

1 AN ACT concerning civil law.

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 103, 201, 212, 213, 216, and 217 and by  
6 adding Sections 101.1, 204.2, 213.7, 215.5, and Section 220 as  
7 follows:

8 (740 ILCS 22/101.1 new)

9 Sec. 101.1. Designation of parties. Subsection (e) of  
10 Section 2-401 of the Code of Civil Procedure regarding  
11 designation of parties applies to petitions under this Act.

12 (740 ILCS 22/103)

13 Sec. 103. Definitions. As used in this Act:

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

17 "Family or household members" include spouses, parents,  
18 children, stepchildren, and persons who share a common  
19 dwelling.

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

21 "Petitioner" may mean not only any named petitioner for the  
22 civil no contact order and any named victim of non-consensual

1 sexual conduct or non-consensual sexual penetration on whose  
2 behalf the petition is brought, but also any other person  
3 sought to be protected by this Act.

4 "Respondent" in a petition for a civil no contact order may  
5 mean not only the person alleged to have committed an act of  
6 non-consensual sexual conduct or non-consensual sexual  
7 penetration against the petitioner, but also any other named  
8 person alleged to have aided and abetted such an act of  
9 non-consensual sexual conduct or non-consensual sexual  
10 penetration.

11 ~~"Petitioner" means any named petitioner for the no contact~~  
12 ~~order or any named victim of non-consensual sexual conduct or~~  
13 ~~non-consensual sexual penetration on whose behalf the petition~~  
14 ~~is brought.~~

15 "Sexual conduct" means any intentional or knowing touching  
16 or fondling by the petitioner or the respondent, either  
17 directly or through clothing, of the sex organs, anus, or  
18 breast of the petitioner or the respondent, or any part of the  
19 body of a child under 13 years of age, or any transfer or  
20 transmission of semen by the respondent upon any part of the  
21 clothed or unclothed body of the petitioner, for the purpose of  
22 sexual gratification or arousal of the petitioner or the  
23 respondent.

24 "Sexual penetration" means any contact, however slight,  
25 between the sex organ or anus of one person by an object, the  
26 sex organ, mouth or anus of another person, or any intrusion,

1 however slight, of any part of the body of one person or of any  
2 animal or object into the sex organ or anus of another person,  
3 including but not limited to cunnilingus, fellatio or anal  
4 penetration. Evidence of emission of semen is not required to  
5 prove sexual penetration.

6 "Stay away" means to refrain from both physical presence  
7 and nonphysical contact with the petitioner directly,  
8 indirectly, or through third parties who may or may not know of  
9 the order. "Nonphysical contact" includes, but is not limited  
10 to, telephone calls, mail, e-mail, fax, and written notes.

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

12 (740 ILCS 22/201)

13 Sec. 201. Persons protected by this Act.

14 (a) The following persons are protected by this Act:

15 (1) any victim of non-consensual sexual conduct or  
16 non-consensual sexual penetration on whose behalf the  
17 petition is brought;

18 (2) any family or household member of the named victim;  
19 and

20 (3) any employee of or volunteer at a rape crisis  
21 center that is providing services to the petitioner or the  
22 petitioner's family or household member.

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

24 (1) by any person who is a victim of non-consensual  
25 sexual conduct or non-consensual sexual penetration,

1 including a single incident of non-consensual sexual  
2 conduct or non-consensual sexual penetration; or

3 (2) by a person on behalf of a minor child or an adult  
4 who is a victim of non-consensual sexual conduct or  
5 non-consensual sexual penetration but, because of age,  
6 disability, health, or inaccessibility, cannot file the  
7 petition.

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

9 (740 ILCS 22/204.2 new)

10 Sec. 204.2. Application of privileges. The filing of a  
11 petition for a civil no contact order does not in any way  
12 constitute a waiver of any privilege that otherwise protects  
13 any medical, mental health, or other records of the petitioner,  
14 absent a release by the petitioner, pursuant to federal or  
15 State Acts including but not limited to: the federal Health  
16 Insurance Portability and Accountability Act (HIPAA); Illinois  
17 Medical Patient Rights Act; Mental Health and Developmental  
18 Disabilities Confidentiality Act; and Sections 8-802 and  
19 8-802.1 of the Code of Civil Procedure.

20 (740 ILCS 22/212)

21 Sec. 212. Prior sexual activity or reputation as evidence.  
22 ~~Hearsay exception.~~

23 (a) In proceedings for a civil no contact order and  
24 prosecutions for violating a civil no-contact order, the prior

1 sexual activity or the reputation of the petitioner is  
2 inadmissible except:

3 (1) as evidence concerning the past sexual conduct of  
4 the petitioner with the respondent when this evidence is  
5 offered by the respondent upon the issue of whether the  
6 petitioner consented to the sexual conduct with respect to  
7 which the offense is alleged; or

8 (2) when constitutionally required to be admitted.

9 (b) No evidence admissible under this Section may be  
10 introduced unless ruled admissible by the trial judge after an  
11 offer of proof has been made at a hearing held in camera to  
12 determine whether the respondent has evidence to impeach the  
13 witness in the event that prior sexual activity with the  
14 respondent is denied. The offer of proof shall include  
15 reasonably specific information as to the date, time, and place  
16 of the past sexual conduct between the petitioner and the  
17 respondent. Unless the court finds that reasonably specific  
18 information as to date, time, or place, or some combination  
19 thereof, has been offered as to prior sexual activity with the  
20 respondent, counsel for the respondent shall be ordered to  
21 refrain from inquiring into prior sexual activity between the  
22 petitioner and the respondent. The court may not admit evidence  
23 under this Section unless it determines at the hearing that the  
24 evidence is relevant and the probative value of the evidence  
25 outweighs the danger of unfair prejudice or embarrassment to  
26 the petitioner. The evidence shall be admissible at trial to

1 the extent an order made by the court specifies the evidence  
2 that may be admitted and areas with respect to which the  
3 petitioner may be examined or cross examined.

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

5 (740 ILCS 22/213)

6 Sec. 213. Civil no contact order; remedies.

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

18 (b) (Blank). ~~A civil no contact order shall order one or~~  
19 ~~more of the following:~~

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

22 ~~(2) other injunctive relief necessary or appropriate.~~

23 (b-5) The court may provide relief as follows:

24 (1) prohibit the respondent from knowingly coming  
25 within, or knowingly remaining within, a specified

1 distance from the petitioner;

2 (2) restrain the respondent from having any contact,  
3 including nonphysical contact, with the petitioner  
4 directly, indirectly, or through third parties, regardless  
5 of whether those third parties know of the order;

6 (3) prohibit the respondent from knowingly coming  
7 within, or knowingly remaining within, a specified  
8 distance from the petitioner's residence, school, day care  
9 or other specified location;

10 (4) order the respondent to stay away from any property  
11 or animal owned, possessed, leased, kept, or held by the  
12 petitioner and forbid the respondent from taking,  
13 transferring, encumbering, concealing, harming, or  
14 otherwise disposing of the property or animal; and

15 (5) order any other injunctive relief as necessary or  
16 appropriate for the protection of the petitioner.

17 (b-6) When the petitioner and the respondent attend the  
18 same public or private elementary, middle, or high school, the  
19 court when issuing a civil no contact order and providing  
20 relief shall consider, among the other facts of the case, the  
21 severity of the act, any continuing physical danger or  
22 emotional distress to the petitioner, and the expense,  
23 difficulty, and educational disruption that would be caused by  
24 a transfer of the respondent to another school. The court may  
25 order that the respondent not attend the public or private  
26 elementary, middle, or high school attended by the petitioner.

1 In the event the court orders a transfer of the respondent to  
2 another school, the parents or legal guardians of the  
3 respondent are responsible for transportation and other costs  
4 associated with the change of school by the respondent.

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

7 (1) the respondent has cause for any use of force,  
8 unless that cause satisfies the standards for justifiable  
9 use of force provided by Article VII of the Criminal Code  
10 of 1961;

11 (2) the respondent was voluntarily intoxicated;

12 (3) the petitioner acted in self-defense or defense of  
13 another, provided that, if the petitioner utilized force,  
14 such force was justifiable under Article VII of the  
15 Criminal Code of 1961;

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

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

21 (6) the petitioner did not leave the residence or  
22 household to avoid further non-consensual sexual conduct  
23 or non-consensual sexual penetration by the respondent.

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

25 (Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05; 94-360,  
26 eff. 1-1-06.)

1 (740 ILCS 22/213.7 new)

2 Sec. 213.7. Aiding and abetting non-consensual sexual  
3 conduct or non-consensual sexual penetration. A person aids and  
4 abets an act of non-consensual sexual conduct or non-consensual  
5 sexual penetration when, before or during the commission of an  
6 act of non-consensual sexual conduct or non-consensual sexual  
7 penetration as defined in Section 103 and with the intent to  
8 promote or facilitate such conduct, he or she intentionally  
9 aids or abets another in the planning or commission of  
10 non-consensual sexual conduct or non-consensual sexual  
11 penetration, unless before the commission of the offense he or  
12 she makes proper effort to prevent the commission of the  
13 offense.

14 (740 ILCS 22/215.5 new)

15 Sec. 215.5. Petitioner testimony at plenary civil no  
16 contact order hearing. In a plenary civil no contact order  
17 hearing, if a court finds that testimony by the petitioner in  
18 the courtroom may result in serious emotional distress to the  
19 petitioner, the court may order that the examination of the  
20 petitioner be conducted in chambers. Counsel shall be present  
21 at the examination unless otherwise agreed upon by the parties.  
22 The court shall cause a court reporter to be present who shall  
23 make a complete record of the examination instantaneously to be  
24 part of the record in the case.

1 (740 ILCS 22/216)

2 Sec. 216. Duration and extension of orders.

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

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

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

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

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

25 (4) until the date set by the court for expiration of

1 any sentence of imprisonment and subsequent parole or  
2 mandatory supervised release and for an additional period  
3 of time thereafter not exceeding 2 years.

4 (c) Any emergency or plenary order may be extended one or  
5 more times, as required, provided that the requirements of  
6 Section 214 or 215, as appropriate, are satisfied. If the  
7 motion for extension is uncontested and the petitioner seeks no  
8 modification of the order, the order may be extended on the  
9 basis of the petitioner's motion or affidavit stating that  
10 there has been no material change in relevant circumstances  
11 since entry of the order and stating the reason for the  
12 requested extension. Extensions may be granted only in open  
13 court and not under the provisions of subsection (c) of Section  
14 214, which applies only when the court is unavailable at the  
15 close of business or on a court holiday.

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

19 (d-5) An extension of a plenary civil no contact order may  
20 be granted, upon good cause shown, to remain in effect until  
21 the civil no contact order is vacated or modified.

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

26 (Source: P.A. 93-236, eff. 1-1-04; 94-360, eff. 1-1-06.)

1 (740 ILCS 22/217)

2 Sec. 217. Contents of orders.

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

7 (b) A civil no contact order shall further state the  
8 following:

9 (1) The name of each petitioner that the court finds  
10 was the victim of non-consensual sexual conduct or  
11 non-consensual sexual penetration by the respondent and  
12 the name of each other person protected by the civil no  
13 contact order.

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

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

20 (4) For each remedy in an emergency civil no contact  
21 order, the reason for entering that remedy without prior  
22 notice to the respondent or greater notice than was  
23 actually given.

24 (5) For emergency civil no contact orders, that the  
25 respondent may petition the court, in accordance with

1 Section 218.5, to reopen the order if he or she did not  
2 receive actual prior notice of the hearing as required  
3 under Section 209 of this Act and if the respondent alleges  
4 that he or she had a meritorious defense to the order or  
5 that the order or its remedy is not authorized by this Act.

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

10 (d) A civil no contact order shall state, "This Civil No  
11 Contact Order is enforceable, even without registration, in all  
12 50 states, the District of Columbia, tribal lands, and the U.S.  
13 territories pursuant to the Violence Against Women Act (18  
14 U.S.C. 2265)."

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

16 (740 ILCS 22/220 new)

17 Sec. 220. Enforcement of a civil no contact order.

18 (a) Nothing in this Act shall preclude any Illinois court  
19 from enforcing a valid protective order issued in another  
20 state.

21 (b) Illinois courts may enforce civil no contact orders  
22 through both criminal proceedings and civil contempt  
23 proceedings, unless the action which is second in time is  
24 barred by collateral estoppel or the constitutional  
25 prohibition against double jeopardy.

1       (c) Criminal prosecution. A violation of any civil no  
2 contact order, whether issued in a civil or criminal  
3 proceeding, shall be enforced by a criminal court when the  
4 respondent commits the crime of violation of a civil no contact  
5 order pursuant to Section 219 by having knowingly violated:

6           (1) remedies described in Section 213 and included in a  
7 civil no contact order; or

8           (2) a provision of an order, which is substantially  
9 similar to provisions of Section 213, in a valid civil no  
10 contact order which is authorized under the laws of another  
11 state, tribe, or United States territory.

12       Prosecution for a violation of a civil no contact order  
13 shall not bar a concurrent prosecution for any other crime,  
14 including any crime that may have been committed at the time of  
15 the violation of the civil no contact order.

16       (d) Contempt of court. A violation of any valid Illinois  
17 civil no contact order, whether issued in a civil or criminal  
18 proceeding, may be enforced through civil or criminal contempt  
19 procedures, as appropriate, by any court with jurisdiction,  
20 regardless of where the act or acts which violated the civil no  
21 contact order were committed, to the extent consistent with the  
22 venue provisions of this Act.

23           (1) In a contempt proceeding where the petition for a  
24 rule to show cause or petition for adjudication of criminal  
25 contempt sets forth facts evidencing an immediate danger  
26 that the respondent will flee the jurisdiction or inflict

1 physical abuse on the petitioner or minor children or on  
2 dependent adults in the petitioner's care, the court may  
3 order the attachment of the respondent without prior  
4 service of the petition for a rule to show cause, the rule  
5 to show cause, the petition for adjudication of criminal  
6 contempt or the adjudication of criminal contempt. Bond  
7 shall be set unless specifically denied in writing.

8 (2) A petition for a rule to show cause or a petition  
9 for adjudication of criminal contempt for violation of a  
10 civil no contact order shall be treated as an expedited  
11 proceeding.

12 (e) Actual knowledge. A civil no contact order may be  
13 enforced pursuant to this Section if the respondent violates  
14 the order after the respondent has actual knowledge of its  
15 contents as shown through one of the following means:

16 (1) by service, delivery, or notice under Section 208;

17 (2) by notice under Section 218;

18 (3) by service of a civil no contact order under  
19 Section 218; or

20 (4) by other means demonstrating actual knowledge of  
21 the contents of the order.

22 (f) The enforcement of a civil no contact order in civil or  
23 criminal court shall not be affected by either of the  
24 following:

25 (1) the existence of a separate, correlative order,  
26 entered under Section 202; or

1           (2) any finding or order entered in a conjoined  
2           criminal proceeding.

3           (g) Circumstances. The court, when determining whether or  
4           not a violation of a civil no contact order has occurred, shall  
5           not require physical manifestations of abuse on the person of  
6           the victim.

7           (h) Penalties.

8           (1) Except as provided in paragraph (3) of this  
9           subsection, where the court finds the commission of a crime  
10           or contempt of court under subsection (a) or (b) of this  
11           Section, the penalty shall be the penalty that generally  
12           applies in such criminal or contempt proceedings, and may  
13           include one or more of the following: incarceration,  
14           payment of restitution, a fine, payment of attorneys' fees  
15           and costs, or community service.

16           (2) The court shall hear and take into account evidence  
17           of any factors in aggravation or mitigation before deciding  
18           an appropriate penalty under paragraph (1) of this  
19           subsection.

20           (3) To the extent permitted by law, the court is  
21           encouraged to:

22           (i) increase the penalty for the knowing violation  
23           of any civil no contact order over any penalty  
24           previously imposed by any court for respondent's  
25           violation of any civil no contact order or penal  
26           statute involving petitioner as victim and respondent

1 as defendant;

2 (ii) impose a minimum penalty of 24 hours  
3 imprisonment for respondent's first violation of any  
4 civil no contact order; and

5 (iii) impose a minimum penalty of 48 hours  
6 imprisonment for respondent's second or subsequent  
7 violation of a civil no contact order unless the court  
8 explicitly finds that an increased penalty or that  
9 period of imprisonment would be manifestly unjust.

10 (4) In addition to any other penalties imposed for a  
11 violation of a civil no contact order, a criminal court may  
12 consider evidence of any previous violations of a civil no  
13 contact order:

14 (i) to increase, revoke or modify the bail bond on  
15 an underlying criminal charge pursuant to Section  
16 110-6 of the Code of Criminal Procedure of 1963;

17 (ii) to revoke or modify an order of probation,  
18 conditional discharge or supervision, pursuant to  
19 Section 5-6-4 of the Unified Code of Corrections; or

20 (iii) to revoke or modify a sentence of periodic  
21 imprisonment, pursuant to Section 5-7-2 of the Unified  
22 Code of Corrections.