

AN ACT concerning civil law.

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

Section 5. The Civil No Contact Order Act is amended by changing Sections 103, 201, 212, 213, 216, and 217 and by adding Sections 101.1, 204.2, 213.7, 215.5, and Section 220 as follows:

(740 ILCS 22/101.1 new)

Sec. 101.1. Designation of parties. Subsection (e) of Section 2-401 of the Code of Civil Procedure regarding designation of parties applies to petitions under this Act.

(740 ILCS 22/103)

Sec. 103. Definitions. As used in this Act:

"Civil no contact order" means an emergency order or plenary order granted under this Act, which includes a remedy authorized by Section 213 of this Act.

"Family or household members" include spouses, parents, children, stepchildren, and persons who share a common dwelling.

"Non-consensual" means a lack of freely given agreement.

"Petitioner" may mean not only any named petitioner for the civil no contact order and any named victim of non-consensual

sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought, but also any other person sought to be protected by this Act.

"Respondent" in a petition for a civil no contact order may mean not only the person alleged to have committed an act of non-consensual sexual conduct or non-consensual sexual penetration against the petitioner, but also any other named person alleged to have aided and abetted such an act of non-consensual sexual conduct or non-consensual sexual penetration.

~~"Petitioner" means any named petitioner for the no contact order or any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought.~~

"Sexual conduct" means any intentional or knowing touching or fondling by the petitioner or the respondent, either directly or through clothing, of the sex organs, anus, or breast of the petitioner or the respondent, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the respondent upon any part of the clothed or unclothed body of the petitioner, for the purpose of sexual gratification or arousal of the petitioner or the respondent.

"Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion,

however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

"Stay away" means to refrain from both physical presence and nonphysical contact with the petitioner directly, indirectly, or through third parties who may or may not know of the order. "Nonphysical contact" includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

(Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05.)

(740 ILCS 22/201)

Sec. 201. Persons protected by this Act.

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

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

(2) any family or household member of the named victim;
and

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

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

(1) by any person who is a victim of non-consensual sexual conduct or non-consensual sexual penetration,

including a single incident of non-consensual sexual conduct or non-consensual sexual penetration; or

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

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/204.2 new)

Sec. 204.2. Application of privileges. The filing of a petition for a civil no contact order does not in any way constitute a waiver of any privilege that otherwise protects any medical, mental health, or other records of the petitioner, absent a release by the petitioner, pursuant to federal or State Acts including but not limited to: the federal Health Insurance Portability and Accountability Act (HIPAA); Illinois Medical Patient Rights Act; Mental Health and Developmental Disabilities Confidentiality Act; and Sections 8-802 and 8-802.1 of the Code of Civil Procedure.

(740 ILCS 22/212)

Sec. 212. Prior sexual activity or reputation as evidence.
~~Hearsay exception.~~

(a) In proceedings for a civil no contact order and prosecutions for violating a civil no-contact order, the prior

sexual activity or the reputation of the petitioner is inadmissible except:

(1) as evidence concerning the past sexual conduct of the petitioner with the respondent when this evidence is offered by the respondent upon the issue of whether the petitioner consented to the sexual conduct with respect to which the offense is alleged; or

(2) when constitutionally required to be admitted.

(b) No evidence admissible under this Section may be introduced unless ruled admissible by the trial judge after an offer of proof has been made at a hearing held in camera to determine whether the respondent has evidence to impeach the witness in the event that prior sexual activity with the respondent is denied. The offer of proof shall include reasonably specific information as to the date, time, and place of the past sexual conduct between the petitioner and the respondent. Unless the court finds that reasonably specific information as to date, time, or place, or some combination thereof, has been offered as to prior sexual activity with the respondent, counsel for the respondent shall be ordered to refrain from inquiring into prior sexual activity between the petitioner and the respondent. The court may not admit evidence under this Section unless it determines at the hearing that the evidence is relevant and the probative value of the evidence outweighs the danger of unfair prejudice or embarrassment to the petitioner. The evidence shall be admissible at trial to

the extent an order made by the court specifies the evidence that may be admitted and areas with respect to which the petitioner may be examined or cross examined.

(Source: P.A. 93-236, eff. 1-1-04.)

(740 ILCS 22/213)

Sec. 213. Civil no contact order; remedies.

(a) If the court finds that the petitioner has been a victim of non-consensual sexual conduct or non-consensual sexual penetration, a civil no contact order shall issue; provided that the petitioner must also satisfy the requirements of Section 214 on emergency orders or Section 215 on plenary orders. The petitioner shall not be denied a civil no contact order because the petitioner or the respondent is a minor. The court, when determining whether or not to issue a civil no contact order, may not require physical injury on the person of the victim. Modification and extension of prior civil no contact orders shall be in accordance with this Act.

(b) (Blank). ~~A civil no contact order shall order one or more of the following:~~

~~(1) order the respondent to stay away from the petitioner; or~~

~~(2) other injunctive relief necessary or appropriate.~~

(b-5) The court may provide relief as follows:

(1) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified

distance from the petitioner;

(2) restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties, regardless of whether those third parties know of the order;

(3) prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from the petitioner's residence, school, day care or other specified location;

(4) order the respondent to stay away from any property or animal owned, possessed, leased, kept, or held by the petitioner and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the property or animal; and

(5) order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(b-6) When the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court when issuing a civil no contact order and providing relief shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense, difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner.

In the event the court orders a transfer of the respondent to another school, the parents or legal guardians of the respondent are responsible for transportation and other costs associated with the change of school by the respondent.

(c) Denial of a remedy may not be based, in whole or in part, on evidence that:

(1) the respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article VII of the Criminal Code of 1961;

(2) the respondent was voluntarily intoxicated;

(3) the petitioner acted in self-defense or defense of another, provided that, if the petitioner utilized force, such force was justifiable under Article VII of the Criminal Code of 1961;

(4) the petitioner did not act in self-defense or defense of another;

(5) the petitioner left the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent; or

(6) the petitioner did not leave the residence or household to avoid further non-consensual sexual conduct or non-consensual sexual penetration by the respondent.

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

(Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05; 94-360, eff. 1-1-06.)

(740 ILCS 22/213.7 new)

Sec. 213.7. Aiding and abetting non-consensual sexual conduct or non-consensual sexual penetration. A person aids and abets an act of non-consensual sexual conduct or non-consensual sexual penetration when, before or during the commission of an act of non-consensual sexual conduct or non-consensual sexual penetration as defined in Section 103 and with the intent to promote or facilitate such conduct, he or she intentionally aids or abets another in the planning or commission of non-consensual sexual conduct or non-consensual sexual penetration, unless before the commission of the offense he or she makes proper effort to prevent the commission of the offense.

(740 ILCS 22/215.5 new)

Sec. 215.5. Petitioner testimony at plenary civil no contact order hearing. In a plenary civil no contact order hearing, if a court finds that testimony by the petitioner in the courtroom may result in serious emotional distress to the petitioner, the court may order that the examination of the petitioner be conducted in chambers. Counsel shall be present at the examination unless otherwise agreed upon by the parties. The court shall cause a court reporter to be present who shall make a complete record of the examination instantaneously to be part of the record in the case.

(740 ILCS 22/216)

Sec. 216. Duration and extension of orders.

(a) Unless re-opened or extended or voided by entry of an order of greater duration, an emergency order shall be effective for not less than 14 nor more than 21 days.

(b) Except as otherwise provided in this Section, a plenary civil no contact order shall be effective for a fixed period of time, not to exceed 2 years. A plenary civil no contact order entered in conjunction with a criminal prosecution shall remain in effect as follows:

(1) if entered during pre-trial release, until disposition, withdrawal, or dismissal of the underlying charge; if however, the case is continued as an independent cause of action, the order's duration may be for a fixed period of time not to exceed 2 years;

(2) if in effect in conjunction with a bond forfeiture warrant, until final disposition or an additional period of time not exceeding 2 years; no civil no contact order, however, shall be terminated by a dismissal that is accompanied by the issuance of a bond forfeiture warrant;

(3) until expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years; or

(4) until the date set by the court for expiration of

any sentence of imprisonment and subsequent parole or mandatory supervised release and for an additional period of time thereafter not exceeding 2 years.

(c) Any emergency or plenary order may be extended one or more times, as required, provided that the requirements of Section 214 or 215, as appropriate, are satisfied. If the motion for extension is uncontested and the petitioner seeks no modification of the order, the order may be extended on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of subsection (c) of Section 214, which applies only when the court is unavailable at the close of business or on a court holiday.

(d) Any civil no contact order which would expire on a court holiday shall instead expire at the close of the next court business day.

(d-5) An extension of a plenary civil no contact order may be granted, upon good cause shown, to remain in effect until the civil no contact order is vacated or modified.

(e) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a civil no contact order undermines the purposes of this Act. This Section shall not be construed as encouraging that practice.

(Source: P.A. 93-236, eff. 1-1-04; 94-360, eff. 1-1-06.)

(740 ILCS 22/217)

Sec. 217. Contents of orders.

(a) Any civil no contact order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(b) A civil no contact order shall further state the following:

(1) The name of each petitioner that the court finds was the victim of non-consensual sexual conduct or non-consensual sexual penetration by the respondent and the name of each other person protected by the civil no contact order.

(2) The date and time the civil no contact order was issued, whether it is an emergency or plenary order, and the duration of the order.

(3) The date, time, and place for any scheduled hearing for extension of that civil no contact order or for another order of greater duration or scope.

(4) For each remedy in an emergency civil no contact order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given.

(5) For emergency civil no contact orders, that the respondent may petition the court, in accordance with

Section 218.5, to reopen the order if he or she did not receive actual prior notice of the hearing as required under Section 209 of this Act and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this Act.

(c) A civil no contact order shall include the following notice, printed in conspicuous type: "Any knowing violation of a civil no contact order is a Class A misdemeanor. Any second or subsequent violation is a Class 4 felony."

(d) A civil no contact order shall state, "This Civil No Contact Order is enforceable, even without registration, in all 50 states, the District of Columbia, tribal lands, and the U.S. territories pursuant to the Violence Against Women Act (18 U.S.C. 2265)."

(Source: P.A. 93-236, eff. 1-1-04; 93-811, eff. 1-1-05.)

(740 ILCS 22/220 new)

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

(a) Nothing in this Act shall preclude any Illinois court from enforcing a valid protective order issued in another state.

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

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

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

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

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

(d) Contempt of court. A violation of any valid Illinois civil no contact order, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless of where the act or acts which violated the civil no contact order were committed, to the extent consistent with the venue provisions of this Act.

(1) In a contempt proceeding where the petition for a rule to show cause or petition for adjudication of criminal contempt sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction or inflict

physical abuse on the petitioner or minor children or on dependent adults in the petitioner's care, the court may order the attachment of the respondent without prior service of the petition for a rule to show cause, the rule to show cause, the petition for adjudication of criminal contempt or the adjudication of criminal contempt. Bond shall be set unless specifically denied in writing.

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

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

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

(2) by notice under Section 218;

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

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

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

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

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

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

(h) Penalties.

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

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

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

(i) increase the penalty for the knowing violation of any civil no contact order over any penalty previously imposed by any court for respondent's violation of any civil no contact order or penal statute involving petitioner as victim and respondent

as defendant;

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

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

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

(i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6 of the Code of Criminal Procedure of 1963;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections; or

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.