained in civil court, or for service of such an order together with process, unless waived or deferred under Section 208.~~

(d) If the person against whom the civil no contact order is issued is arrested and the written order is issued in accordance with subsection (c) of Section 214 and received by the custodial law enforcement agency before the respondent or arrestee is released from custody, the custodial law enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is released from custody. In no event shall detention of the respondent or arrestee be extended for hearing on the petition for civil no contact order or receipt of the order issued under Section 214 of this Act.

(e) Any order extending, modifying, or revoking any civil no contact order shall be promptly recorded, issued, and served as provided in this Section.

(f) Upon the request of the petitioner, within 24 hours of the issuance of a civil no contact order, the clerk of the issuing judge shall send written notice of the order along with a certified copy of the order to any school, college, or university at which the petitioner is enrolled.

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/218.5 new)

Sec. 218.5. Modification; reopening of orders.

(a) Except as otherwise provided in this Section, upon motion by the petitioner, the court may modify an emergency or plenary civil no contact order by altering the remedy, subject to Section 213.

(b) After 30 days following entry of a plenary civil no contact order, a court may modify that order only when a change

in the applicable law or facts since that plenary order was entered warrants a modification of its terms.

(c) Upon 2 days' notice to the petitioner, or such shorter notice as the court may prescribe, a respondent subject to an emergency civil no contact order issued under this Act may appear and petition the court to rehear the original or amended petition. Any petition to rehear shall be verified and shall allege the following:

(1) that the respondent did not receive prior notice of the initial hearing in which the emergency order was entered under Sections 209 and 214; and

(2) that the respondent had a meritorious defense to the order or any of its remedies or that the order or any of its remedies was not authorized by this Act.

Section 10. The Illinois Domestic Violence Act of 1986 is amended by changing Section 103 as follows:

(750 ILCS 60/103) (from Ch. 40, par. 2311-3)

Sec. 103. Definitions. For the purposes of this Act, the following terms shall have the following meanings:

(1) "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis.

(2) "Adult with disabilities" means an elder adult with disabilities or a high-risk adult with disabilities. A person may be an adult with disabilities for purposes of this Act even though he or she has never been adjudicated an incompetent adult. However, no court proceeding may be initiated or continued on behalf of an adult with disabilities over that adult's objection, unless such proceeding is approved by his or her legal guardian, if any.

(3) "Domestic violence" means abuse as defined in paragraph (1).

(4) "Elder adult with disabilities" means an adult

prevented by advanced age from taking appropriate action to protect himself or herself from abuse by a family or household member.

(5) "Exploitation" means the illegal, including tortious, use of a high-risk adult with disabilities or of the assets or resources of a high-risk adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of a high-risk adult with disabilities by undue influence, by breach of a fiduciary relationship, by fraud, deception, or extortion, or the use of such assets or resources in a manner contrary to law.

(6) "Family or household members" include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers as defined in paragraph (3) of subsection (b) of Section 12-21 of the Criminal Code of 1961. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship. In the case of a high-risk adult with disabilities, "family or household members" includes any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a high-risk adult with disabilities voluntarily, or by express or implied contract, or by court order.

(7) "Harassment" means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the

evidence, the following types of conduct shall be presumed to cause emotional distress:

(i) creating a disturbance at petitioner's place of employment or school;

(ii) repeatedly telephoning petitioner's place of employment, home or residence;

(iii) repeatedly following petitioner about in a public place or places;

(iv) repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows;

(v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing an incident or pattern of domestic violence; or

(vi) threatening physical force, confinement or restraint on one or more occasions.

(8) "High-risk adult with disabilities" means a person aged 18 or over whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

(9) "Interference with personal liberty" means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

(10) "Intimidation of a dependent" means subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in this Act, regardless

of whether the abused person is a family or household member.

(11) (A) "Neglect" means the failure to exercise that degree of care toward a high-risk adult with disabilities which a reasonable person would exercise under the circumstances and includes but is not limited to:

(i) the failure to take reasonable steps to protect a high-risk adult with disabilities from acts of abuse;

(ii) the repeated, careless imposition of unreasonable confinement;

(iii) the failure to provide food, shelter, clothing, and personal hygiene to a high-risk adult with disabilities who requires such assistance;

(iv) the failure to provide medical and rehabilitative care for the physical and mental health needs of a high-risk adult with disabilities; or

(v) the failure to protect a high-risk adult with disabilities from health and safety hazards.

(B) Nothing in this subsection (10) shall be construed to impose a requirement that assistance be provided to a high-risk adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide support to a high-risk adult with disabilities.

(12) "Order of protection" means an emergency order, interim order or plenary order, granted pursuant to this Act, which includes any or all of the remedies authorized by Section 214 of this Act.

(13) "Petitioner" may mean not only any named petitioner for the order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Act.

(14) "Physical abuse" includes sexual abuse and means any of the following:

(i) knowing or reckless use of physical force, confinement or restraint;

(ii) knowing, repeated and unnecessary sleep deprivation; or

(iii) knowing or reckless conduct which creates an immediate risk of physical harm.

(14.5) "Stay away" means for the respondent to refrain from both physical presence and nonphysical contact with the petitioner whether direct, indirect (including, but not limited to, telephone calls, mail, email, faxes, and written notes), or through third parties who may or may not know about the order of protection.

(15) "Willful deprivation" means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care or treatment when the dependent person has expressed an intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.

(Source: P.A. 92-253, eff. 1-1-02.)