



Sen. John G. Mulroe

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09700HB4636sam001

LRB097 16551 RLC 67898 a

1 AMENDMENT TO HOUSE BILL 4636

2 AMENDMENT NO. _____. Amend House Bill 4636 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Section 12-3.4 as follows:

6 (720 ILCS 5/12-3.4) (was 720 ILCS 5/12-30)

7 Sec. 12-3.4. Violation of an order of protection.

8 (a) A person commits violation of an order of protection
9 if:

10 (1) He or she knowingly commits an act which was
11 prohibited by a court or fails to commit an act which was
12 ordered by a court in violation of:

13 (i) a remedy in a valid order of protection
14 authorized under paragraphs (1), (2), (3), (14), or
15 (14.5) of subsection (b) of Section 214 of the Illinois
16 Domestic Violence Act of 1986,

1 (ii) a remedy, which is substantially similar to
2 the remedies authorized under paragraphs (1), (2),
3 (3), (14) or (14.5) of subsection (b) of Section 214 of
4 the Illinois Domestic Violence Act of 1986, in a valid
5 order of protection, which is authorized under the laws
6 of another state, tribe or United States territory,

7 (iii) any other remedy when the act constitutes a
8 crime against the protected parties as the term
9 protected parties is defined in Section 112A-4 of the
10 Code of Criminal Procedure of 1963; and

11 (2) Such violation occurs after the offender has been
12 served notice of the contents of the order, pursuant to the
13 Illinois Domestic Violence Act of 1986 or any substantially
14 similar statute of another state, tribe or United States
15 territory, or otherwise has acquired actual knowledge of
16 the contents of the order.

17 An order of protection issued by a state, tribal or
18 territorial court related to domestic or family violence shall
19 be deemed valid if the issuing court had jurisdiction over the
20 parties and matter under the law of the state, tribe or
21 territory. There shall be a presumption of validity where an
22 order is certified and appears authentic on its face. For
23 purposes of this Section, an "order of protection" may have
24 been issued in a criminal or civil proceeding.

25 (a-5) Failure to provide reasonable notice and opportunity
26 to be heard shall be an affirmative defense to any charge or

1 process filed seeking enforcement of a foreign order of
2 protection.

3 (b) Nothing in this Section shall be construed to diminish
4 the inherent authority of the courts to enforce their lawful
5 orders through civil or criminal contempt proceedings.

6 (c) The limitations placed on law enforcement liability by
7 Section 305 of the Illinois Domestic Violence Act of 1986 apply
8 to actions taken under this Section.

9 (d) Violation of an order of protection is a Class A
10 misdemeanor. Violation of an order of protection is a Class 4
11 felony if the defendant has any prior conviction under this
12 Code for domestic battery (Section 12-3.2) or violation of an
13 order of protection (Section 12-3.4 or 12-30) or any prior
14 conviction under the law of another jurisdiction for an offense
15 that could be charged in this State as a domestic battery or
16 violation of an order of protection. Violation of an order of
17 protection is a Class 4 felony if the defendant has any prior
18 conviction under this Code for first degree murder (Section
19 9-1), attempt to commit first degree murder (Section 8-4),
20 aggravated domestic battery (Section 12-3.3), aggravated
21 battery (Section 12-3.05 or 12-4), heinous battery (Section
22 12-4.1), aggravated battery with a firearm (Section 12-4.2),
23 aggravated battery with a machine gun or a firearm equipped
24 with a silencer (Section 12-4.2-5), aggravated battery of a
25 child (Section 12-4.3), aggravated battery of an unborn child
26 (subsection (a-5) of Section 12-3.1, or Section 12-4.4),

1 aggravated battery of a senior citizen (Section 12-4.6),
2 stalking (Section 12-7.3), aggravated stalking (Section
3 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13),
4 aggravated criminal sexual assault (Section 11-1.30 or 12-14),
5 kidnapping (Section 10-1), aggravated kidnapping (Section
6 10-2), predatory criminal sexual assault of a child (Section
7 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section
8 11-1.60 or 12-16), unlawful restraint (Section 10-3),
9 aggravated unlawful restraint (Section 10-3.1), aggravated
10 arson (Section 20-1.1), aggravated discharge of a firearm
11 (Section 24-1.2), or a violation of any former law of this
12 State that is substantially similar to any listed offense, or
13 any prior conviction under the law of another jurisdiction for
14 an offense that could be charged in this State as one of the
15 offenses listed in this Section, when any of these offenses
16 have been committed against a family or household member as
17 defined in Section 112A-3 of the Code of Criminal Procedure of
18 1963. The court shall impose a minimum penalty of 24 hours
19 imprisonment for defendant's second or subsequent violation of
20 any order of protection; unless the court explicitly finds that
21 an increased penalty or such period of imprisonment would be
22 manifestly unjust. In addition to any other penalties, the
23 court may order the defendant to pay a fine as authorized under
24 Section 5-9-1 of the Unified Code of Corrections or to make
25 restitution to the victim under Section 5-5-6 of the Unified
26 Code of Corrections. In addition to any other penalties,

1 including those imposed by Section 5-9-1.5 of the Unified Code
2 of Corrections, the court shall impose an additional fine of
3 \$20 as authorized by Section 5-9-1.11 of the Unified Code of
4 Corrections upon any person convicted of or placed on
5 supervision for a violation of this Section. The additional
6 fine shall be imposed for each violation of this Section.

7 (e) (Blank).

8 (f) A defendant who directed the actions of a third party
9 to violate this Section, under the principles of accountability
10 set forth in Article 5 of this Code, is guilty of violating
11 this Section as if the same had been personally done by the
12 defendant, without regard to the mental state of the third
13 party acting at the direction of the defendant.

14 (Source: P.A. 96-1551, Article 1, Section 5, eff. 7-1-11;
15 96-1551, Article 2, Section 1035, eff. 7-1-11; incorporates
16 97-311, eff. 8-11-11; revised 9-11-11.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."