



**Adopted in House Comm. on Mar 05, 2009**

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1 AMENDMENT TO HOUSE BILL 693

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 693 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Stalking No Contact Order Act.

6 Section 5. Purpose. Stalking generally refers to a course  
7 of conduct, not a single act. Stalking behavior includes  
8 following a person, conducting surveillance of the person,  
9 appearing at the person's home, work or school, making unwanted  
10 phone calls, sending unwanted emails or text messages, leaving  
11 objects for the person, vandalizing the person's property, or  
12 injuring a pet. Stalking is a serious crime. Victims experience  
13 fear for their safety, fear for the safety of others and suffer  
14 emotional distress. Many victims alter their daily routines to  
15 avoid the persons who are stalking them. Some victims are in  
16 such fear that they relocate to another city, town or state.

1 While estimates suggest that 70% of victims know the  
2 individuals stalking them, only 30% of victims have dated or  
3 been in intimate relationships with their stalkers. All  
4 stalking victims should be able to seek a civil remedy  
5 requiring the offenders stay away from the victims and third  
6 parties.

7 Section 10. Definitions. For the purposes of this Act:

8 "Course of conduct" means 2 or more acts, including but not  
9 limited to acts in which a respondent directly, indirectly, or  
10 through third parties, by any action, method, device, or means  
11 follows, monitors, observes, surveils, threatens, or  
12 communicates to or about, a person, engages in other contact,  
13 or interferes with or damages a person's property or pet. A  
14 course of conduct may include contact via electronic  
15 communications. The incarceration of a person in a penal  
16 institution who commits the course of conduct is not a bar to  
17 prosecution under this section.

18 "Emotional distress" means significant mental suffering,  
19 anxiety or alarm.

20 "Contact" includes any contact with the victim, that is  
21 initiated or continued without the victim's consent, or that is  
22 in disregard of the victim's expressed desire that the contact  
23 be avoided or discontinued, including but not limited to being  
24 in the physical presence of the victim; appearing within the  
25 sight of the victim; approaching or confronting the victim in a

1 public place or on private property; appearing at the workplace  
2 or residence of the victim; entering onto or remaining on  
3 property owned, leased, or occupied by the victim; or placing  
4 an object on, or delivering an object to, property owned,  
5 leased, or occupied by the victim.

6 "Petitioner" means any named petitioner for the stalking no  
7 contact order or any named victim of stalking on whose behalf  
8 the petition is brought.

9 "Reasonable person" means a person in the petitioner's  
10 circumstances with the petitioner's knowledge of the  
11 respondent and the respondent's prior acts.

12 "Stalking" means engaging in a course of conduct directed  
13 at a specific person, and he or she knows or should know that  
14 this course of conduct would cause a reasonable person to fear  
15 for his or her safety or the safety of a third person or suffer  
16 emotional distress. Stalking does not include an exercise of  
17 the right to free speech or assembly that is otherwise lawful  
18 or picketing occurring at the workplace that is otherwise  
19 lawful and arises out of a bona fide labor dispute, including  
20 any controversy concerning wages, salaries, hours, working  
21 conditions or benefits, including health and welfare, sick  
22 leave, insurance, and pension or retirement provisions, the  
23 making or maintaining of collective bargaining agreements, and  
24 the terms to be included in those agreements.

25 "Stalking No Contact Order" means an emergency order or  
26 plenary order granted under this Act, which includes a remedy

1 authorized by Section 80 of this Act.

2 Section 15. Persons protected by this Act. A petition for a  
3 stalking no contact order may be filed when relief is not  
4 available to the petitioner under the Illinois Domestic  
5 Violence Act of 1986:

6 (1) by any person who is a victim of stalking; or

7 (2) by a person on behalf of a minor child or an adult  
8 who is a victim of stalking but, because of age,  
9 disability, health, or inaccessibility, cannot file the  
10 petition.

11 Section 20. Commencement of action; filing fees.

12 (a) An action for a stalking no contact order is commenced:

13 (1) independently, by filing a petition for a stalking  
14 no contact order in any civil court, unless specific courts  
15 are designated by local rule or order; or

16 (2) in conjunction with a delinquency petition or a  
17 criminal prosecution, by filing a petition for a stalking  
18 no contact order under the same case number as the  
19 delinquency petition or criminal prosecution, to be  
20 granted during pre-trial release of a defendant, with any  
21 dispositional order issued under Section 5-710 of the  
22 Juvenile Court Act of 1987 or as a condition of release,  
23 supervision, conditional discharge, probation, periodic  
24 imprisonment, parole, or mandatory supervised release, or

1 in conjunction with imprisonment or a bond forfeiture  
2 warrant, provided that (i) the violation is alleged in an  
3 information, complaint, indictment, or delinquency  
4 petition on file and the alleged victim is a person  
5 protected by this Act, and (ii) the petition, which is  
6 filed by the State's Attorney, names a victim of the  
7 alleged crime as a petitioner.

8 (b) Withdrawal or dismissal of any petition for a stalking  
9 no contact order prior to adjudication where the petitioner is  
10 represented by the State shall operate as a dismissal without  
11 prejudice. No action for a stalking no contact order shall be  
12 dismissed because the respondent is being prosecuted for a  
13 crime against the petitioner. For any action commenced under  
14 item (2) of subsection (a) of this Section, dismissal of the  
15 conjoined case (or a finding of not guilty) shall not require  
16 dismissal of the action for a stalking no contact order;  
17 instead, it may be treated as an independent action and, if  
18 necessary and appropriate, transferred to a different court or  
19 division.

20 (c) No fee shall be charged by the clerk of the court for  
21 filing petitions or modifying or certifying orders. No fee  
22 shall be charged by the sheriff for service by the sheriff of a  
23 petition, rule, motion, or order in an action commenced under  
24 this Section.

25 (d) The court shall provide, through the office of the  
26 clerk of the court, simplified forms for filing of a petition

1 under this Section by any person not represented by counsel.

2 Section 25. Pleading; non-disclosure of address.

3 (a) A petition for a stalking no contact order shall be in  
4 writing and verified or accompanied by affidavit and shall  
5 allege that the petitioner has been the victim of stalking by  
6 the respondent.

7 (b) If the petition states that disclosure of the  
8 petitioner's address would risk abuse of the petitioner or any  
9 member of the petitioner's family or household, that address  
10 may be omitted from all documents filed with the court. If the  
11 petitioner has not disclosed an address under this subsection,  
12 the petitioner shall designate an alternative address at which  
13 the respondent may serve notice of any motions.

14 Section 30. Application of rules of civil procedure; victim  
15 advocates.

16 (a) Any proceeding to obtain, modify, reopen or appeal a  
17 stalking no contact order shall be governed by the rules of  
18 civil procedure of this State. The standard of proof in such a  
19 proceeding is proof by a preponderance of the evidence. The  
20 Code of Civil Procedure and Supreme Court and local court rules  
21 applicable to civil proceedings shall apply, except as  
22 otherwise provided by this Act.

23 (b) In circuit courts, victim advocates shall be allowed to  
24 accompany the petitioner and confer with the petitioner, unless

1 otherwise directed by the court. Court administrators shall  
2 allow victim advocates to assist victims of stalking in the  
3 preparation of petitions for stalking no contact orders. Victim  
4 advocates are not engaged in the unauthorized practice of law  
5 when providing assistance of the types specified in this  
6 subsection (b).

7 Section 35. Appointment of counsel. The court may appoint  
8 counsel to represent the petitioner if the respondent is  
9 represented by counsel.

10 Section 40. Trial by jury. There shall be no right to trial  
11 by jury in any proceeding to obtain, modify, vacate or extend  
12 any stalking no contact order under this Act. However, nothing  
13 in this Section shall deny any existing right to trial by jury  
14 in a criminal proceeding.

15 Section 45. Subject matter jurisdiction. Each of the  
16 circuit courts has the power to issue stalking no contact  
17 orders.

18 Section 50. Jurisdiction over persons. The courts of this  
19 State have jurisdiction to bind (1) State residents and (2)  
20 non-residents having minimum contacts with this State, to the  
21 extent permitted by the long-arm statute, Section 2-209 of the  
22 Code of Civil Procedure.

1           Section 55. Venue. A petition for a stalking no contact  
2 order may be filed in any county where (1) the petitioner  
3 resides, (2) the respondent resides, or (3) one or more acts of  
4 the alleged stalking occurred.

5           Section 60. Process.

6           (a) Any action for a stalking no contact order requires  
7 that a separate summons be issued and served. The summons shall  
8 be in the form prescribed by Supreme Court Rule 101(d), except  
9 that it shall require the respondent to answer or appear within  
10 7 days. Attachments to the summons or notice shall include the  
11 petition for stalking no contact order and supporting  
12 affidavits, if any, and any emergency stalking no contact order  
13 that has been issued.

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

21           (c) Service of process on a member of the respondent's  
22 household or by publication shall be adequate if: (1) the  
23 petitioner has made all reasonable efforts to accomplish actual  
24 service of process personally upon the respondent, but the



1 respondent cannot be found to effect such service; and (2) the  
2 petitioner files an affidavit or presents sworn testimony as to  
3 those efforts.

4 (d) A plenary stalking no contact order may be entered by  
5 default for the remedy sought in the petition, if the  
6 respondent has been served or given notice in accordance with  
7 subsection (a) and if the respondent then fails to appear as  
8 directed or fails to appear on any subsequent appearance or  
9 hearing date agreed to by the parties or set by the court.

10 Section 65. Service of notice of hearings. Except as  
11 provided in Section 60, notice of hearings on petitions or  
12 motions shall be served in accordance with Supreme Court Rules  
13 11 and 12, unless notice is excused by Section 100 of this Act  
14 or by the Code of Civil Procedure, Supreme Court Rules, or  
15 local rules.

16 Section 70. Hearings. A petition for a stalking no contact  
17 order shall be treated as an expedited proceeding, and no court  
18 may transfer or otherwise decline to decide all or part of such  
19 petition. Nothing in this Section shall prevent the court from  
20 reserving issues if jurisdiction or notice requirements are not  
21 met.

22 Section 75. Continuances.

23 (a) Petitions for emergency remedies shall be granted or

1 denied in accordance with the standards of Section 100,  
2 regardless of the respondent's appearance or presence in court.

3 (b) Any action for a stalking no contact order is an  
4 expedited proceeding. Continuances shall be granted only for  
5 good cause shown and kept to the minimum reasonable duration,  
6 taking into account the reasons for the continuance.

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

1           (3) prohibit the respondent from knowingly coming  
2 within, or knowingly remaining within a specified distance  
3 of the petitioner or the petitioner's residence, school,  
4 daycare, or place of employment, or any specified place  
5 frequented by the petitioner; however, the court may order  
6 the respondent to stay away from the respondent's own  
7 residence, school, or place of employment only if the  
8 respondent has been provided actual notice of the  
9 opportunity to appear and be heard on the petition;

10           (4) prohibit the respondent from possessing a Firearm  
11 Owners Identification Card, or possessing or buying  
12 firearms; and

13           (5) order other injunctive relief the court determines  
14 to be necessary to protect the petitioner or third party  
15 specifically named by the court.

16           (c) The court may award the petitioner costs and attorneys  
17 fees if a stalking no contact order is granted.

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

19           Section 85. Mutual stalking no contact orders are  
20 prohibited. Correlative separate orders undermine the purposes  
21 of this Act. If separate orders are sought, both must comply  
22 with all provisions of this Act.

23           Section 90. Accountability for actions of others. For the  
24 purposes of issuing a stalking no contact order, deciding what

1 remedies should be included and enforcing the order, Article 5  
2 of the Criminal Code of 1961 shall govern whether respondent is  
3 legally accountable for the conduct of another person.

4 Section 95. Emergency stalking no contact order.

5 (a) An emergency stalking no contact order shall issue if  
6 the petitioner satisfies the requirements of this subsection  
7 (a). The petitioner shall establish that:

8 (1) the court has jurisdiction under Section 50;

9 (2) the requirements of Section 80 are satisfied; and

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

17 An emergency stalking no contact order shall be issued by  
18 the court if it appears from the contents of the petition and  
19 the examination of the petitioner that the averments are  
20 sufficient to indicate stalking by the respondent and to  
21 support the granting of relief under the issuance of the  
22 stalking no contact order.

23 An emergency stalking no contact order shall be issued if  
24 the court finds that items (1), (2), and (3) of this subsection  
25 (a) 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  
6 100 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 stalking no contact  
16 order.

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

22 (3) Any order issued under this Section and any  
23 documentation in support of the order shall be certified on  
24 the next court day to the appropriate court. The clerk of  
25 that court shall immediately assign a case number, file the  
26 petition, order, and other documents with the court, and

1           enter the order of record and file it with the sheriff for  
2           service, in accordance with Section 60. Filing the petition  
3           shall commence proceedings for further relief under  
4           Section 20. Failure to comply with the requirements of this  
5           paragraph (3) does not affect the validity of the order.

6           Section 100. Plenary stalking no contact order. A plenary  
7           stalking no contact order shall issue if the petitioner has  
8           served notice of the hearing for that order on the respondent,  
9           in accordance with Section 65, and satisfies the requirements  
10          of this Section. The petitioner must establish that:

- 11                   (1) the court has jurisdiction under Section 50;  
12                   (2) the requirements of Section 80 are satisfied;  
13                   (3) a general appearance was made or filed by or for  
14           the respondent or process was served on the respondent in  
15           the manner required by Section 60; and  
16                   (4) the respondent has answered or is in default.

17          Section 105. Duration and extension of orders.

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

21           (b) Except as otherwise provided in this Section, a plenary  
22           stalking no contact order shall be effective for a fixed period  
23           of time, not to exceed 2 years. A plenary stalking no contact  
24           order entered in conjunction with a criminal prosecution shall

1 remain in effect as follows:

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

7 (2) if in effect in conjunction with a bond forfeiture  
8 warrant, until final disposition or an additional period of  
9 time not exceeding 2 years; no stalking no contact order,  
10 however, shall be terminated by a dismissal that is  
11 accompanied by the issuance of a bond forfeiture warrant;

12 (3) permanent if a judgment of conviction for stalking  
13 is entered.

14 (c) Any emergency or plenary order may be extended one or  
15 more times, as required, provided that the requirements of  
16 Section 95 or 100, as appropriate, are satisfied. If the motion  
17 for extension is uncontested and the petitioner seeks no  
18 modification of the order, the order may be extended on the  
19 basis of the petitioner's motion or affidavit stating that  
20 there has been no material change in relevant circumstances  
21 since entry of the order and stating the reason for the  
22 requested extension. Extensions may be granted only in open  
23 court and not under the provisions of subsection (c) of Section  
24 95, which applies only when the court is unavailable at the  
25 close of business or on a court holiday.

26 (d) Any stalking no contact order which would expire on a

1 court holiday shall instead expire at the close of the next  
2 court business day.

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

7 Section 110. Contents of orders.

8 (a) Any stalking no contact order shall describe each  
9 remedy granted by the court, in reasonable detail and not by  
10 reference to any other document, so that the respondent may  
11 clearly understand what he or she must do or refrain from  
12 doing.

13 (b) A stalking no contact order shall further state the  
14 following:

15 (1) The name of each petitioner that the court finds  
16 was the victim of stalking by the respondent.

17 (2) The date and time the stalking no contact order was  
18 issued, whether it is an emergency or plenary order, and  
19 the duration of the order.

20 (3) The date, time, and place for any scheduled hearing  
21 for extension of that stalking no contact order or for  
22 another order of greater duration or scope.

23 (4) For each remedy in an emergency stalking no contact  
24 order, the reason for entering that remedy without prior  
25 notice to the respondent or greater notice than was



1 actually given.

2 (5) For emergency stalking no contact orders, that the  
3 respondent may petition the court, in accordance with  
4 Section 120, to reopen the order if he or she did not  
5 receive actual prior notice of the hearing as required  
6 under Section 65 of this Act and if the respondent alleges  
7 that he or she had a meritorious defense to the order or  
8 that the order or its remedy is not authorized by this Act.

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

14 Section 115. Notice of orders.

15 (a) Upon issuance of any stalking no contact order, the  
16 clerk shall immediately, or on the next court day if an  
17 emergency order is issued in accordance with subsection (c) of  
18 Section 95:

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

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

23 (b) The clerk of the issuing judge shall, or the petitioner  
24 may, on the same day that a stalking no contact order is  
25 issued, file a certified copy of that order with the sheriff or

1 other law enforcement officials charged with maintaining  
2 Department of State Police records or charged with serving the  
3 order upon the respondent. If the order was issued in  
4 accordance with subsection (c) of Section 95, the clerk shall,  
5 on the next court day, file a certified copy of the order with  
6 the Sheriff or other law enforcement officials charged with  
7 maintaining Department of State Police records.

8 (c) Unless the respondent was present in court when the  
9 order was issued, the sheriff, other law enforcement official,  
10 or special process server shall promptly serve that order upon  
11 the respondent and file proof of such service in the manner  
12 provided for service of process in civil proceedings. If  
13 process has not yet been served upon the respondent, it shall  
14 be served with the order or short form notification.

15 (d) If the person against whom the stalking no contact  
16 order is issued is arrested and the written order is issued in  
17 accordance with subsection (c) of Section 95 and received by  
18 the custodial law enforcement agency before the respondent or  
19 arrestee is released from custody, the custodial law  
20 enforcement agent shall promptly serve the order upon the  
21 respondent or arrestee before the respondent or arrestee is  
22 released from custody. In no event shall detention of the  
23 respondent or arrestee be extended for hearing on the petition  
24 for stalking no contact order or receipt of the order issued  
25 under Section 95 of this Act.

26 (e) Any order extending, modifying, or revoking any

1 stalking no contact order shall be promptly recorded, issued,  
2 and served as provided in this Section.

3 (f) Upon the request of the petitioner, within 24 hours of  
4 the issuance of a stalking no contact order, the clerk of the  
5 issuing judge shall send written notice of the order along with  
6 a certified copy of the order to any school, daycare, college,  
7 or university at which the petitioner is enrolled.

8 Section 120. Modification; reopening of orders.

9 (a) Except as otherwise provided in this Section, upon  
10 motion by the petitioner, the court may modify an emergency or  
11 plenary stalking no contact order by altering the remedy,  
12 subject to Section 80.

13 (b) After 30 days following entry of a plenary stalking no  
14 contact order, a court may modify that order only when a change  
15 in the applicable law or facts since that plenary order was  
16 entered warrants a modification of its terms.

17 (c) Upon 2 days' notice to the petitioner, or such shorter  
18 notice as the court may prescribe, a respondent subject to an  
19 emergency stalking no contact order issued under this Act may  
20 appear and petition the court to rehear the original or amended  
21 petition. Any petition to rehear shall be verified and shall  
22 allege the following:

23 (1) that the respondent did not receive prior notice of  
24 the initial hearing in which the emergency order was  
25 entered under Sections 65 and 95; and

1           (2) that the respondent had a meritorious defense to  
2           the order or any of its remedies or that the order or any  
3           of its remedies was not authorized by this Act.

4           Section 125. Violation. An initial knowing violation of a  
5           stalking no contact order is a Class A misdemeanor. A second or  
6           subsequent knowing violation is a Class 4 felony.

7           Section 130. Arrest without warrant.

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

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

16          Section 135. Data maintenance by law enforcement agencies.

17          (a) All sheriffs shall furnish to the Department of State  
18          Police, on the same day as received, in the form and detail the  
19          Department requires, copies of any recorded emergency or  
20          plenary stalking no contact orders issued by the court and  
21          transmitted to the sheriff by the clerk of the court in  
22          accordance with subsection (b) of Section 115 of this Act. Each  
23          stalking no contact order shall be entered in the Law

1 Enforcement Agencies Data System on the same day it is issued  
2 by the court. If an emergency stalking no contact order was  
3 issued in accordance with subsection (c) of Section 100, the  
4 order shall be entered in the Law Enforcement Agencies Data  
5 System as soon as possible after receipt from the clerk of the  
6 court.

7 (b) The Department of State Police shall maintain a  
8 complete and systematic record and index of all valid and  
9 recorded stalking no contact orders issued under this Act. The  
10 data shall be used to inform all dispatchers and law  
11 enforcement officers at the scene of an alleged incident of  
12 stalking or violation of a stalking no contact order of any  
13 recorded prior incident of stalking involving the petitioner  
14 and the effective dates and terms of any recorded stalking no  
15 contact order.".