



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0298

Introduced 2/6/2009, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.7 new
720 ILCS 5/12-7.8 new
720 ILCS 5/12-30.5 new

Amends the Criminal Code of 1961. Provides that a person may bring a civil action in a circuit court for a court's stalking protective order against a person if: (1) the person intentionally, knowingly, or recklessly engages in repeated and unwanted contact with the other person or a member of that person's immediate family or household thereby alarming or coercing the other person; (2) it is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and (3) the repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household. Creates the offense of violating a court's stalking protective order. Provides that a first offense is a Class A misdemeanor and a second or subsequent offense is a Class 4 felony. Provides that the offense is a Class 4 felony if the defendant had a prior conviction for stalking or aggravated stalking. Effective immediately.

LRB096 06020 RLC 16101 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to stalking.

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

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Sections 12-7.7, 12-7.8, and 12-30.5 as follows:

6 (720 ILCS 5/12-7.7 new)

7 Sec. 12-7.7. Action for issuance or violation of stalking
8 protective order.

9 (a) A person may bring a civil action in a circuit court
10 for a court's stalking protective order against a person if:

11 (1) the person intentionally, knowingly, or recklessly
12 engages in repeated and unwanted contact with the other
13 person or a member of that person's immediate family or
14 household thereby alarming or coercing the other person;

15 (2) it is objectively reasonable for a person in the
16 victim's situation to have been alarmed or coerced by the
17 contact; and

18 (3) the repeated and unwanted contact causes the victim
19 reasonable apprehension regarding the personal safety of
20 the victim or a member of the victim's immediate family or
21 household.

22 (b) At the time the petition is filed, the court, upon a
23 finding of probable cause based on the allegations in the

1 petition, shall enter a temporary court's stalking protective
2 order that may include, but is not limited to: (1) prohibiting
3 acts of stalking or aggravated stalking in violation of Section
4 12-7.3 or 12-7.4, (2) prohibiting such contacts by the
5 respondent with the allegedly stalked person or that person's
6 family or household members as the court deems necessary to
7 protect the safety of those persons; and (3) any other
8 conditions that the court deems necessary to prevent further
9 acts of stalking or aggravated stalking, communication, or
10 other contact of any kind by the respondent. The petition and
11 the temporary order shall be served upon the respondent with an
12 order requiring the respondent to personally appear before the
13 court to show cause why the temporary order should not be
14 continued for an indefinite period.

15 (c) At the hearing, whether or not the respondent appears,
16 the court may continue the hearing for up to 30 days or may
17 proceed to enter a court's stalking protective order. If the
18 respondent fails to appear after being served as required by
19 subsection (b) of this Section, the court may issue a warrant
20 of arrest in order to ensure the appearance of the respondent
21 in court.

22 (d) The court may award reasonable attorney's fees as
23 follows:

24 (i) to the petitioner, if the petitioner is the
25 prevailing party; or

26 (ii) to the respondent, if the respondent is the

1 prevailing party and if the court determines that the
2 petition is frivolous in nature.

3 (e) The court may enter an order under this Section against
4 a minor respondent without appointment of a guardian ad litem.

5 (f) An action under this Section must be commenced within 2
6 years of the conduct giving rise to the claim.

7 (g) Proof of the claim shall be by a preponderance of the
8 evidence.

9 (h) The remedy provided by this Section is in addition to
10 any other remedy, civil or criminal, provided by law for the
11 conduct giving rise to the claim.

12 (i) No filing fee, service fee, or hearing fee shall be
13 charged for a proceeding under this Section if a court's
14 stalking order is the only relief sought.

15 (j) If the respondent was provided notice and an
16 opportunity to be heard, the court shall also include in the
17 order, when appropriate, terms and findings sufficient under 18
18 U.S.C. 922 (d) (8) and (g) (8) to affect the respondent's ability
19 to possess firearms and ammunition or engage in activities
20 involving firearms.

21 (k) Section 12-7.8 applies to protective orders issued
22 under this Section.

23 (720 ILCS 5/12-7.8 new)

24 Sec. 12-7.8. Service of order; entry of order into LEADS.

25 (a) Whenever a stalking protective order, as authorized by

1 Section 12-7.7, is issued and the person to be restrained has
2 actual notice of the order, the person serving the order shall
3 deliver forthwith to the county sheriff a true copy of the
4 order and an affidavit of proof of service on which it is
5 stated that personal service of the order was made on the
6 respondent. If an order entered by the court recites that the
7 respondent appeared in person before the court, the necessity
8 for further service of the order is waived and accompanying
9 proof of service is not necessary. Upon receipt of proof of
10 service, when required, and a true copy of the order, the
11 county sheriff shall forthwith enter the order into the Law
12 Enforcement Agencies Data System (LEADS) maintained by the
13 Department of State Police and into the databases of the
14 National Crime Information Center of the United States
15 Department of Justice. The sheriff shall also provide the
16 complainant with a true copy of the proof of service. Entry
17 into the Law Enforcement Agencies Data System (LEADS)
18 constitutes notice to all law enforcement agencies of the
19 existence of such order. Law enforcement agencies shall
20 establish procedures adequate to ensure that an officer at the
21 scene of an alleged violation of such order may be informed of
22 the existence and terms of the order. The order shall be fully
23 enforceable in any county in this State. The complainant may
24 elect to deliver documents personally to a county sheriff or to
25 have them delivered by a private person for entry into the Law
26 Enforcement Agencies Data System (LEADS) and the databases of

1 the National Crime Information Center of the United States
2 Department of Justice.

3 (b) When a stalking protective order has been entered into
4 the Law Enforcement Agencies Data System (LEADS) and the
5 databases of the National Crime Information Center of the
6 United States Department of Justice under subsection (a) of
7 this Section, a county sheriff shall cooperate with a request
8 from a law enforcement agency from any other jurisdiction to
9 verify the existence of the stalking protective order or to
10 transmit a copy of the order to the requesting jurisdiction.

11 (c) When a stalking protective order described in
12 subsection (a) of this Section is terminated by order of the
13 court, the clerk of the court shall deliver forthwith a true
14 copy of the termination order to the county sheriff with whom
15 the original order was filed. Upon receipt of the termination
16 order, the county sheriff shall promptly remove the original
17 order from the Law Enforcement Agencies Data System (LEADS) and
18 the databases of the National Crime Information Center of the
19 United States Department of Justice.

20 (720 ILCS 5/12-30.5 new)

21 Sec. 12-30.5. Violating a court's stalking protective
22 order.

23 (a) A person commits the offense of violating a court's
24 stalking protective order when:

25 (1) the person has been served with a court's stalking

1 protective order as provided in Section 12-7.7 or if
2 further service was waived under Section 12-7.8 because the
3 person appeared before the court; and

4 (2) the person, subsequent to the service of the order,
5 has engaged intentionally, knowingly, or recklessly in
6 conduct prohibited by the order.

7 (b) Sentence.

8 (1) Violating a court's stalking protective order is a
9 Class A misdemeanor.

10 (2) Violating a court's stalking protective order is a
11 Class 4 felony if the person has a prior conviction for:

12 (A) stalking or aggravated stalking; or

13 (B) violating a court's stalking protective order.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.