



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5102

Introduced 2/8/2024, by Rep. Amy Elik

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.8
720 ILCS 5/12-3.9
740 ILCS 21/125
740 ILCS 22/219

Amends the Stalking No Contact Order Act and the Civil No Contact Order Act. Removes language providing that a knowing violation of a stalking no contact order or civil no contact order is a Class A misdemeanor, and a second or subsequent violation of such orders is a Class 4 felony. Provides instead that: (1) violation of a stalking no contact order or civil no contact order is a Class A misdemeanor; (2) violation of a stalking no contact order or civil no contact order is a Class 4 felony if the defendant has any prior conviction of domestic battery or violation of an order of protection or any prior conviction under the law of another jurisdiction for an offense that could be charged in the State as domestic battery or violation of an order of protection; and (3) violation of a stalking no contact order or civil no contact order is a Class 4 felony if the defendant has any prior conviction of attempt, first degree murder, kidnapping, aggravated kidnapping, unlawful restraint, aggravated unlawful restraint, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, aggravated battery, aggravated domestic battery, stalking, aggravated stalking, aggravated arson, aggravated discharge of a firearm, or aggravated battery of an unborn child, of a violation of any former law of the State that is substantially similar to any such listed offense, or any prior conviction under the law of another jurisdiction for an offense that could be charged in the State as one of such offenses, when any of these offenses have been committed against a family or household member. Provides that the court shall impose a minimum penalty of 24 hours imprisonment for the respondent's second or subsequent violation of any stalking no contact order or civil no contact order, unless the court explicitly finds that an increased penalty or such period of imprisonment would be manifestly unjust. Provides that in addition to any other penalties, the court may order the respondent to pay a fine or to make restitution to the victim under the Unified Code of Corrections. Makes same changes to the Criminal Code of 2012.

LRB103 37593 JRC 67719 b

A BILL FOR

1 AN ACT concerning domestic violence.

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

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 12-3.8 and 12-3.9 as follows:

6 (720 ILCS 5/12-3.8)

7 Sec. 12-3.8. Violation of a civil no contact order.

8 (a) A person commits violation of a civil no contact order
9 if:

10 (1) he or she knowingly commits an act which was
11 prohibited by a court or fails to commit an act which was
12 ordered in violation of:

13 (A) a remedy of a valid civil no contact order
14 authorized under Section 213 of the Civil No Contact
15 Order Act or Section 112A-14.5 of the Code of Criminal
16 Procedure of 1963; or

17 (B) a remedy, which is substantially similar to
18 the remedies authorized under Section 213 of the Civil
19 No Contact Order Act or Section 112A-14.5 of the Code
20 of Criminal Procedure of 1963, or in a valid civil no
21 contact order, which is authorized under the laws of
22 another state, tribe, or United States territory; and

23 (2) the violation occurs after the offender has been

1 served notice of the contents of the order under the Civil
2 No Contact Order Act, Article 112A of the Code of Criminal
3 Procedure of 1963, or any substantially similar statute of
4 another state, tribe, or United States territory, or
5 otherwise has acquired actual knowledge of the contents of
6 the order.

7 A civil no contact order issued by a state, tribal, or
8 territorial court shall be deemed valid if the issuing court
9 had jurisdiction over the parties and matter under the law of
10 the state, tribe, or territory. There shall be a presumption
11 of validity when an order is certified and appears authentic
12 on its face.

13 (a-3) For purposes of this Section, a "civil no contact
14 order" may have been issued in a criminal or civil proceeding.

15 (a-5) Failure to provide reasonable notice and opportunity
16 to be heard shall be an affirmative defense to any charge or
17 process filed seeking enforcement of a foreign civil no
18 contact order.

19 (b) Prosecution for a violation of a civil no contact
20 order shall not bar a concurrent prosecution for any other
21 crime, including any crime that may have been committed at the
22 time of the violation of the civil no contact order.

23 (c) Nothing in this Section shall be construed to diminish
24 the inherent authority of the courts to enforce their lawful
25 orders through civil or criminal contempt proceedings.

26 (d) A defendant who directed the actions of a third party

1 to violate this Section, under the principles of
2 accountability set forth in Article 5 of this Code, is guilty
3 of violating this Section as if the same had been personally
4 done by the defendant, without regard to the mental state of
5 the third party acting at the direction of the defendant.

6 (e) Sentence. Violation of a stalking no contact order is
7 a Class A misdemeanor. Violation of a stalking no contact
8 order is a Class 4 felony if the defendant has any prior
9 conviction under Section 12-3.2 or 12-3.4 or any prior
10 conviction under the law of another jurisdiction for an
11 offense that could be charged in this State as domestic
12 battery or violation of an order of protection. Violation of a
13 stalking no contact order is a Class 4 felony if the defendant
14 has any prior conviction under Section 8-4, 9-1, 10-1, 10-2,
15 10-3, 10-3.1, 11-1.20, 11-1.30, 11-1.40, 11-1.60, 12-3.05,
16 12-3.3, 12-7.3, 12-7.4, 20-1.1, or 24-1.2 or subsection (a-5)
17 of Section 12-3.1, of a violation of any former law of this
18 State that is substantially similar to any listed offense, or
19 any prior conviction under the law of another jurisdiction for
20 an offense that could be charged in this State as one of the
21 offenses listed in this Section, when any of these offenses
22 have been committed against a family or household member as
23 defined in Section 112A-3 of the Code of Criminal Procedure of
24 1963. The court shall impose a minimum penalty of 24 hours
25 imprisonment for the respondent's second or subsequent
26 violation of any stalking no contact order, unless the court

1 explicitly finds that an increased penalty or such period of
2 imprisonment would be manifestly unjust. In addition to any
3 other penalties, the court may order the respondent to pay a
4 fine as authorized under Section 5-9-1 of the Unified Code of
5 Corrections or to make restitution to the victim under Section
6 5-5-6 of the Unified Code of Corrections. ~~A violation of a~~
7 ~~civil no contact order is a Class A misdemeanor for a first~~
8 ~~violation, and a Class 4 felony for a second or subsequent~~
9 ~~violation.~~

10 (Source: P.A. 100-199, eff. 1-1-18.)

11 (720 ILCS 5/12-3.9)

12 Sec. 12-3.9. Violation of a stalking no contact order.

13 (a) A person commits violation of a stalking no contact
14 order if:

15 (1) he or she knowingly commits an act which was
16 prohibited by a court or fails to commit an act which was
17 ordered by a court in violation of:

18 (A) a remedy in a valid stalking no contact order
19 of protection authorized under Section 80 of the
20 Stalking No Contact Order Act or Section 112A-14.7 of
21 the Code of Criminal Procedure of 1963; or

22 (B) a remedy, which is substantially similar to
23 the remedies authorized under Section 80 of the
24 Stalking No Contact Order Act or Section 112A-14.7 of
25 the Code of Criminal Procedure of 1963, or in a valid

1 stalking no contact order, which is authorized under
2 the laws of another state, tribe, or United States
3 territory; and

4 (2) the violation occurs after the offender has been
5 served notice of the contents of the order, under the
6 Stalking No Contact Order Act, Article 112A of the Code of
7 Criminal Procedure of 1963, or any substantially similar
8 statute of another state, tribe, or United States
9 territory, or otherwise has acquired actual knowledge of
10 the contents of the order.

11 A stalking no contact order issued by a state, tribal, or
12 territorial court shall be deemed valid if the issuing court
13 had jurisdiction over the parties and matter under the law of
14 the state, tribe, or territory. There shall be a presumption
15 of validity when an order is certified and appears authentic
16 on its face.

17 (a-3) For purposes of this Section, a "stalking no contact
18 order" may have been issued in a criminal or civil proceeding.

19 (a-5) Failure to provide reasonable notice and opportunity
20 to be heard shall be an affirmative defense to any charge or
21 process filed seeking enforcement of a foreign stalking no
22 contact order.

23 (b) Prosecution for a violation of a stalking no contact
24 order shall not bar a concurrent prosecution for any other
25 crime, including any crime that may have been committed at the
26 time of the violation of the civil no contact order.

1 (c) Nothing in this Section shall be construed to diminish
2 the inherent authority of the courts to enforce their lawful
3 orders through civil or criminal contempt proceedings.

4 (d) A defendant who directed the actions of a third party
5 to violate this Section, under the principles of
6 accountability set forth in Article 5 of this Code, is guilty
7 of violating this Section as if the same had been personally
8 done by the defendant, without regard to the mental state of
9 the third party acting at the direction of the defendant.

10 (e) Sentence. Violation of a stalking no contact order is
11 a Class A misdemeanor. Violation of a stalking no contact
12 order is a Class 4 felony if the defendant has any prior
13 conviction under Section 12-3.2 or 12-3.4 or any prior
14 conviction under the law of another jurisdiction for an
15 offense that could be charged in this State as domestic
16 battery or violation of an order of protection. Violation of a
17 stalking no contact order is a Class 4 felony if the defendant
18 has any prior conviction under Section 8-4, 9-1, 10-1, 10-2,
19 10-3, 10-3.1, 11-1.20, 11-1.30, 11-1.40, 11-1.60, 12-3.05,
20 12-3.3, 12-7.3, 12-7.4, 20-1.1, or 24-1.2 or subsection (a-5)
21 of Section 12-3.1, of a violation of any former law of this
22 State that is substantially similar to any listed offense, or
23 any prior conviction under the law of another jurisdiction for
24 an offense that could be charged in this State as one of the
25 offenses listed in this Section, when any of these offenses
26 have been committed against a family or household member as

1 defined in Section 112A-3 of the Code of Criminal Procedure of
2 1963. The court shall impose a minimum penalty of 24 hours
3 imprisonment for the respondent's second or subsequent
4 violation of any stalking no contact order, unless the court
5 explicitly finds that an increased penalty or such period of
6 imprisonment would be manifestly unjust. In addition to any
7 other penalties, the court may order the respondent to pay a
8 fine as authorized under Section 5-9-1 of the Unified Code of
9 Corrections or to make restitution to the victim under Section
10 5-5-6 of the Unified Code of Corrections. ~~A violation of a~~
11 ~~stalking no contact order is a Class A misdemeanor for a first~~
12 ~~violation, and a Class 4 felony for a second or subsequent~~
13 ~~violation.~~

14 (Source: P.A. 100-199, eff. 1-1-18.)

15 Section 10. The Stalking No Contact Order Act is amended
16 by changing Section 125 as follows:

17 (740 ILCS 21/125)

18 Sec. 125. Violation. Violation of a stalking no contact
19 order is a Class A misdemeanor. Violation of a stalking no
20 contact order is a Class 4 felony if the defendant has any
21 prior conviction under Section 12-3.2 or 12-3.4 of the
22 Criminal Code of 2012 or any prior conviction under the law of
23 another jurisdiction for an offense that could be charged in
24 this State as domestic battery or violation of an order of

1 protection. Violation of a stalking no contact order is a
2 Class 4 felony if the defendant has any prior conviction under
3 Section 8-4, 9-1, 10-1, 10-2, 10-3, 10-3.1, 11-1.20, 11-1.30,
4 11-1.40, 11-1.60, 12-3.05, 12-3.3, 12-7.3, 12-7.4, 20-1.1, or
5 24-1.2 or subsection (a-5) of Section 12-3.1 of the Criminal
6 Code of 2012, of a violation of any former law of this State
7 that is substantially similar to any listed offense, or any
8 prior conviction under the law of another jurisdiction for an
9 offense that could be charged in this State as one of the
10 offenses listed in this Section, when any of these offenses
11 have been committed against a family or household member as
12 defined in Section 112A-3 of the Code of Criminal Procedure of
13 1963. The court shall impose a minimum penalty of 24 hours
14 imprisonment for the respondent's second or subsequent
15 violation of any stalking no contact order, unless the court
16 explicitly finds that an increased penalty or such period of
17 imprisonment would be manifestly unjust. In addition to any
18 other penalties, the court may order the respondent to pay a
19 fine as authorized under Section 5-9-1 of the Unified Code of
20 Corrections or to make restitution to the victim under Section
21 5-5-6 of the Unified Code of Corrections.

22 ~~An initial knowing violation of a stalking no contact order is~~
23 ~~a Class A misdemeanor. A second or subsequent knowing~~
24 ~~violation is a Class 4 felony.~~

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

1 Section 15. The Civil No Contact Order Act is amended by
2 changing Section 219 as follows:

3 (740 ILCS 22/219)

4 Sec. 219. Violation. Violation of a civil no contact order
5 is a Class A misdemeanor. Violation of a civil no contact order
6 is a Class 4 felony if the defendant has any prior conviction
7 under Section 12-3.2 or 12-3.4 of the Criminal Code of 2012 or
8 any prior conviction under the law of another jurisdiction for
9 an offense that could be charged in this State as domestic
10 battery or violation of an order of protection. Violation of a
11 civil no contact order is a Class 4 felony if the defendant has
12 any prior conviction under Section 8-4, 9-1, 10-1, 10-2, 10-3,
13 10-3.1, 11-1.20, 11-1.30, 11-1.40, 11-1.60, 12-3.05, 12-3.3,
14 12-4, 12-4.3, 12-4.4, 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14,
15 12-14.1, 12-16, 20-1.1, or 24-1.2 or subsection (a-5) of
16 Section 12-3.1 of the Criminal Code of 2012, of a violation of
17 any former law of this State that is substantially similar to
18 any listed offense, or any prior conviction under the law of
19 another jurisdiction for an offense that could be charged in
20 this State as one of the offenses listed in this Section, when
21 any of these offenses have been committed against a family or
22 household member as defined in Section 112A-3 of the Code of
23 Criminal Procedure of 1963. The court shall impose a minimum
24 penalty of 24 hours imprisonment for the respondent's second
25 or subsequent violation of any civil no contact order, unless

1 the court explicitly finds that an increased penalty or such
2 period of imprisonment would be manifestly unjust. In addition
3 to any other penalties, the court may order the respondent to
4 pay a fine as authorized under Section 5-9-1 of the Unified
5 Code of Corrections or to make restitution to the victim under
6 Section 5-5-6 of the Unified Code of Corrections.

7 ~~A knowing violation of a civil no contact order is a Class A~~
8 ~~misdemeanor. A second or subsequent violation is a Class 4~~
9 ~~felony.~~

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