



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3103

Introduced 2/17/2023, by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-4.5
740 ILCS 21/15
740 ILCS 22/201
740 ILCS 22/220

Amends the Code of Criminal Procedure of 1963, the Stalking No Contact Order Act, and the Civil No Contact Order Act. Allows a petition for a stalking no contact order or civil no contact order to be filed: by a member of the Illinois National Guard or any reserve military component serving within the State who is a victim of non-consensual sexual conduct who has also received a Military Protective Order; or by the Staff Judge Advocate of the Illinois National Guard or any reserve military component serving within the State on behalf of a named victim who is a victim of non-consensual sexual conduct who has also received a Military Protective Order only after receiving consent from the victim, and requires the petition to include a statement that the victim has consented to the Staff Judge Advocate filing the petition. Provides that nothing in the Civil No Contact Order Act precludes any Illinois court from enforcing a valid protective order issued by a military tribunal. Provides that a violation of a civil no contact order, when issued by a military tribunal, shall be enforced by a criminal court when the respondent commits the crime of violation of a civil no contact order. Effective immediately.

LRB103 30894 LNS 57433 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 Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-4.5 as follows:

6 (725 ILCS 5/112A-4.5)

7 Sec. 112A-4.5. Who may file petition.

8 (a) A petition for a domestic violence order of protection
9 may be filed:

10 (1) by a named victim who has been abused by a family
11 or household member;

12 (2) by any person or by the State's Attorney on behalf
13 of a named victim who is a minor child or an adult who has
14 been abused by a family or household member and who,
15 because of age, health, disability, or inaccessibility,
16 cannot file the petition;

17 (3) by a State's Attorney on behalf of any minor child
18 or dependent adult in the care of the named victim, if the
19 named victim does not file a petition or request the
20 State's Attorney file the petition; or

21 (4) any of the following persons if the person is
22 abused by a family or household member of a child:

23 (i) a foster parent of that child if the child has

1 been placed in the foster parent's home by the
2 Department of Children and Family Services or by
3 another state's public child welfare agency;

4 (ii) a legally appointed guardian or legally
5 appointed custodian of that child;

6 (iii) an adoptive parent of that child;

7 (iv) a prospective adoptive parent of that child
8 if the child has been placed in the prospective
9 adoptive parent's home pursuant to the Adoption Act or
10 pursuant to another state's law.

11 For purposes of this paragraph (a)(4), individuals who
12 would have been considered "family or household members" of
13 the child under paragraph (3) of subsection (b) of Section
14 112A-3 before a termination of the parental rights with
15 respect to the child continue to meet the definition of
16 "family or household members" of the child.

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

18 (1) by any person who is a named victim of
19 non-consensual sexual conduct or non-consensual sexual
20 penetration, including a single incident of non-consensual
21 sexual conduct or non-consensual sexual penetration;

22 (2) by a person or by the State's Attorney on behalf of
23 a named victim who is a minor child or an adult who is a
24 victim of non-consensual sexual conduct or non-consensual
25 sexual penetration but, because of age, disability,
26 health, or inaccessibility, cannot file the petition;

1 (3) by a State's Attorney on behalf of any minor child
2 who is a family or household member of the named victim, if
3 the named victim does not file a petition or request the
4 State's Attorney file the petition;

5 (4) by a service member of the Illinois National Guard
6 or any reserve military component serving within the State
7 who is a victim of non-consensual sexual conduct who has
8 also received a Military Protective Order; or

9 (5) by the Staff Judge Advocate of the Illinois
10 National Guard or any reserve military component serving
11 in the State on behalf of a named victim who is a victim of
12 non-consensual sexual conduct who has also received a
13 Military Protective Order only after receiving consent
14 from the victim, and the petition shall include a
15 statement that the victim has consented to the Staff Judge
16 Advocate filing the petition.

17 (c) A petition for a stalking no contact order may be
18 filed:

19 (1) by any person who is a named victim of stalking;

20 (2) by a person or by the State's Attorney on behalf of
21 a named victim who is a minor child or an adult who is a
22 victim of stalking but, because of age, disability,
23 health, or inaccessibility, cannot file the petition;

24 (3) by a State's Attorney on behalf of any minor child
25 who is a family or household member of the named victim, if
26 the named victim does not file a petition or request the

1 State's Attorney file the petition;

2 (4) by a service member of the Illinois National Guard
3 or any reserve military component serving within the State
4 who is a victim of non-consensual sexual conduct who has
5 also received a Military Protective Order; or

6 (5) by the Staff Judge Advocate of the Illinois
7 National Guard or any reserve military component serving
8 in the State on behalf of a named victim who is a victim of
9 non-consensual sexual conduct who has also received a
10 Military Protective Order only after receiving consent
11 from the victim, and the petition shall include a
12 statement that the victim has consented to the Staff Judge
13 Advocate filing the petition.

14 (d) The State's Attorney shall file a petition on behalf
15 of any person who may file a petition under subsections (a),
16 (b), or (c) of this Section if the person requests the State's
17 Attorney to file a petition on the person's behalf, unless the
18 State's Attorney has a good faith basis to delay filing the
19 petition. The State's Attorney shall inform the person that
20 the State's Attorney will not be filing the petition at that
21 time and that the person may file a petition or may retain an
22 attorney to file the petition. The State's Attorney may file
23 the petition at a later date.

24 (d-5) (1) A person eligible to file a petition under
25 subsection (a), (b), or (c) of this Section may retain an
26 attorney to represent the petitioner on the petitioner's

1 request for a protective order. The attorney's representation
2 is limited to matters related to the petition and relief
3 authorized under this Article.

4 (2) Advocates shall be allowed to accompany the petitioner
5 and confer with the victim, unless otherwise directed by the
6 court. Advocates are not engaged in the unauthorized practice
7 of law when providing assistance to the petitioner.

8 (e) Any petition properly filed under this Article may
9 seek protection for any additional persons protected by this
10 Article.

11 (Source: P.A. 101-81, eff. 7-12-19; 102-890, eff. 5-19-22.)

12 Section 10. The Stalking No Contact Order Act is amended
13 by changing Section 15 as follows:

14 (740 ILCS 21/15)

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

19 (1) by any person who is a victim of stalking;

20 (2) by a person on behalf of a minor child or an adult
21 who is a victim of stalking but, because of age,
22 disability, health, or inaccessibility, cannot file the
23 petition;

24 (3) by an authorized agent of a workplace;

- 1 (4) by an authorized agent of a place of worship; ~~or~~
2 (5) by an authorized agent of a school;
3 (6) by a service member of the Illinois National Guard
4 or any reserve military component serving within the State
5 who is a victim of non-consensual sexual conduct who has
6 also received a Military Protective Order; or
7 (7) by the Staff Judge Advocate of the Illinois
8 National Guard or any reserve military component serving
9 within the State on behalf of a named victim who is a
10 victim of non-consensual sexual conduct who has also
11 received a Military Protective Order only after receiving
12 consent from the victim, and the petition shall include a
13 statement that the victim has consented to the Staff Judge
14 Advocate filing the petition.

15 (Source: P.A. 100-1000, eff. 1-1-19.)

16 Section 15. The Civil No Contact Order Act is amended by
17 changing Sections 201 and 220 as follows:

18 (740 ILCS 22/201)

19 Sec. 201. Persons protected by this Act.

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

21 (1) any victim of non-consensual sexual conduct or
22 non-consensual sexual penetration on whose behalf the
23 petition is brought;

24 (2) any family or household member of the named

1 victim; ~~and~~

2 (3) any employee of or volunteer at a rape crisis
3 center that is providing services to the petitioner or the
4 petitioner's family or household member; and ~~or~~

5 (4) any service member of the Illinois National Guard
6 or any reserve military component serving within the State
7 who is a victim of non-consensual sexual conduct who has
8 also received a Military Protective Order.

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

10 (1) by any person who is a victim of non-consensual
11 sexual conduct or non-consensual sexual penetration,
12 including a single incident of non-consensual sexual
13 conduct or non-consensual sexual penetration;

14 (2) by a person on behalf of a minor child or an adult
15 who is a victim of non-consensual sexual conduct or
16 non-consensual sexual penetration but, because of age,
17 disability, health, or inaccessibility, cannot file the
18 petition; ~~or~~

19 (3) only after receiving consent from the victim, by
20 any family or household member of a victim of
21 non-consensual sexual conduct or non-consensual sexual
22 penetration, and the petition shall include a statement
23 that the victim has consented to the family or household
24 member filing the petition; and ~~or~~

25 (4) any service member of the Illinois National Guard
26 or any reserve military component serving within the State

1 who is a victim of non-consensual sexual conduct who has
2 also received a Military Protective Order; or

3 (5) the Staff Judge Advocate of the Illinois National
4 Guard or any reserve military component serving within the
5 State on behalf of a named victim who is a victim of
6 non-consensual sexual conduct who has also received a
7 Military Protective Order only after receiving consent
8 from the victim, and the petition shall include a
9 statement that the victim has consented to the Staff Judge
10 Advocate filing the petition.

11 (Source: P.A. 102-198, eff. 1-1-22.)

12 (740 ILCS 22/220)

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

14 (a) Nothing in this Act shall preclude any Illinois court
15 from enforcing a valid protective order issued in another
16 state or by a military tribunal.

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

22 (b-1) The court shall not hold a school district or
23 private or non-public school or any of its employees in civil
24 or criminal contempt unless the school district or private or
25 non-public school has been allowed to intervene.

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

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

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

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

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

24 (d) Contempt of court. A violation of any valid Illinois
25 civil no contact order, whether issued in a civil or criminal
26 proceeding, may be enforced through civil or criminal contempt

1 procedures, as appropriate, by any court with jurisdiction,
2 regardless of where the act or acts which violated the civil no
3 contact order were committed, to the extent consistent with
4 the venue provisions of this Act.

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

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

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

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

26 (2) by notice under Section 218;

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

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

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

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

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

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

16 (h) Penalties.

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

25 (2) The court shall hear and take into account
26 evidence of any factors in aggravation or mitigation

1 before deciding an appropriate penalty under paragraph (1)
2 of this subsection.

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

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

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

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

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

23 (i) to modify the conditions of pretrial release
24 on an underlying criminal charge pursuant to Section
25 110-6 of the Code of Criminal Procedure of 1963;

26 (ii) to revoke or modify an order of probation,

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

6 (Source: P.A. 101-652, eff. 1-1-23.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.