

HB4658

A BILL FOR

1 AN ACT concerning criminal law.

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 2012 is amended by
5 changing Sections 12-3.4, 12-3.8, and 12-3.9 as follows:

6 (720 ILCS 5/12-3.4) (was 720 ILCS 5/12-30)

7 Sec. 12-3.4. Violation of an order of protection.

8 (a) A person commits violation of an order of protection
9 if:

10 (1) He or she knowingly commits an act which was
11 prohibited by a court or fails to commit an act which was
12 ordered by a court in violation of:

13 (i) a remedy in a valid order of protection
14 authorized under paragraphs (1), (2), (3), (14), or
15 (14.5) of subsection (b) of Section 214 of the
16 Illinois Domestic Violence Act of 1986,

17 (ii) a remedy, which is substantially similar to
18 the remedies authorized under paragraphs (1), (2),
19 (3), (14) or (14.5) of subsection (b) of Section 214 of
20 the Illinois Domestic Violence Act of 1986, in a valid
21 order of protection, which is authorized under the
22 laws of another state, tribe or United States
23 territory,

1 (iii) any other remedy when the act constitutes a
2 crime against the protected parties as the term
3 protected parties is defined in Section 112A-4 of the
4 Code of Criminal Procedure of 1963; and

5 (2) Such violation occurs after the offender has been
6 served notice of the contents of the order, pursuant to
7 the Illinois Domestic Violence Act of 1986 or any
8 substantially similar statute of another state, tribe or
9 United States territory, or otherwise has acquired actual
10 knowledge of the contents of the order.

11 An order of protection issued by a state, tribal or
12 territorial court related to domestic or family violence shall
13 be deemed valid if the issuing court had jurisdiction over the
14 parties and matter under the law of the state, tribe or
15 territory. There shall be a presumption of validity where an
16 order is certified and appears authentic on its face. For
17 purposes of this Section, an "order of protection" may have
18 been issued in a criminal or civil proceeding.

19 (a-5) Failure to provide reasonable notice and opportunity
20 to be heard shall be an affirmative defense to any charge or
21 process filed seeking enforcement of a foreign order of
22 protection.

23 (b) Nothing in this Section shall be construed to diminish
24 the inherent authority of the courts to enforce their lawful
25 orders through civil or criminal contempt proceedings.

26 (c) The limitations placed on law enforcement liability by

1 Section 305 of the Illinois Domestic Violence Act of 1986
2 apply to actions taken under this Section.

3 (d) Violation of an order of protection is a Class A
4 misdemeanor. Violation of an order of protection is a Class 4
5 felony if the defendant has any prior conviction under this
6 Code for domestic battery (Section 12-3.2), ~~or~~ violation of an
7 order of protection (Section 12-3.4 or 12-30), violation of a
8 civil no contact order (Section 12-3.8), violation of a
9 stalking no contact order (Section 12-3.9), or any prior
10 conviction under the law of another jurisdiction for an
11 offense that could be charged in this State as a domestic
12 battery ~~or~~ violation of an order of protection, violation of a
13 civil no contact order, or violation of a stalking no contact
14 order. Violation of an order of protection is a Class 4 felony
15 if the defendant has any prior conviction under this Code for
16 first degree murder (Section 9-1), attempt to commit first
17 degree murder (Section 8-4), aggravated domestic battery
18 (Section 12-3.3), aggravated battery (Section 12-3.05 or
19 12-4), heinous battery (Section 12-4.1), aggravated battery
20 with a firearm (Section 12-4.2), aggravated battery with a
21 machine gun or a firearm equipped with a silencer (Section
22 12-4.2-5), aggravated battery of a child (Section 12-4.3),
23 aggravated battery of an unborn child (subsection (a-5) of
24 Section 12-3.1, or Section 12-4.4), aggravated battery of a
25 senior citizen (Section 12-4.6), stalking (Section 12-7.3),
26 aggravated stalking (Section 12-7.4), criminal sexual assault

1 (Section 11-1.20 or 12-13), aggravated criminal sexual assault
2 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),
3 aggravated kidnapping (Section 10-2), predatory criminal
4 sexual assault of a child (Section 11-1.40 or 12-14.1),
5 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),
6 unlawful restraint (Section 10-3), aggravated unlawful
7 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
8 aggravated discharge of a firearm (Section 24-1.2), or a
9 violation of any former law of this State that is
10 substantially similar to any listed offense, or any prior
11 conviction under the law of another jurisdiction for an
12 offense that could be charged in this State as one of the
13 offenses listed in this Section, when any of these offenses
14 have been committed against a family or household member as
15 defined in Section 112A-3 of the Code of Criminal Procedure of
16 1963. The court shall impose a minimum penalty of 24 hours
17 imprisonment for defendant's second or subsequent violation of
18 any order of protection; unless the court explicitly finds
19 that an increased penalty or such period of imprisonment would
20 be manifestly unjust. In addition to any other penalties, the
21 court may order the defendant to pay a fine as authorized under
22 Section 5-9-1 of the Unified Code of Corrections or to make
23 restitution to the victim under Section 5-5-6 of the Unified
24 Code of Corrections.

25 (e) (Blank).

26 (f) A defendant who directed the actions of a third party

1 to violate this Section, under the principles of
2 accountability set forth in Article 5 of this Code, is guilty
3 of violating this Section as if the same had been personally
4 done by the defendant, without regard to the mental state of
5 the third party acting at the direction of the defendant.

6 (Source: P.A. 100-987, eff. 7-1-19.)

7 (720 ILCS 5/12-3.8)

8 Sec. 12-3.8. Violation of a civil no contact order.

9 (a) A person commits violation of a civil no contact order
10 if:

11 (1) he or she knowingly commits an act which was
12 prohibited by a court or fails to commit an act which was
13 ordered in violation of:

14 (A) a remedy of a valid civil no contact order
15 authorized under Section 213 of the Civil No Contact
16 Order Act or Section 112A-14.5 of the Code of Criminal
17 Procedure of 1963; or

18 (B) a remedy, which is substantially similar to
19 the remedies authorized under Section 213 of the Civil
20 No Contact Order Act or Section 112A-14.5 of the Code
21 of Criminal Procedure of 1963, or in a valid civil no
22 contact order, which is authorized under the laws of
23 another state, tribe, or United States territory; and

24 (2) the violation occurs after the offender has been
25 served notice of the contents of the order under the Civil

1 No Contact Order Act, Article 112A of the Code of Criminal
2 Procedure of 1963, or any substantially similar statute of
3 another state, tribe, or United States territory, or
4 otherwise has acquired actual knowledge of the contents of
5 the order.

6 A civil no contact order issued by a state, tribal, or
7 territorial court shall be deemed valid if the issuing court
8 had jurisdiction over the parties and matter under the law of
9 the state, tribe, or territory. There shall be a presumption
10 of validity when an order is certified and appears authentic
11 on its face.

12 (a-3) For purposes of this Section, a "civil no contact
13 order" may have been issued in a criminal or civil proceeding.

14 (a-5) Failure to provide reasonable notice and opportunity
15 to be heard shall be an affirmative defense to any charge or
16 process filed seeking enforcement of a foreign civil no
17 contact order.

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

22 (c) Nothing in this Section shall be construed to diminish
23 the inherent authority of the courts to enforce their lawful
24 orders through civil or criminal contempt proceedings.

25 (d) A defendant who directed the actions of a third party
26 to violate this Section, under the principles of

1 accountability set forth in Article 5 of this Code, is guilty
2 of violating this Section as if the same had been personally
3 done by the defendant, without regard to the mental state of
4 the third party acting at the direction of the defendant.

5 (e) Sentence. A violation of a civil no contact order is a
6 Class A misdemeanor. Violation of a civil no contact order is a
7 Class 4 felony if the defendant has any prior conviction under
8 this Code for a violation of an order of protection, violation
9 of a civil no contact order, or violation of a stalking no
10 contact order (Section 12-3.4, 12-3.8, 12-3.9, or 12-30), or
11 any prior conviction under the law of another jurisdiction for
12 an offense that could be charged in this State as a violation
13 of an order of protection, violation of a civil no contact
14 order, or violation of a stalking no contact order ~~for a first~~
15 ~~violation, and a Class 4 felony for a second or subsequent~~
16 ~~violation.~~

17 (Source: P.A. 100-199, eff. 1-1-18.)

18 (720 ILCS 5/12-3.9)

19 Sec. 12-3.9. Violation of a stalking no contact order.

20 (a) A person commits violation of a stalking no contact
21 order if:

22 (1) he or she knowingly commits an act which was
23 prohibited by a court or fails to commit an act which was
24 ordered by a court in violation of:

25 (A) a remedy in a valid stalking no contact order

1 of protection authorized under Section 80 of the
2 Stalking No Contact Order Act or Section 112A-14.7 of
3 the Code of Criminal Procedure of 1963; or

4 (B) a remedy, which is substantially similar to
5 the remedies authorized under Section 80 of the
6 Stalking No Contact Order Act or Section 112A-14.7 of
7 the Code of Criminal Procedure of 1963, or in a valid
8 stalking no contact order, which is authorized under
9 the laws of another state, tribe, or United States
10 territory; and

11 (2) the violation occurs after the offender has been
12 served notice of the contents of the order, under the
13 Stalking No Contact Order Act, Article 112A of the Code of
14 Criminal Procedure of 1963, or any substantially similar
15 statute of another state, tribe, or United States
16 territory, or otherwise has acquired actual knowledge of
17 the contents of the order.

18 A stalking no contact order issued by a state, tribal, or
19 territorial court shall be deemed valid if the issuing court
20 had jurisdiction over the parties and matter under the law of
21 the state, tribe, or territory. There shall be a presumption
22 of validity when an order is certified and appears authentic
23 on its face.

24 (a-3) For purposes of this Section, a "stalking no contact
25 order" may have been issued in a criminal or civil proceeding.

26 (a-5) Failure to provide reasonable notice and opportunity

1 to be heard shall be an affirmative defense to any charge or
2 process filed seeking enforcement of a foreign stalking no
3 contact order.

4 (b) Prosecution for a violation of a stalking no contact
5 order shall not bar a concurrent prosecution for any other
6 crime, including any crime that may have been committed at the
7 time of the violation of the civil no contact order.

8 (c) Nothing in this Section shall be construed to diminish
9 the inherent authority of the courts to enforce their lawful
10 orders through civil or criminal contempt proceedings.

11 (d) A defendant who directed the actions of a third party
12 to violate this Section, under the principles of
13 accountability set forth in Article 5 of this Code, is guilty
14 of violating this Section as if the same had been personally
15 done by the defendant, without regard to the mental state of
16 the third party acting at the direction of the defendant.

17 (e) Sentence. A violation of a stalking no contact order
18 is a Class A misdemeanor. Violation of a stalking no contact is
19 a Class 4 felony if the defendant has any prior conviction
20 under this Code for a violation of an order of protection,
21 violation of a stalking no contact order, or violation of a
22 civil no contact order (Section 12-3.4, 12-3.8, 12-3.9, or
23 12-30), or any prior conviction under the law of another
24 jurisdiction for an offense that could be charged in this
25 State as a violation of an order of protection, violation of a
26 civil no contact order, or violation of a stalking no contact

1 order ~~for a first violation, and a Class 4 felony for a second~~
2 ~~or subsequent violation.~~

3 (Source: P.A. 100-199, eff. 1-1-18.)