



Rep. Roger L. Eddy

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LRB097 03001 AJ0 52418 a

1 AMENDMENT TO HOUSE BILL 192

2 AMENDMENT NO. _____. Amend House Bill 192 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Civil No Contact Order Act is amended by
5 changing Sections 213 and 220 as follows:

6 (740 ILCS 22/213)

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

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

1 the victim. Modification and extension of prior civil no
2 contact orders shall be in accordance with this Act.

3 (b) (Blank).

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

5 (1) prohibit the respondent from knowingly coming
6 within, or knowingly remaining within, a specified
7 distance from the petitioner;

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

12 (3) prohibit the respondent from knowingly coming
13 within, or knowingly remaining within, a specified
14 distance from the petitioner's residence, school, day care
15 or other specified location;

16 (4) order the respondent to stay away from any property
17 or animal owned, possessed, leased, kept, or held by the
18 petitioner and forbid the respondent from taking,
19 transferring, encumbering, concealing, harming, or
20 otherwise disposing of the property or animal; and

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

23 (b-6) When the petitioner and the respondent attend the
24 same public or private elementary, middle, or high school, the
25 court when issuing a civil no contact order and providing
26 relief shall consider, ~~among the other facts of the case,~~ the

1 severity of the act, any continuing physical danger or
2 emotional distress to the petitioner, the educational rights
3 guaranteed to the petitioner and respondent under federal and
4 state laws, the availability of a transfer to another school,
5 change of placement or change of program of the respondent, the
6 expense, difficulty, and educational disruption that would be
7 caused by a transfer of the respondent to another school, and
8 any other relevant facts of the case ~~and the expense,~~
9 ~~difficulty, and educational disruption that would be caused by~~
10 ~~a transfer of the respondent to another school.~~ The court may
11 order that the respondent not attend the public or private
12 elementary, middle, or high school attended by the petitioner,
13 order that the respondent accept a change of placement or
14 program, as determined by the School District, or place
15 restrictions on the respondent's movements within the school
16 attended by the petitioner. The respondent bears the burden of
17 proving by a preponderance of the evidence that a transfer,
18 change of placement or change of program of the respondent is
19 not available. The respondent also bears the burden of
20 production with respect to the expense, difficulty, and
21 educational disruption that would be caused by a transfer of
22 the respondent to another school. A transfer, change of
23 placement or change of program is not unavailable solely on the
24 ground that the respondent does not agree with the School
25 District's transfer or change of placement or program or the
26 respondent fails or refuses to consent or otherwise take

1 actions required to effectuate a transfer, change of placement
2 or change of program. When a court orders a respondent to stay
3 away from the public school attended by the petitioner and the
4 respondent requests a transfer to another attendance center
5 within the respondent's school district, the school district
6 shall have sole discretion to determine the attendance center
7 to which the respondent is transferred. In the event the court
8 order results in a transfer of the minor respondent to another
9 attendance center, a change in the respondent's placement or
10 change of the respondent's program, the parents, guardian or
11 legal custodian of the respondent are responsible for
12 transportation and other costs associated with the transfer or
13 change.

14 (b-7) The court may order the parents, guardian or legal
15 custodian of a minor respondent to take certain actions or to
16 refrain from certain actions to ensure that the respondent
17 complies with the order. In the event the court orders a
18 transfer of the respondent to another school, the parents or
19 legal guardians of the respondent are responsible for
20 transportation and other costs associated with the change of
21 school by the respondent.

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

24 (1) the respondent has cause for any use of force,
25 unless that cause satisfies the standards for justifiable
26 use of force provided by Article VII of the Criminal Code

1 of 1961;

2 (2) the respondent was voluntarily intoxicated;

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

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

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

12 (6) the petitioner did not leave the residence or
13 household to avoid further non-consensual sexual conduct
14 or non-consensual sexual penetration by the respondent.

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

16 (Source: P.A. 96-311, eff. 1-1-10.)

17 (740 ILCS 22/220)

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

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

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

1 prohibition against double jeopardy.

2 (b-1) The court shall not hold a school district or any of
3 its employees in civil or criminal contempt unless the school
4 district has been allowed to intervene.

5 (b-2) The court may hold the parents, guardian or legal
6 custodian of a minor respondent in civil or criminal contempt
7 for a violation of any provision or any order entered under
8 this Act, for conduct of the minor respondent in violation of
9 this Act if the parents, guardian or legal custodian directed,
10 encouraged, or assisted the respondent minor in such conduct.

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

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

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

22 Prosecution for a violation of a civil no contact order
23 shall not bar a concurrent prosecution for any other crime,
24 including any crime that may have been committed at the time of
25 the violation of the civil no contact order.

26 (d) Contempt of court. A violation of any valid Illinois

1 civil no contact order, whether issued in a civil or criminal
2 proceeding, may be enforced through civil or criminal contempt
3 procedures, as appropriate, by any court with jurisdiction,
4 regardless of where the act or acts which violated the civil no
5 contact order were committed, to the extent consistent with the
6 venue provisions of this Act.

7 (1) In a contempt proceeding where the petition for a
8 rule to show cause or petition for adjudication of criminal
9 contempt sets forth facts evidencing an immediate danger
10 that the respondent will flee the jurisdiction or inflict
11 physical abuse on the petitioner or minor children or on
12 dependent adults in the petitioner's care, the court may
13 order the attachment of the respondent without prior
14 service of the petition for a rule to show cause, the rule
15 to show cause, the petition for adjudication of criminal
16 contempt or the adjudication of criminal contempt. Bond
17 shall be set unless specifically denied in writing.

18 (2) A petition for a rule to show cause or a petition
19 for adjudication of criminal contempt for violation of a
20 civil no contact order shall be treated as an expedited
21 proceeding.

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

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

1 (2) by notice under Section 218;

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

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

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

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

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

13 (g) Circumstances. The court, when determining whether or
14 not a violation of a civil no contact order has occurred, shall
15 not require physical manifestations of abuse on the person of
16 the victim.

17 (h) Penalties.

18 (1) Except as provided in paragraph (3) of this
19 subsection, where the court finds the commission of a crime
20 or contempt of court under subsection (a) or (b) of this
21 Section, the penalty shall be the penalty that generally
22 applies in such criminal or contempt proceedings, and may
23 include one or more of the following: incarceration,
24 payment of restitution, a fine, payment of attorneys' fees
25 and costs, or community service.

26 (2) The court shall hear and take into account evidence

1 of any factors in aggravation or mitigation before deciding
2 an appropriate penalty under paragraph (1) of this
3 subsection.

4 (3) To the extent permitted by law, the court is
5 encouraged to:

6 (i) increase the penalty for the knowing violation
7 of any civil no contact order over any penalty
8 previously imposed by any court for respondent's
9 violation of any civil no contact order or penal
10 statute involving petitioner as victim and respondent
11 as defendant;

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

15 (iii) impose a minimum penalty of 48 hours
16 imprisonment for respondent's second or subsequent
17 violation of a civil no contact order unless the court
18 explicitly finds that an increased penalty or that
19 period of imprisonment would be manifestly unjust.

20 (4) In addition to any other penalties imposed for a
21 violation of a civil no contact order, a criminal court may
22 consider evidence of any previous violations of a civil no
23 contact order:

24 (i) to increase, revoke or modify the bail bond on
25 an underlying criminal charge pursuant to Section
26 110-6 of the Code of Criminal Procedure of 1963;

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

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

7 (Source: P.A. 96-311, eff. 1-1-10.)".