

# SB2307



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2307

Introduced 2/15/2011, by Sen. Thomas Johnson

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-30

from Ch. 38, par. 12-30

Amends the Criminal Code of 1961. Makes a technical change in the Section concerning violation of an order of protection.

LRB097 09385 RLC 49520 b

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-30 as follows:

6 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

7 Sec. 12-30. Violation of an order of protection.

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

10 (1) He or she commits an act which was prohibited by a  
11 court or fails to commit an act which was ordered by a  
12 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,

17 (ii) a remedy, which is substantially similar to  
18 the remedies authorized under paragraphs (1), (2),  
19 (3), (14) or (14.5) of subsection (b) of Section 214 of  
20 the Illinois Domestic Violence Act of 1986, in a valid  
21 order of protection, which is authorized under the laws  
22 of another state, tribe or United States territory,

23 (iii) any other remedy when the act constitutes a

1 crime against the protected parties as the term  
2 protected parties is defined in Section 112A-4 of the  
3 Code of Criminal Procedure of 1963; and

4 (2) Such violation occurs after the offender has been  
5 served notice of the contents of the order, pursuant to the  
6 Illinois Domestic Violence Act of 1986 or any substantially  
7 similar statute of another state, tribe or United States  
8 territory, or otherwise has acquired actual knowledge of  
9 the contents of the order.

10 An order of protection issued by a state, tribal or  
11 territorial court related to domestic or family violence shall  
12 be deemed valid if the issuing court had jurisdiction over the  
13 parties and matter under the law of the state, tribe or  
14 territory. There shall be a presumption of validity where an  
15 order is certified and appears authentic on its face.

16 (a-5) Failure to provide reasonable notice and opportunity  
17 to be heard shall be an affirmative defense to any charge or  
18 process filed seeking enforcement of a foreign order of  
19 protection.

20 (b) For purposes of this Section, an "order of protection"  
21 may have been issued in a criminal or civil proceeding.

22 (c) Nothing in this Section shall be construed to diminish  
23 the inherent authority of the courts to enforce their lawful  
24 orders through civil or criminal contempt proceedings.

25 (d) Violation of an order of protection under subsection  
26 (a) of this Section is a Class A misdemeanor. Violation of an

1 order of protection under subsection (a) of this Section is a  
2 Class 4 felony if the defendant has any prior conviction under  
3 this Code for domestic battery (Section 12-3.2) or violation of  
4 an order of protection (Section 12-30). Violation of an order  
5 of protection is a Class 4 felony if the defendant has any  
6 prior conviction under this Code for first degree murder  
7 (Section 9-1), attempt to commit first degree murder (Section  
8 8-4), aggravated domestic battery (Section 12-3.3), aggravated  
9 battery (Section 12-4), heinous battery (Section 12-4.1),  
10 aggravated battery with a firearm (Section 12-4.2), aggravated  
11 battery of a child (Section 12-4.3), aggravated battery of an  
12 unborn child (Section 12-4.4), aggravated battery of a senior  
13 citizen (Section 12-4.6), stalking (Section 12-7.3),  
14 aggravated stalking (Section 12-7.4), criminal sexual assault  
15 (Section 12-13), aggravated criminal sexual assault (12-14),  
16 kidnapping (Section 10-1), aggravated kidnapping (Section  
17 10-2), predatory criminal sexual assault of a child (Section  
18 12-14.1), aggravated criminal sexual abuse (Section 12-16),  
19 unlawful restraint (Section 10-3), aggravated unlawful  
20 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),  
21 or aggravated discharge of a firearm (Section 24-1.2), when any  
22 of these offenses have been committed against a family or  
23 household member as defined in Section 112A-3 of the Code of  
24 Criminal Procedure of 1963. The court shall impose a minimum  
25 penalty of 24 hours imprisonment for defendant's second or  
26 subsequent violation of any order of protection; unless the

1 court explicitly finds that an increased penalty or such period  
2 of imprisonment would be manifestly unjust. In addition to any  
3 other penalties, the court may order the defendant to pay a  
4 fine as authorized under Section 5-9-1 of the Unified Code of  
5 Corrections or to make restitution to the victim under Section  
6 5-5-6 of the Unified Code of Corrections. In addition to any  
7 other penalties, including those imposed by Section 5-9-1.5 of  
8 the Unified Code of Corrections, the court shall impose an  
9 additional fine of \$20 as authorized by Section 5-9-1.11 of the  
10 Unified Code of Corrections upon any person convicted of or  
11 placed on supervision for a violation of this Section. The  
12 additional fine shall be imposed for each violation of this  
13 Section.

14 (e) The limitations placed on law enforcement liability by  
15 Section 305 of the Illinois Domestic Violence Act of 1986 apply  
16 to actions taken under this Section.

17 (Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99;  
18 92-827, eff. 8-22-02.)