



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2095

Introduced 2/7/2023, by Rep. Jennifer Sanalidro

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 the court shall (rather than may) award the petitioner costs and attorney's fees if a stalking no contact order is granted. Provides that the court shall award the petitioner costs and attorney's fees if a civil no contact order is granted.

LRB103 27732 LNS 54109 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
11 requirements of Section 95 on emergency orders or Section 100
12 on plenary orders. The petitioner shall not be denied a
13 stalking no contact order because the petitioner or the
14 respondent is a minor. The court, when determining whether or
15 not to issue a stalking no contact order, may not require
16 physical injury on the person of the petitioner. Modification
17 and extension of prior stalking no contact orders shall be in
18 accordance with 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.

18 (b-5) When the petitioner and the respondent attend the
19 same public, private, or non-public elementary, middle, or
20 high school, the court when issuing a stalking no contact
21 order and providing relief shall consider the severity of the
22 act, any continuing physical danger or emotional distress to
23 the petitioner, the educational rights guaranteed to the
24 petitioner and respondent under federal and State law, the
25 availability of a transfer of the respondent to another
26 school, a change of placement or a change of program of the

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

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

11 (b-6) The court may order the parents, guardian, or legal
12 custodian of a minor respondent to take certain actions or to
13 refrain from taking certain actions to ensure that the
14 respondent complies with the order. In the event the court
15 orders a transfer of the respondent to another school, the
16 parents, guardian, or legal custodian of the respondent are
17 responsible for transportation and other costs associated with
18 the change of school by the respondent.

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

23 (b-8) The court may hold the parents, guardian, or legal
24 custodian of a minor respondent in civil or criminal contempt
25 for a violation of any provision of any order entered under
26 this Act for conduct of the minor respondent in violation of

1 this Act if the parents, guardian, or legal custodian
2 directed, encouraged, or assisted the respondent minor in such
3 conduct.

4 (c) The court shall ~~may~~ award the petitioner costs and
5 attorney's ~~attorneys~~ fees if a stalking no contact order is
6 granted.

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

8 (e) If the stalking no contact order prohibits the
9 respondent from possessing a Firearm Owner's Identification
10 Card, or possessing or buying firearms; the court shall
11 confiscate the respondent's Firearm Owner's Identification
12 Card and immediately return the card to the Illinois State
13 Police Firearm Owner's Identification Card Office.

14 (Source: P.A. 102-538, eff. 8-20-21.)

15 Section 10. The Civil No Contact Order Act is amended by
16 changing Section 213 as follows:

17 (740 ILCS 22/213)

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

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

1 no contact order because the petitioner or the respondent is a
2 minor. The court, when determining whether or not to issue a
3 civil no contact order, may not require physical injury on the
4 person of the victim. Modification and extension of prior
5 civil no contact orders shall be in accordance with this Act.

6 (a-5) (Blank).

7 (b) (Blank).

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

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

12 (2) restrain the respondent from having any contact,
13 including nonphysical contact and electronic communication
14 as defined in Section 26.5-0.1 of the Criminal Code of
15 2012, with the petitioner directly, indirectly, or through
16 third parties, regardless of whether those third parties
17 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
23 property or animal owned, possessed, leased, kept, or held
24 by the 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
5 or 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
13 or non-public school shall have sole discretion to determine
14 the attendance center to which the respondent is transferred.
15 In 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 (e) The court shall award the petitioner costs and
24 attorney's fees if a civil no contact order is granted.

25 (Source: P.A. 101-255, eff. 1-1-20; 102-220, eff. 1-1-22;
26 102-831, eff. 5-13-22.)