

# SB2805



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2805

Introduced 1/17/2024, by Sen. Jil Tracy

### SYNOPSIS AS INTRODUCED:

430 ILCS 67/5  
725 ILCS 5/112A-4.5

Amends the Firearms Restraining Order Act and the Code of Criminal Procedure of 1963. Provides that if the petitioner for a firearms restraining order, domestic violence order of protection, or civil no contact order is a law enforcement officer or agent of a law enforcement officer, the petitioner shall be referred to as the law enforcement agency in which the officer is employed on all public records concerning the petition and not the individually named officer or agent who filed the petition. Effective immediately.

LRB103 33733 RLC 63547 b

A BILL FOR

1 AN ACT concerning protective orders.

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

4 Section 5. The Firearms Restraining Order Act is amended  
5 by changing Section 5 as follows:

6 (430 ILCS 67/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Family member of the respondent" means a spouse, former  
9 spouse, person with whom the respondent has a minor child in  
10 common, parent, child, or step-child of the respondent, any  
11 other person related by blood or present marriage to the  
12 respondent, or a person who shares a common dwelling with the  
13 respondent.

14 "Firearms restraining order" means an order issued by the  
15 court, prohibiting and enjoining a named person from having in  
16 his or her custody or control, purchasing, possessing, or  
17 receiving any firearms or ammunition, or removing firearm  
18 parts that could be assembled to make an operable firearm.

19 "Intimate partner" means a spouse, former spouse, a person  
20 with whom the respondent has or allegedly has a child in  
21 common, or a person with whom the respondent has or has had a  
22 dating or engagement relationship.

23 "Petitioner" means:

1 (1) a family member of the respondent as defined in  
2 this Act; or

3 (2) a law enforcement officer who files a petition  
4 alleging that the respondent poses a danger of causing  
5 personal injury to himself, herself, or another by having  
6 in his or her custody or control, purchasing, possessing,  
7 or receiving a firearm, ammunition, or firearm parts that  
8 could be assembled to make an operable firearm or removing  
9 firearm parts that could be assembled to make an operable  
10 firearm.

11 If the petitioner is a law enforcement officer, the  
12 petitioner shall be referred to as the law enforcement agency  
13 in which the officer is employed on all public records  
14 concerning the petition and not the individually named officer  
15 who filed the petition.

16 "Respondent" means the person alleged in the petition to  
17 pose a danger of causing personal injury to himself, herself,  
18 or another by having in his or her custody or control,  
19 purchasing, possessing, or receiving a firearm, ammunition, or  
20 firearm parts that could be assembled to make an operable  
21 firearm or removing firearm parts that could be assembled to  
22 make an operable firearm.

23 (Source: P.A. 101-81, eff. 7-12-19; 102-345, eff. 6-1-22.)

24 Section 10. The Code of Criminal Procedure of 1963 is  
25 amended by changing Section 112A-4.5 as follows:

1 (725 ILCS 5/112A-4.5)

2 Sec. 112A-4.5. Who may file petition.

3 (a) A petition for a domestic violence order of protection  
4 may be filed:

5 (1) by a named victim who has been abused by a family  
6 or household member;

7 (2) by any person or by the State's Attorney on behalf  
8 of a named victim who is a minor child or an adult who has  
9 been abused by a family or household member and who,  
10 because of age, health, disability, or inaccessibility,  
11 cannot file the petition;

12 (3) by a State's Attorney on behalf of any minor child  
13 or dependent adult in the care of the named victim, if the  
14 named victim does not file a petition or request the  
15 State's Attorney file the petition; or

16 (4) any of the following persons if the person is  
17 abused by a family or household member of a child:

18 (i) a foster parent of that child if the child has  
19 been placed in the foster parent's home by the  
20 Department of Children and Family Services or by  
21 another state's public child welfare agency;

22 (ii) a legally appointed guardian or legally  
23 appointed custodian of that child;

24 (iii) an adoptive parent of that child;

25 (iv) a prospective adoptive parent of that child

1 if the child has been placed in the prospective  
2 adoptive parent's home pursuant to the Adoption Act or  
3 pursuant to another state's law.

4 For purposes of this paragraph (a)(4), individuals who  
5 would have been considered "family or household members" of  
6 the child under paragraph (3) of subsection (b) of Section  
7 112A-3 before a termination of the parental rights with  
8 respect to the child continue to meet the definition of  
9 "family or household members" of the child.

10 (b) A petition for a civil no contact order may be filed:

11 (1) by any person who is a named victim of  
12 non-consensual sexual conduct or non-consensual sexual  
13 penetration, including a single incident of non-consensual  
14 sexual conduct or non-consensual sexual penetration;

15 (2) by a person or by the State's Attorney on behalf of  
16 a named victim who is a minor child or an adult who is a  
17 victim of non-consensual sexual conduct or non-consensual  
18 sexual penetration but, because of age, disability,  
19 health, or inaccessibility, cannot file the petition;

20 (3) by a State's Attorney on behalf of any minor child  
21 who is a family or household member of the named victim, if  
22 the named victim does not file a petition or request the  
23 State's Attorney file the petition;

24 (4) by a service member of the Illinois National Guard  
25 or any reserve military component serving within the State  
26 who is a victim of non-consensual sexual conduct who has

1 also received a Military Protective Order; or

2 (5) by the Staff Judge Advocate of the Illinois  
3 National Guard or any reserve military component serving  
4 in the State on behalf of a named victim who is a victim of  
5 non-consensual sexual conduct who has also received a  
6 Military Protective Order.

7 (c) A petition for a stalking no contact order may be  
8 filed:

9 (1) by any person who is a named victim of stalking;

10 (2) by a person or by the State's Attorney on behalf of  
11 a named victim who is a minor child or an adult who is a  
12 victim of stalking but, because of age, disability,  
13 health, or inaccessibility, cannot file the petition;

14 (3) by a State's Attorney on behalf of any minor child  
15 who is a family or household member of the named victim, if  
16 the named victim does not file a petition or request the  
17 State's Attorney file the petition;

18 (4) by a service member of the Illinois National Guard  
19 or any reserve military component serving within the State  
20 who is a victim of non-consensual sexual conduct who has  
21 also received a Military Protective Order; or

22 (5) by the Staff Judge Advocate of the Illinois  
23 National Guard or any reserve military component serving  
24 in the State on behalf of a named victim who is a victim of  
25 non-consensual sexual conduct who has also received a  
26 Military Protective Order.

1 (d) The State's Attorney shall file a petition on behalf  
2 of any person who may file a petition under subsections (a),  
3 (b), or (c) of this Section if the person requests the State's  
4 Attorney to file a petition on the person's behalf, unless the  
5 State's Attorney has a good faith basis to delay filing the  
6 petition. The State's Attorney shall inform the person that  
7 the State's Attorney will not be filing the petition at that  
8 time and that the person may file a petition or may retain an  
9 attorney to file the petition. The State's Attorney may file  
10 the petition at a later date.

11 (d-5) (1) A person eligible to file a petition under  
12 subsection (a), (b), or (c) of this Section may retain an  
13 attorney to represent the petitioner on the petitioner's  
14 request for a protective order. The attorney's representation  
15 is limited to matters related to the petition and relief  
16 authorized under this Article.

17 (2) Advocates shall be allowed to accompany the petitioner  
18 and confer with the victim, unless otherwise directed by the  
19 court. Advocates are not engaged in the unauthorized practice  
20 of law when providing assistance to the petitioner.

21 (d-6) If the petitioner is a law enforcement officer or  
22 agent of a law enforcement officer, the petitioner shall be  
23 referred to as the law enforcement agency in which the officer  
24 or agent is employed on all public records concerning the  
25 petition and not the individually named officer or agent who  
26 filed the petition.

1           (e) Any petition properly filed under this Article may  
2 seek protection for any additional persons protected by this  
3 Article.

4           (Source: P.A. 101-81, eff. 7-12-19; 102-890, eff. 5-19-22.)

5           Section 99. Effective date. This Act takes effect upon  
6 becoming law.