



Sen. Michael Noland

Filed: 2/25/2009

09600SB0298sam001

LRB096 06020 RLC 22312 a

1 AMENDMENT TO SENATE BILL 298

2 AMENDMENT NO. _____. Amend Senate Bill 298 by replacing
3 everything after the enacting clause with the following:

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 complainant may bring a civil action in a circuit
10 court for a court's stalking protective order against an
11 individual person as respondent if:

12 (1) the respondent intentionally, knowingly, or
13 recklessly engages in repeated and unwanted contact with
14 the complainant or a member of the complainant's immediate
15 family or household thereby alarming or coercing the
16 complainant;

1 (2) it is objectively reasonable for a person in the
2 complainant's situation to have been alarmed or coerced by
3 the respondent's contact; and

4 (3) the repeated and unwanted contact by the respondent
5 causes the complainant reasonable apprehension regarding
6 the personal safety of the complainant or a member of the
7 complainant's immediate family or household.

8 (b) At the time the petition is filed, the court, upon a
9 finding of probable cause based on the allegations in the
10 petition, shall enter a temporary court's stalking protective
11 order that may include, but is not limited to: (1) prohibiting
12 acts of stalking or aggravated stalking in violation of Section
13 12-7.3 or 12-7.4, (2) prohibiting such contacts by the
14 respondent with the complainant or the complainant's family or
15 household members as the court deems necessary to protect the
16 safety of those persons; and (3) any other conditions that the
17 court deems necessary to prevent further acts of stalking or
18 aggravated stalking, communication, or other contact of any
19 kind by the respondent. The petition and the temporary order
20 shall be served upon the respondent with an order requiring the
21 respondent to personally appear before the court to show cause
22 why the temporary order should not be continued for an
23 indefinite period.

24 (c) At the hearing, whether or not the respondent appears,
25 the court may continue the hearing for up to 30 days or may
26 proceed to enter a court's stalking protective order. If the

1 respondent fails to appear after being served as required by
2 subsection (b) of this Section, the court may issue a warrant
3 of arrest in order to ensure the appearance of the respondent
4 in court.

5 (d) The court may award reasonable attorney's fees as
6 follows:

7 (i) to the complainant, if the complainant is the
8 prevailing party; or

9 (ii) to the respondent, if the respondent is the
10 prevailing party and if the court determines that the
11 petition is frivolous in nature.

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

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

16 (g) Proof of the claim shall be by a preponderance of the
17 evidence.

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

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

24 (j) If the respondent was provided notice and an
25 opportunity to be heard, the court shall also include in the
26 order, when appropriate, terms and findings sufficient under 18

1 U.S.C. 922 (d) (8) and (g) (8) to affect the respondent's ability
2 to possess firearms and ammunition or engage in activities
3 involving firearms.

4 (k) Section 12-7.8 applies to protective orders issued
5 under this Section.

6 (720 ILCS 5/12-7.8 new)

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

8 (a) Whenever a stalking protective order, as authorized by
9 Section 12-7.7, is issued and the respondent has actual notice
10 of the order, the person serving the order shall deliver
11 forthwith to the county sheriff a true copy of the order and an
12 affidavit of proof of service on which it is stated that
13 personal service of the order was made on the respondent. If an
14 order entered by the court recites that the respondent appeared
15 in person before the court, the necessity for further service
16 of the order is waived and accompanying proof of service is not
17 necessary. Upon receipt of proof of service, when required, and
18 a true copy of the order, the county sheriff shall forthwith
19 enter the order into the Law Enforcement Agencies Data System
20 (LEADS) maintained by the Department of State Police and into
21 the databases of the National Crime Information Center of the
22 United States Department of Justice. The sheriff shall also
23 provide the complainant with a true copy of the proof of
24 service. Entry into the Law Enforcement Agencies Data System
25 (LEADS) constitutes notice to all law enforcement agencies of

1 the existence of such order. Law enforcement agencies shall
2 establish procedures adequate to ensure that an officer at the
3 scene of an alleged violation of such order may be informed of
4 the existence and terms of the order. The order shall be fully
5 enforceable in any county in this State. The complainant may
6 elect to deliver documents personally to a county sheriff or to
7 have them delivered by a private person for entry into the Law
8 Enforcement Agencies Data System (LEADS) and the databases of
9 the National Crime Information Center of the United States
10 Department of Justice.

11 (b) When a stalking protective order has been entered into
12 the Law Enforcement Agencies Data System (LEADS) and the
13 databases of the National Crime Information Center of the
14 United States Department of Justice under subsection (a) of
15 this Section, a county sheriff shall cooperate with a request
16 from a law enforcement agency from any other jurisdiction to
17 verify the existence of the stalking protective order or to
18 transmit a copy of the order to the requesting jurisdiction.

19 (c) When a stalking protective order described in
20 subsection (a) of this Section is terminated by order of the
21 court, the clerk of the court shall deliver forthwith a true
22 copy of the termination order to the county sheriff with whom
23 the original order was filed. Upon receipt of the termination
24 order, the county sheriff shall promptly remove the original
25 order from the Law Enforcement Agencies Data System (LEADS) and
26 the databases of the National Crime Information Center of the

1 United States Department of Justice.

2 (720 ILCS 5/12-30.5 new)

3 Sec. 12-30.5. Violating a court's stalking protective
4 order.

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

7 (1) the person has been served with a court's stalking
8 protective order for which he or she is the respondent as
9 provided in Section 12-7.7 or if further service was waived
10 under Section 12-7.8 because the person appeared before the
11 court; and

12 (2) the person, subsequent to the service of the order,
13 has engaged intentionally, knowingly, or recklessly in
14 conduct prohibited by the order.

15 (b) Sentence.

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

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

20 (A) stalking or aggravated stalking; or

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."