



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5829

by Rep. Barbara Wheeler

#### SYNOPSIS AS INTRODUCED:

740 ILCS 21/5  
740 ILCS 21/10  
740 ILCS 21/15  
740 ILCS 21/80

Amends the Stalking No Contact Order Act. Provides that Stalking behavior includes sending unwanted messages via social media. Changes the definition of "course of conduct", "conduct", "petitioner", and "stalking". Adds the following to the list of persons who may bring a petition under the Act: an authorizing agent of a workplace; an authorizing agent of a place of worship; and an authorizing agent of a school. Provides that a stalking no contact order may require a respondent to submit to a mental health evaluation or wear an electronic monitoring device.

LRB100 21075 HEP 36887 b

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 Stalking No Contact Order Act is amended by  
5 changing Sections 5, 10, 15, and 80 as follows:

6 (740 ILCS 21/5)

7 Sec. 5. Purpose. Stalking generally refers to a course of  
8 conduct, not a single act. Stalking behavior includes following  
9 a person, conducting surveillance of the person, appearing at  
10 the person's home, work or school, making unwanted phone calls,  
11 sending unwanted emails, unwanted messages via social media, or  
12 text messages, leaving objects for the person, vandalizing the  
13 person's property, or injuring a pet. Stalking is a serious  
14 crime. Victims experience fear for their safety, fear for the  
15 safety of others and suffer emotional distress. Many victims  
16 alter their daily routines to avoid the persons who are  
17 stalking them. Some victims are in such fear that they relocate  
18 to another city, town or state. While estimates suggest that  
19 70% of victims know the individuals stalking them, only 30% of  
20 victims have dated or been in intimate relationships with their  
21 stalkers. All stalking victims should be able to seek a civil  
22 remedy requiring the offenders stay away from the victims and  
23 third parties.

1 (Source: P.A. 96-246, eff. 1-1-10.)

2 (740 ILCS 21/10)

3 Sec. 10. Definitions. For the purposes of this Act:

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

15 "Emotional distress" means significant mental suffering,  
16 anxiety or alarm.

17 "Contact" includes any contact with the victim, that is  
18 initiated or continued without the victim's consent, or that is  
19 in disregard of the victim's expressed desire that the contact  
20 be avoided or discontinued, including but not limited to being  
21 in the physical presence of the victim; appearing within the  
22 sight of the victim; approaching or confronting the victim in a  
23 public place or on private property; appearing at the workplace  
24 or residence of the victim; entering onto or remaining on  
25 property owned, leased, or occupied by the victim; ~~or~~ placing

1 an object on, or delivering an object to, property owned,  
2 leased, or occupied by the victim; and appearing at the  
3 prohibited workplace, school, or place of worship.

4 "Petitioner" means any named petitioner for the stalking no  
5 contact order or any named victim of stalking on whose behalf  
6 the petition is brought. "Petitioner" includes an authorizing  
7 agent of a place of employment, an authorizing agent of a place  
8 of worship, or an authorizing agent of a school.

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, the safety of a workplace, school, or  
16 place of worship, or the safety of a third person or suffer  
17 emotional distress. Stalking does not include an exercise of  
18 the right to free speech or assembly that is otherwise lawful  
19 or picketing occurring at the workplace that is otherwise  
20 lawful and arises out of a bona fide labor dispute, including  
21 any controversy concerning wages, salaries, hours, working  
22 conditions or benefits, including health and welfare, sick  
23 leave, insurance, and pension or retirement provisions, the  
24 making or maintaining of collective bargaining agreements, and  
25 the terms to be included in those agreements.

26 "Stalking No Contact Order" means an emergency order or

1 plenary order granted under this Act, which includes a remedy  
2 authorized by Section 80 of this Act.

3 (Source: P.A. 96-246, eff. 1-1-10.)

4 (740 ILCS 21/15)

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

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

10 (2) by a person on behalf of a minor child or an adult  
11 who is a victim of stalking but, because of age,  
12 disability, health, or inaccessibility, cannot file the  
13 petition; ~~or~~

14 (3) by an authorizing agent of a workplace;

15 (4) by an authorizing agent of a place of worship; or

16 (5) by an authorizing agent of a school.

17 (Source: P.A. 96-246, eff. 1-1-10.)

18 (740 ILCS 21/80)

19 Sec. 80. Stalking no contact orders; remedies.

20 (a) If the court finds that the petitioner has been a  
21 victim of stalking, a stalking no contact order shall issue;  
22 provided that the petitioner must also satisfy the requirements  
23 of Section 95 on emergency orders or Section 100 on plenary  
24 orders. The petitioner shall not be denied a stalking no

1 contact order because the petitioner or the respondent is a  
2 minor. The court, when determining whether or not to issue a  
3 stalking no contact order, may not require physical injury on  
4 the person of the petitioner. Modification and extension of  
5 prior stalking no contact orders shall be in accordance with  
6 this Act.

7 (b) A stalking no contact order shall order one or more of  
8 the following:

9 (1) prohibit the respondent from threatening to commit  
10 or committing stalking;

11 (2) order the respondent not to have any contact with  
12 the petitioner or a third person specifically named by the  
13 court;

14 (3) prohibit the respondent from knowingly coming  
15 within, or knowingly remaining within a specified distance  
16 of the petitioner or the petitioner's residence, school,  
17 daycare, or place of employment, or any specified place  
18 frequented by the petitioner; however, the court may order  
19 the respondent to stay away from the respondent's own  
20 residence, school, or place of employment only if the  
21 respondent has been provided actual notice of the  
22 opportunity to appear and be heard on the petition;

23 (4) prohibit the respondent from possessing a Firearm  
24 Owners Identification Card, or possessing or buying  
25 firearms; ~~and~~

26 (5) order the respondent to submit to a mental health

1           evaluation;

2           (6) order the respondent to wear an electronic  
3           monitoring device; and

4           (7) ~~(5)~~ order other injunctive relief the court  
5           determines to be necessary to protect the petitioner or  
6           third party specifically named by the court.

7           (b-5) When the petitioner and the respondent attend the  
8           same public, private, or non-public elementary, middle, or high  
9           school, the court when issuing a stalking no contact order and  
10          providing relief shall consider the severity of the act, any  
11          continuing physical danger or emotional distress to the  
12          petitioner, the educational rights guaranteed to the  
13          petitioner and respondent under federal and State law, the  
14          availability of a transfer of the respondent to another school,  
15          a change of placement or a change of program of the respondent,  
16          the expense, difficulty, and educational disruption that would  
17          be caused by a transfer of the respondent to another school,  
18          and any other relevant facts of the case. The court may order  
19          that the respondent not attend the public, private, or  
20          non-public elementary, middle, or high school attended by the  
21          petitioner, order that the respondent accept a change of  
22          placement or program, as determined by the school district or  
23          private or non-public school, or place restrictions on the  
24          respondent's movements within the school attended by the  
25          petitioner. The respondent bears the burden of proving by a  
26          preponderance of the evidence that a transfer, change of

1 placement, or change of program of the respondent is not  
2 available. The respondent also bears the burden of production  
3 with respect to the expense, difficulty, and educational  
4 disruption that would be caused by a transfer of the respondent  
5 to another school. A transfer, change of placement, or change  
6 of program is not unavailable to the respondent solely on the  
7 ground that the respondent does not agree with the school  
8 district's or private or non-public school's transfer, change  
9 of placement, or change of program or solely on the ground that  
10 the respondent fails or refuses to consent to or otherwise does  
11 not take an action required to effectuate a transfer, change of  
12 placement, or change of program. When a court orders a  
13 respondent to stay away from the public, private, or non-public  
14 school attended by the petitioner and the respondent requests a  
15 transfer to another attendance center within the respondent's  
16 school district or private or non-public school, the school  
17 district or private or non-public school shall have sole  
18 discretion to determine the attendance center to which the  
19 respondent is transferred. In the event the court order results  
20 in a transfer of the minor respondent to another attendance  
21 center, a change in the respondent's placement, or a change of  
22 the respondent's program, the parents, guardian, or legal  
23 custodian of the respondent is responsible for transportation  
24 and other costs associated with the transfer or change.

25 (b-6) The court may order the parents, guardian, or legal  
26 custodian of a minor respondent to take certain actions or to



1 refrain from taking certain actions to ensure that the  
2 respondent complies with the order. In the event the court  
3 orders a transfer of the respondent to another school, the  
4 parents, guardian, or legal custodian of the respondent are  
5 responsible for transportation and other costs associated with  
6 the change of school by the respondent.

7 (b-7) The court shall not hold a school district or private  
8 or non-public school or any of its employees in civil or  
9 criminal contempt unless the school district or private or  
10 non-public school has been allowed to intervene.

11 (b-8) The court may hold the parents, guardian, or legal  
12 custodian of a minor respondent in civil or criminal contempt  
13 for a violation of any provision of any order entered under  
14 this Act for conduct of the minor respondent in violation of  
15 this Act if the parents, guardian, or legal custodian directed,  
16 encouraged, or assisted the respondent minor in such conduct.

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

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

20 (e) If the stalking no contact order prohibits the  
21 respondent from possessing a Firearm Owner's Identification  
22 Card, or possessing or buying firearms; the court shall  
23 confiscate the respondent's Firearm Owner's Identification  
24 Card and immediately return the card to the Department of State  
25 Police Firearm Owner's Identification Card Office.

26 (Source: P.A. 96-246, eff. 1-1-10; 97-294, eff. 1-1-12;

1 97-1131, eff. 1-1-13.)