



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2288

Introduced 1/10/2018, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

740 ILCS 21/80
740 ILCS 22/213

Amends the Stalking No Contact Order Act and the Civil No Contact Order Act. Provides that an order issued under either of those Acts may require or recommend the respondent to undergo counseling for a specified duration with a social worker, psychologist, clinical psychologist, psychiatrist, family service agency, alcohol or substance abuse program, mental health center guidance counselor, agency providing services to elders, program designed for domestic violence abusers or any other guidance service the court deems appropriate. Provides that the court may order the respondent in any intimate partner relationship to report to an Illinois Department of Human Services protocol approved partner abuse intervention program for an assessment and to follow all recommended treatment.

LRB100 16058 HEP 31177 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 Section 80 as follows:

6 (740 ILCS 21/80)

7 Sec. 80. Stalking no contact orders; remedies.

8 (a) If the court finds that the petitioner has been a
9 victim of stalking, a stalking no contact order shall issue;
10 provided that the petitioner must also satisfy the requirements
11 of Section 95 on emergency orders or Section 100 on plenary
12 orders. The petitioner shall not be denied a stalking no
13 contact order because the petitioner or the respondent is a
14 minor. The court, when determining whether or not to issue a
15 stalking no contact order, may not require physical injury on
16 the person of the petitioner. Modification and extension of
17 prior stalking no contact orders shall be in accordance with
18 this Act.

19 (b) A stalking no contact order shall order one or more of
20 the following:

21 (1) prohibit the respondent from threatening to commit
22 or committing stalking;

23 (2) order the respondent not to have any contact with

1 the petitioner or a third person specifically named by the
2 court;

3 (3) prohibit the respondent from knowingly coming
4 within, or knowingly remaining within a specified distance
5 of the petitioner or the petitioner's residence, school,
6 daycare, or place of employment, or any specified place
7 frequented by the petitioner; however, the court may order
8 the respondent to stay away from the respondent's own
9 residence, school, or place of employment only if the
10 respondent has been provided actual notice of the
11 opportunity to appear and be heard on the petition;

12 (4) prohibit the respondent from possessing a Firearm
13 Owners Identification Card, or possessing or buying
14 firearms; ~~and~~

15 (5) order other injunctive relief the court determines
16 to be necessary to protect the petitioner or third party
17 specifically named by the court; ~~and~~

18 (6) require or recommend the respondent to undergo
19 counseling for a specified duration with a social worker,
20 psychologist, clinical psychologist, psychiatrist, family
21 service agency, alcohol or substance abuse program, mental
22 health center guidance counselor, agency providing
23 services to elders, program designed for domestic violence
24 abusers or any other guidance service the court deems
25 appropriate. The court may order the respondent in any
26 intimate partner relationship to report to an Illinois

1 Department of Human Services protocol approved partner
2 abuse intervention program for an assessment and to follow
3 all recommended treatment.

4 (b-5) When the petitioner and the respondent attend the
5 same public, private, or non-public elementary, middle, or high
6 school, the court when issuing a stalking no contact order and
7 providing relief shall consider the severity of the act, any
8 continuing physical danger or emotional distress to the
9 petitioner, the educational rights guaranteed to the
10 petitioner and respondent under federal and State law, the
11 availability of a transfer of the respondent to another school,
12 a change of placement or a change of program of the respondent,
13 the expense, difficulty, and educational disruption that would
14 be caused by a transfer of the respondent to another school,
15 and any other relevant facts of the case. The court may order
16 that the respondent not attend the public, private, or
17 non-public elementary, middle, or high school attended by the
18 petitioner, order that the respondent accept a change of
19 placement or program, as determined by the school district or
20 private or non-public school, or place restrictions on the
21 respondent's movements within the school attended by the
22 petitioner. The respondent bears the burden of proving by a
23 preponderance of the evidence that a transfer, change of
24 placement, or change of program of the respondent is not
25 available. The respondent also bears the burden of production
26 with respect to the expense, difficulty, and educational

1 disruption that would be caused by a transfer of the respondent
2 to another school. A transfer, change of placement, or change
3 of program is not unavailable to the respondent solely on the
4 ground that the respondent does not agree with the school
5 district's or private or non-public school's transfer, change
6 of placement, or change of program or solely on the ground that
7 the respondent fails or refuses to consent to or otherwise does
8 not take an action required to effectuate a transfer, change of
9 placement, or change of program. When a court orders a
10 respondent to stay away from the public, private, or non-public
11 school attended by the petitioner and the respondent requests a
12 transfer to another attendance center within the respondent's
13 school district or private or non-public school, the school
14 district or private or non-public school shall have sole
15 discretion to determine the attendance center to which the
16 respondent is transferred. In the event the court order results
17 in a transfer of the minor respondent to another attendance
18 center, a change in the respondent's placement, or a change of
19 the respondent's program, the parents, guardian, or legal
20 custodian of the respondent is responsible for transportation
21 and other costs associated with the transfer or change.

22 (b-6) The court may order the parents, guardian, or legal
23 custodian of a minor respondent to take certain actions or to
24 refrain from taking certain actions to ensure that the
25 respondent complies with the order. In the event the court
26 orders a transfer of the respondent to another school, the

1 parents, guardian, or legal custodian of the respondent are
2 responsible for transportation and other costs associated with
3 the change of school by the respondent.

4 (b-7) The court shall not hold a school district or private
5 or non-public school or any of its employees in civil or
6 criminal contempt unless the school district or private or
7 non-public school has been allowed to intervene.

8 (b-8) The court may hold the parents, guardian, or legal
9 custodian of a minor respondent in civil or criminal contempt
10 for a violation of any provision of any order entered under
11 this Act for conduct of the minor respondent in violation of
12 this Act if the parents, guardian, or legal custodian directed,
13 encouraged, or assisted the respondent minor in such conduct.

14 (c) The court may award the petitioner costs and attorneys
15 fees if a stalking no contact order is granted.

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

17 (e) If the stalking no contact order prohibits the
18 respondent from possessing a Firearm Owner's Identification
19 Card, or possessing or buying firearms; the court shall
20 confiscate the respondent's Firearm Owner's Identification
21 Card and immediately return the card to the Department of State
22 Police Firearm Owner's Identification Card Office.

23 (Source: P.A. 96-246, eff. 1-1-10; 97-294, eff. 1-1-12;
24 97-1131, eff. 1-1-13.)

25 Section 10. The Civil No Contact Order Act is amended by

1 changing Section 213 as follows:

2 (740 ILCS 22/213)

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

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

15 (b) (Blank).

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

17 (1) prohibit the respondent from knowingly coming
18 within, or knowingly remaining within, a specified
19 distance from the petitioner;

20 (2) restrain the respondent from having any contact,
21 including nonphysical contact, with the petitioner
22 directly, indirectly, or through third parties, regardless
23 of whether those third parties know of the order;

24 (3) prohibit the respondent from knowingly coming
25 within, or knowingly remaining within, a specified

1 distance from the petitioner's residence, school, day care
2 or other specified location;

3 (4) order the respondent to stay away from any property
4 or animal owned, possessed, leased, kept, or held by the
5 petitioner and forbid the respondent from taking,
6 transferring, encumbering, concealing, harming, or
7 otherwise disposing of the property or animal; ~~and~~

8 (5) order any other injunctive relief as necessary or
9 appropriate for the protection of the petitioner; ~~and-~~

10 (6) require or recommend the respondent to undergo
11 counseling for a specified duration with a social worker,
12 psychologist, clinical psychologist, psychiatrist, family
13 service agency, alcohol or substance abuse program, mental
14 health center guidance counselor, agency providing
15 services to elders, program designed for domestic violence
16 abusers or any other guidance service the court deems
17 appropriate. The court may order the respondent in any
18 intimate partner relationship to report to an Illinois
19 Department of Human Services protocol approved partner
20 abuse intervention program for an assessment and to follow
21 all recommended treatment.

22 (b-6) When the petitioner and the respondent attend the
23 same public or private elementary, middle, or high school, the
24 court when issuing a civil no contact order and providing
25 relief shall consider the severity of the act, any continuing
26 physical danger or emotional distress to the petitioner, the

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

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

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

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

24 (1) the respondent has cause for any use of force,
25 unless that cause satisfies the standards for justifiable
26 use of force provided by Article 7 of the Criminal Code of

1 2012;

2 (2) the respondent was voluntarily intoxicated;

3 (3) the petitioner acted in self-defense or defense of
4 another, provided that, if the petitioner utilized force,
5 such force was justifiable under Article 7 of the Criminal
6 Code of 2012;

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

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

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

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

16 (Source: P.A. 96-311, eff. 1-1-10; 97-294, eff. 1-1-12;
17 97-1150, eff. 1-25-13.)