

SB2683



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2683

Introduced 1/10/2024, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

740 ILCS 21/10
740 ILCS 21/80

Amends the Stalking No Contact Order Act. Defines a course of conduct to include using any electronic tracking system or acquiring tracking information to determine a targeted person's location, moment, or travel patterns. Requires an order under this Act to prohibit this course of conduct.

LRB103 36494 LNS 66600 b

A BILL FOR

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 10 and 80 as follows:

6 (740 ILCS 21/10)

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

8 "Course of conduct" means 2 or more acts, including but
9 not limited to acts in which a respondent directly,
10 indirectly, or through third parties, by any action, method,
11 device, or means follows, monitors, observes, surveils, or
12 threatens a person, workplace, school, or place of worship,
13 engages in other contact, or interferes with or damages a
14 person's property or pet. A course of conduct may include
15 using any electronic tracking system or acquiring tracking
16 information to determine the targeted person's location,
17 movement, or travel patterns. A course of conduct may also
18 include contact via electronic communications. The
19 incarceration of a person in a penal institution who commits
20 the course of conduct is not a bar to prosecution under this
21 Section.

22 "Emotional distress" means significant mental suffering,
23 anxiety or alarm.

1 "Contact" includes any contact with the victim, that is
2 initiated or continued without the victim's consent, or that
3 is in disregard of the victim's expressed desire that the
4 contact be avoided or discontinued, including but not limited
5 to being in the physical presence of the victim; appearing
6 within the sight of the victim; approaching or confronting the
7 victim in a public place or on private property; appearing at
8 the workplace or residence of the victim; entering onto or
9 remaining on property owned, leased, or occupied by the
10 victim; placing an object on, or delivering an object to,
11 property owned, leased, or occupied by the victim; electronic
12 communication as defined in Section 26.5-0.1 of the Criminal
13 Code of 2012; and appearing at the prohibited workplace,
14 school, or place of worship.

15 "Petitioner" means any named petitioner for the stalking
16 no contact order or any named victim of stalking on whose
17 behalf the petition is brought. "Petitioner" includes an
18 authorized agent of a place of employment, an authorized agent
19 of a place of worship, or an authorized agent of a school.

20 "Reasonable person" means a person in the petitioner's
21 circumstances with the petitioner's knowledge of the
22 respondent and the respondent's prior acts.

23 "Stalking" means engaging in a course of conduct directed
24 at a specific person, and he or she knows or should know that
25 this course of conduct would cause a reasonable person to fear
26 for his or her safety, the safety of a workplace, school, or

1 place of worship, or the safety of a third person or suffer
2 emotional distress. Stalking does not include an exercise of
3 the right to free speech or assembly that is otherwise lawful
4 or picketing occurring at the workplace that is otherwise
5 lawful and arises out of a bona fide labor dispute, including
6 any controversy concerning wages, salaries, hours, working
7 conditions or benefits, including health and welfare, sick
8 leave, insurance, and pension or retirement provisions, the
9 making or maintaining of collective bargaining agreements, and
10 the terms to be included in those agreements.

11 "Stalking no contact order" means an emergency order or
12 plenary order granted under this Act, which includes a remedy
13 authorized by Section 80 of this Act.

14 (Source: P.A. 102-220, eff. 1-1-22.)

15 (740 ILCS 21/80)

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

17 (a) If the court finds that the petitioner has been a
18 victim of stalking, a stalking no contact order shall issue;
19 provided that the petitioner must also satisfy the
20 requirements of Section 95 on emergency orders or Section 100
21 on plenary orders. The petitioner shall not be denied a
22 stalking no contact order because the petitioner or the
23 respondent is a minor. The court, when determining whether or
24 not to issue a stalking no contact order, may not require
25 physical injury on the person of the petitioner. Modification

1 and extension of prior stalking no contact orders shall be in
2 accordance with this Act.

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

5 (1) prohibit the respondent from threatening to commit
6 or committing stalking;

7 (2) order the respondent not to have any contact with
8 the petitioner or a third person specifically named by the
9 court;

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

19 (4) prohibit the respondent from possessing a Firearm
20 Owners Identification Card, or possessing or buying
21 firearms; ~~and~~

22 (5) prohibit the respondent from using any electronic
23 tracking system or acquiring tracking information to
24 determine the petitioner's location, movement, or travel
25 pattern; and

26 (6) ~~(5)~~ order other injunctive relief the court

1 determines to be necessary to protect the petitioner or
2 third party specifically named by the court.

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

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

22 (b-6) The court may order the parents, guardian, or legal
23 custodian of a minor respondent to take certain actions or to
24 refrain from taking certain actions to ensure that the
25 respondent complies with the order. In the event the court
26 orders a transfer of the respondent to another school, the

1 parents, guardian, or legal custodian of the respondent are
2 responsible for transportation and other costs associated with
3 the change of school by the respondent.

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

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

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

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

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

24 (Source: P.A. 102-538, eff. 8-20-21.)