



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4900

Introduced 2/18/2020, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.4

was 720 ILCS 5/12-30

Amends the Criminal Code of 2012. Provides that the court shall impose a minimum fine of: (1) \$100 for a first violation of an order of protection; (2) \$250 for a second violation; (3) \$500 for a third violation; and (4) \$1,000 for a fourth or subsequent violation. Provides that the minimum fines for subsequent offenses apply to a person who was convicted of violation of an order of protection and had previous convictions for that offense or certain other listed offenses committed against family or household members.

LRB101 19746 RLC 69256 b

FISCAL NOTE ACT
MAY APPLY

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 changing
5 Section 12-3.4 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 Illinois
16 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 laws
22 of another state, tribe or United States territory,

23 (iii) any other remedy when the act constitutes a

1 crime against the protected parties as the term
2 protected parties is defined in Section 112A-4 of the
3 Code of Criminal Procedure of 1963; and

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

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

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

22 (b) 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 (c) The limitations placed on law enforcement liability by
26 Section 305 of the Illinois Domestic Violence Act of 1986 apply

1 to actions taken under this Section.

2 (d) Violation of an order of protection is a Class A
3 misdemeanor for which the court shall impose a minimum fine of
4 \$100. Violation of an order of protection is a Class 4 felony
5 for which the court shall impose a minimum fine of \$250 for a
6 second offense if the defendant has any prior conviction under
7 this Code for domestic battery (Section 12-3.2) or violation of
8 an order of protection (Section 12-3.4 or 12-30) or any prior
9 conviction under the law of another jurisdiction for an offense
10 that could be charged in this State as a domestic battery or
11 violation of an order of protection. Violation of an order of
12 protection is a Class 4 felony if the defendant has any prior
13 conviction under this Code for first degree murder (Section
14 9-1), attempt to commit first degree murder (Section 8-4),
15 aggravated domestic battery (Section 12-3.3), aggravated
16 battery (Section 12-3.05 or 12-4), heinous battery (Section
17 12-4.1), aggravated battery with a firearm (Section 12-4.2),
18 aggravated battery with a machine gun or a firearm equipped
19 with a silencer (Section 12-4.2-5), aggravated battery of a
20 child (Section 12-4.3), aggravated battery of an unborn child
21 (subsection (a-5) of Section 12-3.1, or Section 12-4.4),
22 aggravated battery of a senior citizen (Section 12-4.6),
23 stalking (Section 12-7.3), aggravated stalking (Section
24 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13),
25 aggravated criminal sexual assault (Section 11-1.30 or 12-14),
26 kidnapping (Section 10-1), aggravated kidnapping (Section

1 10-2), predatory criminal sexual assault of a child (Section
2 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section
3 11-1.60 or 12-16), unlawful restraint (Section 10-3),
4 aggravated unlawful restraint (Section 10-3.1), aggravated
5 arson (Section 20-1.1), aggravated discharge of a firearm
6 (Section 24-1.2), or a violation of any former law of this
7 State that is substantially similar to any listed offense, or
8 any prior conviction under the law of another jurisdiction for
9 an offense that could be charged in this State as one of the
10 offenses listed in this Section, when any of these offenses
11 have been committed against a family or household member as
12 defined in Section 112A-3 of the Code of Criminal Procedure of
13 1963. If the violation under this subsection (d) is a third
14 offense, the court shall impose a minimum fine of \$500. If the
15 violation under this subsection (d) is a fourth or subsequent
16 offense, the court shall impose a minimum fine of \$1,000. The
17 court shall impose a minimum penalty of 24 hours imprisonment
18 for defendant's second or subsequent violation of any order of
19 protection; unless the court explicitly finds that an increased
20 penalty or such period of imprisonment would be manifestly
21 unjust. In addition to any other penalties, the court may order
22 the defendant to pay a fine as authorized under Section 5-9-1
23 of the Unified Code of Corrections or to make restitution to
24 the victim under Section 5-5-6 of the Unified Code of
25 Corrections.

26 (e) (Blank).

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

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