

1 AN ACT concerning civil no contact orders.

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

4 ARTICLE I

5 GENERAL PROVISIONS

6 Section 101. Short title. This Act may be cited as the
7 Civil No Contact Order Act.

8 Section 102. Purpose. Sexual assault is the most
9 heinous crime against another person short of murder. Sexual
10 assault inflicts humiliation, degradation, and terror on
11 victims. According to the FBI, a woman is raped every 6
12 minutes in the United States. Rape is recognized as the most
13 underreported crime; estimates suggest that only one in seven
14 rapes is reported to authorities. Victims who do not report
15 the crime still desire safety and protection from future
16 interactions with the offender. Some cases in which the rape
17 is reported are not prosecuted. In these situations, the
18 victim should be able to seek a civil remedy requiring only
19 that the offender stay away from the victim.

20 Section 103. Definitions. As used in this Act:

21 "Abuse" means physical abuse, harassment, intimidation of
22 a dependent, or interference with personal liberty.

23 "Civil no contact order" means an emergency order or
24 plenary order granted under this Act, which includes a remedy
25 authorized by Section 213 of this Act.

26 "Non-consensual" means a lack of freely given agreement.

27 "Petitioner" means any named petitioner for the no
28 contact order or any named victim of non-consensual sexual
29 conduct or non-consensual sexual penetration on whose behalf

1 the petition is brought.

2 "Sexual conduct" means any intentional or knowing
3 touching or fondling by the petitioner or the respondent,
4 either directly or through clothing, of the sex organs, anus,
5 or breast of the petitioner or the respondent, or any part of
6 the body of a child under 13 years of age, or any transfer or
7 transmission of semen by the respondent upon any part of the
8 clothed or unclothed body of the petitioner, for the purpose
9 of sexual gratification or arousal of the petitioner or the
10 respondent.

11 "Sexual penetration" means any contact, however slight,
12 between the sex organ or anus of one person by an object, the
13 sex organ, mouth or anus of another person, or any intrusion,
14 however slight, of any part of the body of one person or of
15 any animal or object into the sex organ or anus of another
16 person, including but not limited to cunnilingus, fellatio or
17 anal penetration. Evidence of emission of semen is not
18 required to prove sexual penetration.

19 ARTICLE II

20 CIVIL NO CONTACT ORDERS

21 Section 201. Persons protected by this Act. A petition
22 for a civil no contact order may be filed:

23 (1) by any person who is a victim of non-consensual
24 sexual conduct or non-consensual sexual penetration,
25 including a single incident of non-consensual sexual
26 conduct or non-consensual sexual penetration; or

27 (2) by a person on behalf of a minor child or an
28 adult who is a victim of non-consensual sexual conduct or
29 non-consensual sexual penetration but, because of age,
30 disability, health, or inaccessibility, cannot file the
31 petition.

1 Section 202. Commencement of action; filing fees.

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

3 (1) independently, by filing a civil no contact
4 order in any civil court, unless specific courts are
5 designated by local rule or order; or

6 (2) in conjunction with a delinquency petition or a
7 criminal prosecution, by filing a petition for a civil no
8 contact order under the same case number as the
9 delinquency petition or criminal prosecution, to be
10 granted during pre-trial release of a defendant, with any
11 dispositional order issued under Section 5-710 of the
12 Juvenile Court Act of 1987 or as a condition of release,
13 supervision, conditional discharge, probation, periodic
14 imprisonment, parole, or mandatory supervised release, or
15 in conjunction with imprisonment or a bond forfeiture
16 warrant, provided that (i) the violation is alleged in an
17 information, complaint, indictment, or delinquency
18 petition on file and the alleged victim is a person
19 protected by this Act, and (ii) the petition, which is
20 filed by the State's Attorney, names a victim of the
21 alleged crime as a petitioner.

22 (b) Withdrawal or dismissal of any petition for a civil
23 no contact order prior to adjudication where the petitioner
24 is represented by the State shall operate as a dismissal
25 without prejudice. No action for a civil no contact order
26 shall be dismissed because the respondent is being prosecuted
27 for a crime against the petitioner. For any action commenced
28 under item (2) of subsection (a) of this Section, dismissal
29 of the conjoined case (or a finding of not guilty) shall not
30 require dismissal of the action for a civil no contact order;
31 instead, it may be treated as an independent action and, if
32 necessary and appropriate, transferred to a different court
33 or division.

34 (c) No fee shall be charged by the clerk of the court

1 for filing petitions or modifying or certifying orders. No
2 fee shall be charged by the sheriff for service by the
3 sheriff of a petition, rule, motion, or order in an action
4 commenced under this Section.

5 (d) The court shall provide, through the office of the
6 clerk of the court, simplified forms and clerical assistance
7 to help with the writing and filing of a petition under this
8 Section by any person not represented by counsel.

9 Section 203. Pleading; non-disclosure of address.

10 (a) A petition for a civil no contact order shall be in
11 writing and verified or accompanied by affidavit and shall
12 allege that the petitioner has been the victim of
13 non-consensual sexual conduct or non-consensual sexual
14 penetration by the respondent.

15 (b) If the petition states that disclosure of the
16 petitioner's address would risk abuse of the petitioner or
17 any member of the petitioner's family or household, that
18 address may be omitted from all documents filed with the
19 court. If the petitioner has not disclosed an address under
20 this subsection, the petitioner shall designate an
21 alternative address at which the respondent may serve notice
22 of any motions.

23 Section 204. Application of rules of civil procedure;
24 rape crisis advocates.

25 (a) Any proceeding to obtain, modify, reopen or appeal a
26 civil no contact order shall be governed by the rules of
27 civil procedure of this State. The standard of proof in such
28 a proceeding is proof by a preponderance of the evidence. The
29 Code of Civil Procedure and Supreme Court and local court
30 rules applicable to civil proceedings shall apply, except as
31 otherwise provided by this Act.

32 (b) In circuit courts, rape crisis advocates shall be

1 allowed to accompany the victim and confer with the victim,
2 unless otherwise directed by the court. Court administrators
3 shall allow rape crisis advocates to assist victims of
4 non-consensual sexual conduct or non-consensual sexual
5 penetration in the preparation of petitions for civil no
6 contact orders. Rape crisis advocates are not engaged in the
7 unauthorized practice of law when providing assistance of the
8 types specified in this subsection (b). Communications
9 between the petitioner and a rape crisis advocate are
10 protected by the confidentiality of statements made to rape
11 crisis personnel as provided for in Section 8-802.1 of the
12 Code of Civil Procedure.

13 Section 204.5. Trial by jury. There shall be no right to
14 trial by jury in any proceeding to obtain, modify, vacate or
15 extend any civil no contact order under this Act. However,
16 nothing in this Section shall deny any existing right to
17 trial by jury in a criminal proceeding.

18 Section 205. Subject matter jurisdiction. Each of the
19 circuit courts has the power to issue civil no contact
20 orders.

21 Section 206. Jurisdiction over persons. The courts of
22 this State have jurisdiction to bind (1) State residents and
23 (2) non-residents having minimum contacts with this State, to
24 the extent permitted by the long-arm statute, Section 2-209
25 of the Code of Civil Procedure.

26 Section 207. Venue. A petition for a civil no contact
27 order may be filed in any county where (1) the petitioner
28 resides, (2) the respondent resides, or (3) the alleged
29 non-consensual sexual conduct or non-consensual sexual
30 penetration occurred.

1 Section 208. Process.

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

10 (b) The summons shall be served by the sheriff or other
11 law enforcement officer at the earliest time and shall take
12 precedence over other summonses except those of a similar
13 emergency nature. Special process servers may be appointed at
14 any time, and their designation shall not affect the
15 responsibilities and authority of the sheriff or other
16 official process servers.

17 (c) Service of process on a member of the respondent's
18 household or by publication shall be adequate if: (1) the
19 petitioner has made all reasonable efforts to accomplish
20 actual service of process personally upon the respondent, but
21 the respondent cannot be found to effect such service; and
22 (2) the petitioner files an affidavit or presents sworn
23 testimony as to those efforts.

24 (d) A plenary civil no contact order may be entered by
25 default for the remedy sought in the petition, if the
26 respondent has been served or given notice in accordance with
27 subsection (a) and if the respondent then fails to appear as
28 directed or fails to appear on any subsequent appearance or
29 hearing date agreed to by the parties or set by the court.

30 Section 209. Service of notice of hearings. Except as
31 provided in Section 208, notice of hearings on petitions or
32 motions shall be served in accordance with Supreme Court
33 Rules 11 and 12, unless notice is excused by Section 214 of

1 this Act or by the Code of Civil Procedure, Supreme Court
2 Rules, or local rules.

3 Section 210. Hearings. A petition for a civil no contact
4 order shall be treated as an expedited proceeding, and no
5 court may transfer or otherwise decline to decide all or part
6 of such petition. Nothing in this Section shall prevent the
7 court from reserving issues if jurisdiction or notice
8 requirements are not met.

9 Section 211. Continuances.

10 (a) Petitions for emergency remedies shall be granted or
11 denied in accordance with the standards of Section 214,
12 regardless of the respondent's appearance or presence in
13 court.

14 (b) Any action for a civil no contact order is an
15 expedited proceeding. Continuances shall be granted only for
16 good cause shown and kept to the minimum reasonable duration,
17 taking into account the reasons for the continuance.

18 Section 212. Hearsay exception.

19 (a) In proceedings for a no contact order and
20 prosecutions for violating a no-contact order, the prior
21 sexual activity or the reputation of the petitioner is
22 inadmissible except:

23 (1) as evidence concerning the past sexual conduct
24 of the petitioner with the respondent when this evidence
25 is offered by the respondent upon the issue of whether
26 the petitioner consented to the sexual conduct with
27 respect to which the offense is alleged; or

28 (2) when constitutionally required to be admitted.

29 (b) No evidence admissible under this Section may be
30 introduced unless ruled admissible by the trial judge after
31 an offer of proof has been made at a hearing held in camera

1 to determine whether the respondent has evidence to impeach
2 the witness in the event that prior sexual activity with the
3 respondent is denied. The offer of proof shall include
4 reasonably specific information as to the date, time, and
5 place of the past sexual conduct between the petitioner and
6 the respondent. Unless the court finds that reasonably
7 specific information as to date, time, or place, or some
8 combination thereof, has been offered as to prior sexual
9 activity with the respondent, counsel for the respondent
10 shall be ordered to refrain from inquiring into prior sexual
11 activity between the petitioner and the respondent. The court
12 may not admit evidence under this Section unless it
13 determines at the hearing that the evidence is relevant and
14 the probative value of the evidence outweighs the danger of
15 unfair prejudice. The evidence shall be admissible at trial
16 to the extent an order made by the court specifies the
17 evidence that may be admitted and areas with respect to which
18 the petitioner may be examined or cross examined.

19 Section 213. Civil no contact order; remedy.

20 (a) If the court finds that the petitioner has been a
21 victim of non-consensual sexual conduct or non-consensual
22 sexual penetration, a civil no contact order shall issue;
23 provided that the petitioner must also satisfy the
24 requirements of Section 214 on emergency orders or Section
25 215 on plenary orders. The petitioner shall not be denied a
26 civil no contact order because the petitioner or the
27 respondent is a minor. The court, when determining whether or
28 not to issue a civil no contact order, may not require
29 physical injury on the person of the victim. Modification and
30 extension of prior civil no contact orders shall be in
31 accordance with this Act.

32 (b) A civil no contact order shall order one or more of
33 the following:

1 (1) order the respondent to stay away from the
2 petitioner;

3 (2) order the respondent to stay away from any
4 other person protected by the civil no contact order;

5 (3) prohibit the respondent from abuse, as defined
6 in this Act, or stalking of the petitioner, as defined in
7 Section 12-7.3 of the Criminal Code of 1961, if the abuse
8 or stalking has occurred or otherwise appears likely to
9 occur if not prohibited; or

10 (4) prohibit the respondent from entering or
11 remaining present at the petitioner's school or place of
12 employment, or both, or other specified places at times
13 when the petitioner is present, if reasonable, given the
14 balance of hardships. Hardships need not be balanced for
15 the court to enter a stay away order or prohibit entry if
16 the respondent has no right to enter the premises.

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

19 (1) the respondent has cause for any use of force,
20 unless that cause satisfies the standards for justifiable
21 use of force provided by Article VII of the Criminal Code
22 of 1961;

23 (2) the respondent was voluntarily intoxicated;

24 (3) the petitioner acted in self-defense or defense
25 of another, provided that, if the petitioner utilized
26 force, such force was justifiable under Article VII of
27 the Criminal Code of 1961;

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

30 (5) the petitioner left the residence or household
31 to avoid further non-consensual sexual conduct or
32 non-consensual sexual penetration by the respondent; or

33 (6) the petitioner did not leave the residence or
34 household to avoid further non-consensual sexual conduct

1 or non-consensual sexual penetration by the respondent.

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

3 Section 213.5. Accountability for actions of others. For
4 the purposes of issuing a civil no contact order, deciding
5 what remedies should be included and enforcing the order,
6 Article 5 of the Criminal Code of 1961 shall govern whether
7 respondent is legally accountable for the conduct of another
8 person.

9 Section 214. Emergency civil no contact order.

10 (a) An emergency civil no contact order shall issue if
11 the petitioner satisfies the requirements of this subsection

12 (a). The petitioner shall establish that:

13 (1) the court has jurisdiction under Section 208;

14 (2) the requirements of Section 213 are satisfied;

15 and

16 (3) there is good cause to grant the remedy,
17 regardless of prior service of process or of notice upon
18 the respondent, because the harm which that remedy is
19 intended to prevent would be likely to occur if the
20 respondent were given any prior notice, or greater notice
21 than was actually given, of the petitioner's efforts to
22 obtain judicial relief.

23 (b) If the respondent appears in court for this hearing
24 for an emergency order, he or she may elect to file a general
25 appearance and testify. Any resulting order may be an
26 emergency order, governed by this Section. Notwithstanding
27 the requirements of this Section, if all requirements of
28 Section 215 have been met, the court may issue a plenary
29 order.

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

31 (1) When the court is unavailable at the close of
32 business, the petitioner may file a petition for a 21-day

1 emergency order before any available circuit judge or
2 associate judge who may grant relief under this Act. If
3 the judge finds that there is an immediate and present
4 danger of abuse against the petitioner and that the
5 petitioner has satisfied the prerequisites set forth in
6 subsection (a), that judge may issue an emergency civil
7 no contact order.

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

14 (3) Any order issued under this Section and any
15 documentation in support of the order shall be certified
16 on the next court day to the appropriate court. The clerk
17 of that court shall immediately assign a case number,
18 file the petition, order, and other documents with the
19 court, and enter the order of record and file it with the
20 sheriff for service, in accordance with Section 222.
21 Filing the petition shall commence proceedings for
22 further relief under Section 202. Failure to comply with
23 the requirements of this paragraph (3) does not affect
24 the validity of the order.

25 Section 215. Plenary civil no contact order. A plenary
26 civil no contact order shall issue if the petitioner has
27 served notice of the hearing for that order on the
28 respondent, in accordance with Section 209, and satisfies the
29 requirements of this Section. The petitioner must establish
30 that:

- 31 (1) the court has jurisdiction under Section 206;
32 (2) the requirements of Section 213 are satisfied;
33 (3) a general appearance was made or filed by or

1 for the respondent or process was served on the
2 respondent in the manner required by Section 208; and
3 (4) the respondent has answered or is in default.

4 Section 216. Duration and extension of orders.

5 (a) Unless re-opened or extended or voided by entry of
6 an order of greater duration, an emergency order shall be
7 effective for not less than 14 nor more than 21 days.

8 (b) Except as otherwise provided in this Section, a
9 plenary civil no contact order shall be effective for a fixed
10 period of time, not to exceed 2 years. A plenary civil no
11 contact order entered in conjunction with a criminal
12 prosecution shall remain in effect as follows:

13 (1) if entered during pre-trial release, until
14 disposition, withdrawal, or dismissal of the
15 underlying charge; if however, the case is continued
16 as an independent cause of action, the order's
17 duration may be for a fixed period of time not to
18 exceed 2 years;

19 (2) if in effect in conjunction with a bond
20 forfeiture warrant, until final disposition or an
21 additional period of time not exceeding 2 years; no
22 order of protection, however, shall be terminated by
23 a dismissal that is accompanied by the issuance of a
24 bond forfeiture warrant;

25 (3) until expiration of any supervision,
26 conditional discharge, probation, periodic
27 imprisonment, parole, or mandatory supervised
28 release and for an additional period of time
29 thereafter not exceeding 2 years; or

30 (4) until the date set by the court for
31 expiration of any sentence of imprisonment and
32 subsequent parole or mandatory supervised release
33 and for an additional period of time thereafter not

1 exceeding 2 years.

2 (c) Any emergency or plenary order may be extended one
3 or more times, as required, provided that the requirements of
4 Section 214 or 215, as appropriate, are satisfied. If the
5 motion for extension is uncontested and the petitioner seeks
6 no modification of the order, the order may be extended on
7 the basis of the petitioner's motion or affidavit stating
8 that there has been no material change in relevant
9 circumstances since entry of the order and stating the reason
10 for the requested extension. Extensions may be granted only
11 in open court and not under the provisions of subsection (c)
12 of Section 214, which applies only when the court is
13 unavailable at the close of business or on a court holiday.

14 (d) Any civil no contact order which would expire on a
15 court holiday shall instead expire at the close of the next
16 court business day.

17 (e) The practice of dismissing or suspending a criminal
18 prosecution in exchange for the issuance of a civil no
19 contact order undermines the purposes of this Act. This
20 Section shall not be construed as encouraging that practice.

21 Section 217. Contents of orders.

22 (a) Any civil no contact order shall describe each
23 remedy granted by the court, in reasonable detail and not by
24 reference to any other document, so that the respondent may
25 clearly understand what he or she must do or refrain from
26 doing.

27 (b) A civil no contact order shall further state the
28 following:

29 (1) The name of each petitioner that the court
30 finds was the victim of non-consensual sexual conduct or
31 non-consensual sexual penetration by the respondent and
32 the name of each other person protected by the order and
33 that the person is protected by this Act.

1 (2) The date and time the civil no contact order
2 was issued, whether it is an emergency or plenary order,
3 and the duration of the order.

4 (3) The date, time, and place for any scheduled
5 hearing for extension of that civil no contact order or
6 for another order of greater duration or scope.

7 (4) For each remedy in an emergency civil no
8 contact order, the reason for entering that remedy
9 without prior notice to the respondent or greater notice
10 than was actually given.

11 (c) A civil no contact order shall include the following
12 notice, printed in conspicuous type: "Any knowing violation
13 of a civil no contact order is a Class A misdemeanor. Any
14 second or subsequent violation is a Class 4 felony."

15 Section 218. Notice of orders.

16 (a) Upon issuance of any civil no contact order, the
17 clerk shall immediately, or on the next court day if an
18 emergency order is issued in accordance with subsection (c)
19 of Section 214:

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

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

24 (b) The clerk of the issuing judge shall, or the
25 petitioner may, on the same day that a civil no contact order
26 is issued, file a certified copy of that order with the
27 sheriff or other law enforcement officials charged with
28 maintaining Department of State Police records or charged
29 with serving the order upon the respondent. If the order was
30 issued in accordance with subsection (c) of Section 214, the
31 clerk shall, on the next court day, file a certified copy of
32 the order with the Sheriff or other law enforcement officials
33 charged with maintaining Department of State Police records.

1 (c) Unless the respondent was present in court when the
2 order was issued, the sheriff, other law enforcement
3 official, or special process server shall promptly serve that
4 order upon the respondent and file proof of such service in
5 the manner provided for service of process in civil
6 proceedings. If process has not yet been served upon the
7 respondent, it shall be served with the order or short form
8 notification. A single fee may be charged for service of an
9 order obtained in civil court, or for service of such an
10 order together with process, unless waived or deferred under
11 Section 208.

12 (d) If the person against whom the civil no contact
13 order is issued is arrested and the written order is issued
14 in accordance with subsection (c) of Section 214 and received
15 by the custodial law enforcement agency before the respondent
16 or arrestee is released from custody, the custodial law
17 enforcement agent shall promptly serve the order upon the
18 respondent or arrestee before the respondent or arrestee is
19 released from custody. In no event shall detention of the
20 respondent or arrestee be extended for hearing on the
21 petition for civil no contact order or receipt of the order
22 issued under Section 214 of this Act.

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

26 (f) Upon the request of the petitioner, within 24 hours
27 of the issuance of a civil no contact order, the clerk of the
28 issuing judge shall send written notice of the order along
29 with a certified copy of the order to any school, college, or
30 university at which the petitioner is enrolled.

31 Section 219. Violation. A knowing violation of a civil no
32 contact order is a Class A misdemeanor. A second or
33 subsequent violation is a Class 4 felony.

1

ARTICLE III

2

LAW ENFORCEMENT RESPONSIBILITIES

3

Section 301. Arrest without warrant.

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(a) Any law enforcement officer may make an arrest without warrant if the officer has probable cause to believe that the person has committed or is committing a violation of a civil no contact order.

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(b) The law enforcement officer may verify the existence of a civil no contact order by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or the respondent.

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Section 302. Data maintenance by law enforcement agencies.

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(b) The Department of State Police shall maintain a complete and systematic record and index of all valid and recorded civil no contact orders issued under this Act. The data shall be used to inform all dispatchers and law enforcement officers at the scene of an alleged incident of

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1 non-consensual sexual conduct or non-consensual sexual
2 penetration or violation of a civil no contact order of any
3 recorded prior incident of non-consensual sexual conduct or
4 non-consensual sexual penetration involving the victim and
5 the effective dates and terms of any recorded civil no
6 contact order.