



Sen. Jil Tracy

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10000SB2288sam002

LRB100 16058 HEP 37934 a

1 AMENDMENT TO SENATE BILL 2288

2 AMENDMENT NO. _____. Amend Senate Bill 2288 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Stalking No Contact Order Act is amended by
5 changing Section 80 as follows:

6 (740 ILCS 21/80)

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

8 (a) If the court finds that the petitioner has been a
9 victim of stalking, a stalking no contact order shall issue;
10 provided that the petitioner must also satisfy the requirements
11 of Section 95 on emergency orders or Section 100 on plenary
12 orders. The petitioner shall not be denied a stalking no
13 contact order because the petitioner or the respondent is a
14 minor. The court, when determining whether or not to issue a
15 stalking no contact order, may not require physical injury on
16 the person of the petitioner. Modification and extension of

1 prior stalking no contact orders shall be in accordance with
2 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) order the respondent to submit to a mental health
23 evaluation; and

24 (6) ~~(5)~~ order other injunctive relief the court
25 determines to be necessary to protect the petitioner or
26 third party specifically named by the court.

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

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

19 (b-6) The court may order the parents, guardian, or legal
20 custodian of a minor respondent to take certain actions or to
21 refrain from taking certain actions to ensure that the
22 respondent complies with the order. In the event the court
23 orders a transfer of the respondent to another school, the
24 parents, guardian, or legal custodian of the respondent are
25 responsible for transportation and other costs associated with
26 the change of school by the respondent.

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

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

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

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

14 (e) If the stalking no contact order prohibits the
15 respondent from possessing a Firearm Owner's Identification
16 Card, or possessing or buying firearms; the court shall
17 confiscate the respondent's Firearm Owner's Identification
18 Card and immediately return the card to the Department of State
19 Police Firearm Owner's Identification Card Office.

20 (Source: P.A. 96-246, eff. 1-1-10; 97-294, eff. 1-1-12;
21 97-1131, eff. 1-1-13.)

22 Section 10. The Civil No Contact Order Act is amended by
23 changing Section 213 as follows:

24 (740 ILCS 22/213)

1 Sec. 213. Civil no contact order; remedies.

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

13 (b) (Blank).

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

15 (1) prohibit the respondent from knowingly coming
16 within, or knowingly remaining within, a specified
17 distance from the petitioner;

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

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

26 (4) order the respondent to stay away from any property

1 or animal owned, possessed, leased, kept, or held by the
2 petitioner and forbid the respondent from taking,
3 transferring, encumbering, concealing, harming, or
4 otherwise disposing of the property or animal; ~~and~~

5 (5) order the respondent to submit to a mental health
6 evaluation; and

7 (6) ~~(5)~~ order any other injunctive relief as necessary
8 or appropriate for the protection of the petitioner.

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

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

1 (b-7) The court may order the parents, guardian, or legal
2 custodian of a minor respondent to take certain actions or to
3 refrain from taking certain actions to ensure that the
4 respondent complies with the order. In the event the court
5 orders a transfer of the respondent to another school, the
6 parents or legal guardians of the respondent are responsible
7 for transportation and other costs associated with the change
8 of school by the respondent.

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

11 (1) the respondent has cause for any use of force,
12 unless that cause satisfies the standards for justifiable
13 use of force provided by Article 7 of the Criminal Code of
14 2012;

15 (2) the respondent was voluntarily intoxicated;

16 (3) the petitioner acted in self-defense or defense of
17 another, provided that, if the petitioner utilized force,
18 such force was justifiable under Article 7 of the Criminal
19 Code of 2012;

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

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

25 (6) the petitioner did not leave the residence or
26 household to avoid further non-consensual sexual conduct

1 or non-consensual sexual penetration by the respondent.

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

3 (Source: P.A. 96-311, eff. 1-1-10; 97-294, eff. 1-1-12;

4 97-1150, eff. 1-25-13.)".