

HB3396



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3396

by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

740 ILCS 21/60
740 ILCS 21/115

Amends the Stalking No Contact Order Act. Provides that if an emergency stalking no contact order is granted on a court holiday or evening, the court shall immediately file a certified copy of the order with the sheriff or other law enforcement official charged with maintaining Department of State Police records (rather than on the next court day).

LRB101 10793 LNS 55919 b

A BILL FOR

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 60 and 115 as follows:

6 (740 ILCS 21/60)

7 Sec. 60. Process.

8 (a) Any action for a stalking no contact order requires
9 that a separate summons be issued and served. The summons shall
10 be in the form prescribed by Supreme Court Rule 101(d), except
11 that it shall require the respondent to answer or appear within
12 7 days. Attachments to the summons or notice shall include the
13 petition for stalking no contact order and supporting
14 affidavits, if any, and any emergency stalking no contact order
15 that has been issued.

16 (b) The summons shall be served by the sheriff or other law
17 enforcement officer at the earliest time and shall take
18 precedence over other summonses except those of a similar
19 emergency nature. Special process servers may be appointed at
20 any time, and their designation shall not affect the
21 responsibilities and authority of the sheriff or other official
22 process servers.

23 (c) Service of process on a member of the respondent's

1 household or by publication shall be adequate if: (1) the
2 petitioner has made all reasonable efforts to accomplish actual
3 service of process personally upon the respondent, but the
4 respondent cannot be found to effect such service; and (2) the
5 petitioner files an affidavit or presents sworn testimony as to
6 those efforts.

7 (d) A plenary stalking no contact order may be entered by
8 default for the remedy sought in the petition, if the
9 respondent has been served or given notice in accordance with
10 subsection (a) and if the respondent then fails to appear as
11 directed or fails to appear on any subsequent appearance or
12 hearing date agreed to by the parties or set by the court.

13 (e) If an order is granted under subsection (c) of Section
14 95, the court shall immediately file a certified copy of the
15 order with the sheriff or other law enforcement official
16 charged with maintaining Department of State Police records.

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

18 (740 ILCS 21/115)

19 Sec. 115. Notice of orders.

20 (a) Upon issuance of any stalking no contact order, the
21 clerk shall immediately, ~~or on the next court day if an~~
22 ~~emergency order is issued in accordance with subsection (c) of~~
23 ~~Section 95:~~

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

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

3 (b) The clerk of the issuing judge shall, or the petitioner
4 may, on the same day that a stalking no contact order is
5 issued, file a certified copy of that order with the sheriff or
6 other law enforcement officials charged with maintaining
7 Department of State Police records or charged with serving the
8 order upon the respondent. ~~If the order was issued in~~
9 ~~accordance with subsection (c) of Section 95, the clerk shall,~~
10 ~~on the next court day, file a certified copy of the order with~~
11 ~~the sheriff or other law enforcement officials charged with~~
12 ~~maintaining Department of State Police records.~~ If the
13 respondent, at the time of the issuance of the order, is
14 committed to the custody of the Illinois Department of
15 Corrections or Illinois Department of Juvenile Justice or is on
16 parole, aftercare release, or mandatory supervised release,
17 the sheriff or other law enforcement officials charged with
18 maintaining Department of State Police records shall notify the
19 Department of Corrections or Department of Juvenile Justice
20 within 48 hours of receipt of a copy of the stalking no contact
21 order from the clerk of the issuing judge or the petitioner.
22 Such notice shall include the name of the respondent, the
23 respondent's IDOC inmate number or IDJJ youth identification
24 number, the respondent's date of birth, and the LEADS Record
25 Index Number.

26 (c) Unless the respondent was present in court when the

1 order was issued, the sheriff, other law enforcement official,
2 or special process server shall promptly serve that order upon
3 the respondent and file proof of such service in the manner
4 provided for service of process in civil proceedings. Instead
5 of serving the order upon the respondent, however, the sheriff,
6 other law enforcement official, special process server, or
7 other persons defined in Section 117 may serve the respondent
8 with a short form notification as provided in Section 117. If
9 process has not yet been served upon the respondent, it shall
10 be served with the order or short form notification if such
11 service is made by the sheriff, other law enforcement official,
12 or special process server.

13 (d) If the person against whom the stalking no contact
14 order is issued is arrested and the written order is issued in
15 accordance with subsection (c) of Section 95 and received by
16 the custodial law enforcement agency before the respondent or
17 arrestee is released from custody, the custodial law
18 enforcement agent shall promptly serve the order upon the
19 respondent or arrestee before the respondent or arrestee is
20 released from custody. In no event shall detention of the
21 respondent or arrestee be extended for hearing on the petition
22 for stalking no contact order or receipt of the order issued
23 under Section 95 of this Act.

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

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

6 (Source: P.A. 97-904, eff. 1-1-13; 97-1017, eff. 1-1-13;
7 98-463, eff. 8-16-13; 98-558, eff. 1-1-14.)