



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0617

Introduced 1/28/2005, by Rep. John A. Fritchey

SYNOPSIS AS INTRODUCED:

740 ILCS 22/213
740 ILCS 22/214
740 ILCS 22/216

Amends the Civil No Contact Order Act. Changes the Section heading in the Section concerning remedies (instead of remedy). Provides that an emergency civil no contact order shall be issued if the averments are sufficient to indicate nonconsensual sexual contact or nonconsensual sexual penetration (instead of just nonconsensual sexual penetration) by the respondent. Changes order of protection to civil no contact order in the Section concerning duration and extension of orders.

LRB094 03491 LCB 33494 b

1 AN ACT concerning civil liabilities.

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

4 Section 5. The Civil No Contact Order Act is amended by
5 changing Sections 213, 214, and 216 as follows:

6 (740 ILCS 22/213)

7 Sec. 213. Civil no contact order; remedies ~~remedy~~.

8 (a) If the court finds that the petitioner has been a
9 victim of non-consensual sexual conduct or non-consensual
10 sexual penetration, a civil no contact order shall issue;
11 provided that the petitioner must also satisfy the requirements
12 of Section 214 on emergency orders or Section 215 on plenary
13 orders. The petitioner shall not be denied a civil no contact
14 order because the petitioner or the respondent is a minor. The
15 court, when determining whether or not to issue a civil no
16 contact order, may not require physical injury on the person of
17 the victim. Modification and extension of prior civil no
18 contact orders shall be in accordance with this Act.

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

21 (1) order the respondent to stay away from the
22 petitioner; or

23 (2) other injunctive relief necessary or appropriate.

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

26 (1) the respondent has cause for any use of force,
27 unless that cause satisfies the standards for justifiable
28 use of force provided by Article VII of the Criminal Code
29 of 1961;

30 (2) the respondent was voluntarily intoxicated;

31 (3) the petitioner acted in self-defense or defense of
32 another, provided that, if the petitioner utilized force,

1 such force was justifiable under Article VII of the
2 Criminal Code of 1961;

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

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

8 (6) the petitioner did not leave the residence or
9 household to avoid further non-consensual sexual conduct
10 or non-consensual sexual penetration by the respondent.

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

12 (Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05.)

13 (740 ILCS 22/214)

14 Sec. 214. Emergency civil no contact order.

15 (a) An emergency civil no contact order shall issue if the
16 petitioner satisfies the requirements of this subsection (a).

17 The petitioner shall establish that:

18 (1) the court has jurisdiction under Section 206;

19 (2) the requirements of Section 213 are satisfied; and

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

27 An emergency civil no contact order shall be issued by the
28 court if it appears from the contents of the petition and the
29 examination of the petitioner that the averments are sufficient
30 to indicate nonconsensual sexual conduct or nonconsensual
31 sexual penetration by the respondent and to support the
32 granting of relief under the issuance of the civil no contact
33 order.

34 An emergency civil no contact order shall be issued if the
35 court finds that subsections (1), (2), and (3) above are met.

1 (b) If the respondent appears in court for this hearing for
2 an emergency order, he or she may elect to file a general
3 appearance and testify. Any resulting order may be an emergency
4 order, governed by this Section. Notwithstanding the
5 requirements of this Section, if all requirements of Section
6 215 have been met, the court may issue a plenary order.

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

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

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

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

32 (Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05.)

33 (740 ILCS 22/216)

34 Sec. 216. Duration and extension of orders.

35 (a) Unless re-opened or extended or voided by entry of an

1 order of greater duration, an emergency order shall be
2 effective for not less than 14 nor more than 21 days.

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

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

13 (2) if in effect in conjunction with a bond forfeiture
14 warrant, until final disposition or an additional period of
15 time not exceeding 2 years; no civil no contact order ~~order~~
16 ~~of protection~~, however, shall be terminated by a dismissal
17 that is accompanied by the issuance of a bond forfeiture
18 warrant;

19 (3) until expiration of any supervision, conditional
20 discharge, probation, periodic imprisonment, parole, or
21 mandatory supervised release and for an additional period
22 of time thereafter not exceeding 2 years; or

23 (4) until the date set by the court for expiration of
24 any sentence of imprisonment and subsequent parole or
25 mandatory supervised release and for an additional period
26 of time thereafter not exceeding 2 years.

27 (c) Any emergency or plenary order may be extended one or
28 more times, as required, provided that the requirements of
29 Section 214 or 215, as appropriate, are satisfied. If the
30 motion for extension is uncontested and the petitioner seeks no
31 modification of the order, the order may be extended on the
32 basis of the petitioner's motion or affidavit stating that
33 there has been no material change in relevant circumstances
34 since entry of the order and stating the reason for the
35 requested extension. Extensions may be granted only in open
36 court and not under the provisions of subsection (c) of Section

1 214, which applies only when the court is unavailable at the
2 close of business or on a court holiday.

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

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

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