



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4747

Introduced 2/18/2020, 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 Domestic Violence Act of 1986. Provides that when a petition for an emergency stalking no contact order, civil no contact order, or emergency order of protection is filed, the petition and file shall not be public and shall only be accessible to the court, petitioner, counsel of record for either party, and State's Attorney for the county until the petition is served on the respondent. Provides that when an emergency stalking no contact order, civil no contact order, emergency order of protection is granted, the petition, order, and file shall not be public and shall only be accessible to the court, petitioner, counsel of record for either party, and State's Attorney for the county until the order is served on the respondent. Effective immediately.

LRB101 17843 LNS 67278 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 and file shall not be public and
17 shall be accessible only to the court, petitioner, counsel of
18 record for either party, and State's Attorney for the county
19 ~~shall not be publicly available~~ until the petition is served on
20 the respondent.

21 (b) Withdrawal or dismissal of any petition for a stalking
22 no contact order prior to adjudication where the petitioner is
23 represented by the State shall operate as a dismissal without

1 prejudice. No action for a stalking no contact order shall be
2 dismissed because the respondent is being prosecuted for a
3 crime against the petitioner. For any action commenced under
4 item (2) of subsection (a) of this Section, dismissal of the
5 conjoined case (or a finding of not guilty) shall not require
6 dismissal of the action for a stalking no contact order;
7 instead, it may be treated as an independent action and, if
8 necessary and appropriate, transferred to a different court or
9 division.

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

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

18 (Source: P.A. 100-199, eff. 1-1-18; 101-255, eff. 1-1-20.)

19 (740 ILCS 21/95)

20 Sec. 95. Emergency stalking no contact order.

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

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

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

1 (3) there is good cause to grant the remedy, regardless
2 of prior service of process or of notice upon the
3 respondent, because the harm which that remedy is intended
4 to prevent would be likely to occur if the respondent were
5 given any prior notice, or greater notice than was actually
6 given, of the petitioner's efforts to obtain judicial
7 relief.

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

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

17 (a-5) When a petition for an emergency stalking no contact
18 order is granted, the petition, order, and file shall not be
19 public and shall be accessible only to the court, petitioner,
20 counsel of record of either party, and State's Attorney for the
21 county shall not be publicly available until the order is
22 served on the respondent.

23 (b) If the respondent appears in court for this hearing for
24 an emergency order, he or she may elect to file a general
25 appearance and testify. Any resulting order may be an emergency
26 order, governed by this Section. Notwithstanding the

1 requirements of this Section, if all requirements of Section
2 100 have been met, the court may issue a plenary order.

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

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

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

18 (3) Any order issued under this Section and any
19 documentation in support of the order shall be certified on
20 the next court day to the appropriate court. The clerk of
21 that court shall immediately assign a case number, file the
22 petition, order, and other documents with the court, and
23 enter the order of record and file it with the sheriff for
24 service, in accordance with Section 60. Filing the petition
25 shall commence proceedings for further relief under
26 Section 20. Failure to comply with the requirements of this

1 paragraph (3) does not affect the validity of the order.

2 (Source: P.A. 101-255, eff. 1-1-20.)

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

5 (740 ILCS 22/202)

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

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

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

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

14 (a-5) When a petition for a civil no contact order is
15 filed, the petition and file shall not be public and shall be
16 accessible only to the court, petitioner, counsel of record for
17 either party, and State's Attorney for the county shall not be
18 publicly available until the petition is served on the
19 respondent.

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

1 crime against the petitioner. For any action commenced under
2 item (2) of subsection (a) of this Section, dismissal of the
3 conjoined case (or a finding of not guilty) shall not require
4 dismissal of the action for a civil no contact order; instead,
5 it may be treated as an independent action and, if necessary
6 and appropriate, transferred to a different court or 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; 101-255, eff. 1-1-20.)

16 (740 ILCS 22/213)

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

18 (a) If the court finds that the petitioner has been a
19 victim of non-consensual sexual conduct or non-consensual
20 sexual penetration, a civil no contact order shall issue;
21 provided that the petitioner must also satisfy the requirements
22 of Section 214 on emergency orders or Section 215 on plenary
23 orders. The petitioner shall not be denied a civil no contact
24 order because the petitioner or the respondent is a minor. The
25 court, when determining whether or not to issue a civil no

1 contact order, may not require physical injury on the person of
2 the victim. Modification and extension of prior civil no
3 contact orders shall be in accordance with this Act.

4 (a-5) When a petition for a civil no contact order is
5 granted, the petition, order, and file shall not be public and
6 shall be accessible only to the court, petitioner, counsel of
7 record for either party, and State's Attorney ~~shall not be~~
8 ~~publicly available~~ until the order is served on the respondent.

9 (b) (Blank).

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

11 (1) prohibit the respondent from knowingly coming
12 within, or knowingly remaining within, a specified
13 distance from the petitioner;

14 (2) restrain the respondent from having any contact,
15 including nonphysical contact, with the petitioner
16 directly, indirectly, or through third parties, regardless
17 of whether those third parties know of the order;

18 (3) prohibit the respondent from knowingly coming
19 within, or knowingly remaining within, a specified
20 distance from the petitioner's residence, school, day care
21 or other specified location;

22 (4) order the respondent to stay away from any property
23 or animal owned, possessed, leased, kept, or held by the
24 petitioner and forbid the respondent from taking,
25 transferring, encumbering, concealing, harming, or
26 otherwise disposing of the property or animal; and

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

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

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

21 (b-7) The court may order the parents, guardian, or legal
22 custodian of a minor respondent to take certain actions or to
23 refrain from taking certain actions to ensure that the
24 respondent complies with the order. In the event the court
25 orders a transfer of the respondent to another school, the
26 parents or legal guardians of the respondent are responsible

1 for transportation and other costs associated with the change
2 of school by the respondent.

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

5 (1) the respondent has cause for any use of force,
6 unless that cause satisfies the standards for justifiable
7 use of force provided by Article 7 of the Criminal Code of
8 2012;

9 (2) the respondent was voluntarily intoxicated;

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

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

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

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

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

23 (Source: P.A. 101-255, eff. 1-1-20.)

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

1 (750 ILCS 60/202) (from Ch. 40, par. 2312-2)

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

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

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

8 (2) In conjunction with another civil proceeding: By
9 filing a petition for an order of protection under the same
10 case number as another civil proceeding involving the
11 parties, including but not limited to: (i) any proceeding
12 under the Illinois Marriage and Dissolution of Marriage
13 Act, Illinois Parentage Act of 2015, Nonsupport of Spouse
14 and Children Act, Revised Uniform Reciprocal Enforcement
15 of Support Act or an action for nonsupport brought under
16 Article X of the Illinois Public Aid Code, provided that a
17 petitioner and the respondent are a party to or the subject
18 of that proceeding or (ii) a guardianship proceeding under
19 the Probate Act of 1975, or a proceeding for involuntary
20 commitment under the Mental Health and Developmental
21 Disabilities Code, or any proceeding, other than a
22 delinquency petition, under the Juvenile Court Act of 1987,
23 provided that a petitioner or the respondent is a party to
24 or the subject of such proceeding.

25 (3) In conjunction with a delinquency petition or a

1 criminal prosecution as provided in Section 112A-20 of the
2 Code of Criminal Procedure of 1963.

3 (a-5) When a petition for an emergency order of protection
4 is filed, the petition and file shall not be public and shall
5 be accessible only to the court, petitioner, counsel for either
6 party, and State's Attorney for the county ~~shall not be~~
7 ~~publicly available~~ until the petition is served on the
8 respondent.

9 (b) Filing, certification, and service fees. No fee shall
10 be charged by the clerk for filing, amending, vacating,
11 certifying, or photocopying petitions or orders; or for issuing
12 alias summons; or for any related filing service. No fee shall
13 be charged by the sheriff for service by the sheriff of a
14 petition, rule, motion, or order in an action commenced under
15 this Section.

16 (c) Dismissal and consolidation. Withdrawal or dismissal
17 of any petition for an order of protection prior to
18 adjudication where the petitioner is represented by the State
19 shall operate as a dismissal without prejudice. No action for
20 an order of protection shall be dismissed because the
21 respondent is being prosecuted for a crime against the
22 petitioner. An independent action may be consolidated with
23 another civil proceeding, as provided by paragraph (2) of
24 subsection (a) of this Section. For any action commenced under
25 paragraph (2) or (3) of subsection (a) of this Section,
26 dismissal of the conjoined case (or a finding of not guilty)

1 shall not require dismissal of the action for the order of
2 protection; instead, it may be treated as an independent action
3 and, if necessary and appropriate, transferred to a different
4 court or division. Dismissal of any conjoined case shall not
5 affect the validity of any previously issued order of
6 protection, and thereafter subsections (b)(1) and (b)(2) of
7 Section 220 shall be inapplicable to such order.

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

14 (e) As provided in this subsection, the administrative
15 director of the Administrative Office of the Illinois Courts,
16 with the approval of the administrative board of the courts,
17 may adopt rules to establish and implement a pilot program to
18 allow the electronic filing of petitions for temporary orders
19 of protection and the issuance of such orders by audio-visual
20 means to accommodate litigants for whom attendance in court to
21 file for and obtain emergency relief would constitute an undue
22 hardship or would constitute a risk of harm to the litigant.

23 (1) As used in this subsection:

24 (A) "Electronic means" means any method of
25 transmission of information between computers or other
26 machines designed for the purpose of sending or

1 receiving electronic transmission and that allows for
2 the recipient of information to reproduce the
3 information received in a tangible medium of
4 expression.

5 (B) "Independent audio-visual system" means an
6 electronic system for the transmission and receiving
7 of audio and visual signals, including those with the
8 means to preclude the unauthorized reception and
9 decoding of the signals by commercially available
10 television receivers, channel converters, or other
11 available receiving devices.

12 (C) "Electronic appearance" means an appearance in
13 which one or more of the parties are not present in the
14 court, but in which, by means of an independent
15 audio-visual system, all of the participants are
16 simultaneously able to see and hear reproductions of
17 the voices and images of the judge, counsel, parties,
18 witnesses, and any other participants.

19 (2) Any pilot program under this subsection (e) shall
20 be developed by the administrative director or his or her
21 delegate in consultation with at least one local
22 organization providing assistance to domestic violence
23 victims. The program plan shall include but not be limited
24 to:

25 (A) identification of agencies equipped with or
26 that have access to an independent audio-visual system

1 and electronic means for filing documents; and

2 (B) identification of one or more organizations
3 who are trained and available to assist petitioners in
4 preparing and filing petitions for temporary orders of
5 protection and in their electronic appearances before
6 the court to obtain such orders; and

7 (C) identification of the existing resources
8 available in local family courts for the
9 implementation and oversight of the pilot program; and

10 (D) procedures for filing petitions and documents
11 by electronic means, swearing in the petitioners and
12 witnesses, preparation of a transcript of testimony
13 and evidence presented, and a prompt transmission of
14 any orders issued to the parties; and

15 (E) a timeline for implementation and a plan for
16 informing the public about the availability of the
17 program; and

18 (F) a description of the data to be collected in
19 order to evaluate and make recommendations for
20 improvements to the pilot program.

21 (3) In conjunction with an electronic appearance, any
22 petitioner for an ex parte temporary order of protection
23 may, using the assistance of a trained advocate if
24 necessary, commence the proceedings by filing a petition by
25 electronic means.

26 (A) A petitioner who is seeking an ex parte

1 temporary order of protection using an electronic
2 appearance must file a petition in advance of the
3 appearance and may do so electronically.

4 (B) The petitioner must show that traveling to or
5 appearing in court would constitute an undue hardship
6 or create a risk of harm to the petitioner. In granting
7 or denying any relief sought by the petitioner, the
8 court shall state the names of all participants and
9 whether it is granting or denying an appearance by
10 electronic means and the basis for such a
11 determination. A party is not required to file a
12 petition or other document by electronic means or to
13 testify by means of an electronic appearance.

14 (C) Nothing in this subsection (e) affects or
15 changes any existing laws governing the service of
16 process, including requirements for personal service
17 or the sealing and confidentiality of court records in
18 court proceedings or access to court records by the
19 parties to the proceedings.

20 (4) Appearances.

21 (A) All electronic appearances by a petitioner
22 seeking an ex parte temporary order of protection under
23 this subsection (e) are strictly voluntary and the
24 court shall obtain the consent of the petitioner on the
25 record at the commencement of each appearance.

26 (B) Electronic appearances under this subsection

1 (e) shall be recorded and preserved for transcription.
2 Documentary evidence, if any, referred to by a party or
3 witness or the court may be transmitted and submitted
4 and introduced by electronic means.

5 (Source: P.A. 100-199, eff. 1-1-18; 100-201, eff. 8-18-17;
6 101-255, eff. 1-1-20.)

7 (750 ILCS 60/217) (from Ch. 40, par. 2312-17)

8 Sec. 217. Emergency order of protection.

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

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

18 (i) For the remedies of "prohibition of abuse"
19 described in Section 214(b)(1), "stay away order and
20 additional prohibitions" described in Section
21 214(b)(3), "removal or concealment of minor child"
22 described in Section 214(b)(8), "order to appear"
23 described in Section 214(b)(9), "physical care and
24 possession of the minor child" described in Section
25 214(b)(5), "protection of property" described in

1 Section 214(b)(11), "prohibition of entry" described
2 in Section 214(b)(14), "prohibition of firearm
3 possession" described in Section 214(b)(14.5),
4 "prohibition of access to records" described in
5 Section 214(b)(15), and "injunctive relief" described
6 in Section 214(b)(16), the harm which that remedy is
7 intended to prevent would be likely to occur if the
8 respondent were given any prior notice, or greater
9 notice than was actually given, of the petitioner's
10 efforts to obtain judicial relief;

11 (ii) For the remedy of "grant of exclusive
12 possession of residence" described in Section
13 214(b)(2), the immediate danger of further abuse of
14 petitioner by respondent, if petitioner chooses or had
15 chosen to remain in the residence or household while
16 respondent was given any prior notice or greater notice
17 than was actually given of petitioner's efforts to
18 obtain judicial relief, outweighs the hardships to
19 respondent of an emergency order granting petitioner
20 exclusive possession of the residence or household.
21 This remedy shall not be denied because petitioner has
22 or could obtain temporary shelter elsewhere while
23 prior notice is given to respondent, unless the
24 hardships to respondent from exclusion from the home
25 substantially outweigh those to petitioner;

26 (iii) For the remedy of "possession of personal

1 property" described in Section 214(b)(10), improper
2 disposition of the personal property would be likely to
3 occur if respondent were given any prior notice, or
4 greater notice than was actually given, of
5 petitioner's efforts to obtain judicial relief, or
6 petitioner has an immediate and pressing need for
7 possession of that property.

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

10 (a-5) When a petition for an emergency order of protection
11 is granted, the petition, order, and file shall not be public
12 and shall be accessible only to the court, petitioner, counsel
13 of record of either party, and State's Attorney for the county
14 ~~shall not be publicly available~~ until the order is served on
15 the respondent.

16 (b) Appearance by respondent. If respondent appears in
17 court for this hearing for an emergency order, he or she may
18 elect to file a general appearance and testify. Any resulting
19 order may be an emergency order, governed by this Section.
20 Notwithstanding the requirements of this Section, if all
21 requirements of Section 218 have been met, the court may issue
22 a 30-day interim order.

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

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

1 or associate judge who may grant relief under this Act. If
2 the judge finds that there is an immediate and present
3 danger of abuse to petitioner and that petitioner has
4 satisfied the prerequisites set forth in subsection (a) of
5 Section 217, that judge may issue an emergency order of
6 protection.

7 (1.5) Issuance of order. The chief judge of the circuit
8 court may designate for each county in the circuit at least
9 one judge to be reasonably available to issue orally, by
10 telephone, by facsimile, or otherwise, an emergency order
11 of protection at all times, whether or not the court is in
12 session.

13 (2) Certification and transfer. The judge who issued
14 the order under this Section shall promptly communicate or
15 convey the order to the sheriff to facilitate the entry of
16 the order into the Law Enforcement Agencies Data System by
17 the Department of State Police pursuant to Section 302. Any
18 order issued under this Section and any documentation in
19 support thereof shall be certified on the next court day to
20 the appropriate court. The clerk of that court shall
21 immediately assign a case number, file the petition, order
22 and other documents with the court, and enter the order of
23 record and file it with the sheriff for service, in
24 accordance with Section 222. Filing the petition shall
25 commence proceedings for further relief under Section 202.
26 Failure to comply with the requirements of this subsection

1 shall not affect the validity of the order.

2 (Source: P.A. 101-255, eff. 1-1-20.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.