

SB3426



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3426

Introduced 2/14/2020, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

740 ILCS 21/10
740 ILCS 22/213
815 ILCS 518/5
815 ILCS 615/15

from Ch. 29, par. 1051-15

Amends the Stalking No Contact Order Act. Includes electronic communication in the definition of "contact". Amends the Civil No Contact Order Act. Provides that the court may provide relief in a civil no contact order by restraining the respondent from having any electronic communication with the petitioner. Amends the Internet Dating, Internet Child Care, Internet Senior Care, and Internet Home Care Safety Act. Changes the definition of "internet dating service" to remove the qualifier that such services be performed for a fee. Makes a corresponding change to the Dating Referral Services Act.

LRB101 15815 LNS 65907 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Stalking No Contact Order Act is amended by
5 changing Section 10 as follows:

6 (740 ILCS 21/10)

7 Sec. 10. Definitions. For the purposes of this Act:

8 "Course of conduct" means 2 or more acts, including but not
9 limited to acts in which a respondent directly, indirectly, or
10 through third parties, by any action, method, device, or means
11 follows, monitors, observes, surveils, or threatens a person,
12 workplace, school, or place of worship, engages in other
13 contact, or interferes with or damages a person's property or
14 pet. A course of conduct may include contact via electronic
15 communications. The incarceration of a person in a penal
16 institution who commits the course of conduct is not a bar to
17 prosecution under this Section.

18 "Emotional distress" means significant mental suffering,
19 anxiety or alarm.

20 "Contact" includes any contact with the victim, that is
21 initiated or continued without the victim's consent, or that is
22 in disregard of the victim's expressed desire that the contact
23 be avoided or discontinued, including but not limited to being

1 in the physical presence of the victim; appearing within the
2 sight of the victim; approaching or confronting the victim in a
3 public place or on private property; appearing at the workplace
4 or residence of the victim; entering onto or remaining on
5 property owned, leased, or occupied by the victim; placing an
6 object on, or delivering an object to, property owned, leased,
7 or occupied by the victim; electronic communication as defined
8 in Section 26.5-0.1 of the Criminal Code of 2012; and appearing
9 at the prohibited workplace, school, or place of worship.

10 "Petitioner" means any named petitioner for the stalking no
11 contact order or any named victim of stalking on whose behalf
12 the petition is brought. "Petitioner" includes an authorized
13 agent of a place of employment, an authorized agent of a place
14 of worship, or an authorized agent of a school.

15 "Reasonable person" means a person in the petitioner's
16 circumstances with the petitioner's knowledge of the
17 respondent and the respondent's prior acts.

18 "Stalking" means engaging in a course of conduct directed
19 at a specific person, and he or she knows or should know that
20 this course of conduct would cause a reasonable person to fear
21 for his or her safety, the safety of a workplace, school, or
22 place of worship, or the safety of a third person or suffer
23 emotional distress. Stalking does not include an exercise of
24 the right to free speech or assembly that is otherwise lawful
25 or picketing occurring at the workplace that is otherwise
26 lawful and arises out of a bona fide labor dispute, including

1 any controversy concerning wages, salaries, hours, working
2 conditions or benefits, including health and welfare, sick
3 leave, insurance, and pension or retirement provisions, the
4 making or maintaining of collective bargaining agreements, and
5 the terms to be included in those agreements.

6 "Stalking no contact order" means an emergency order or
7 plenary order granted under this Act, which includes a remedy
8 authorized by Section 80 of this Act.

9 (Source: P.A. 100-1000, eff. 1-1-19.)

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

12 (740 ILCS 22/213)

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

14 (a) If the court finds that the petitioner has been a
15 victim of non-consensual sexual conduct or non-consensual
16 sexual penetration, a civil no contact order shall issue;
17 provided that the petitioner must also satisfy the requirements
18 of Section 214 on emergency orders or Section 215 on plenary
19 orders. The petitioner shall not be denied a civil no contact
20 order because the petitioner or the respondent is a minor. The
21 court, when determining whether or not to issue a civil no
22 contact order, may not require physical injury on the person of
23 the victim. Modification and extension of prior civil no
24 contact orders shall be in accordance with this Act.

1 (a-5) When a petition for a civil no contact order is
2 granted, the order shall not be publicly available until the
3 order is served on the respondent.

4 (b) (Blank).

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

6 (1) prohibit the respondent from knowingly coming
7 within, or knowingly remaining within, a specified
8 distance from the petitioner;

9 (2) restrain the respondent from having any contact,
10 including nonphysical contact and electronic communication
11 as defined in Section 26.5-0.1 of the Criminal Code of
12 2012, with the petitioner directly, indirectly, or through
13 third parties, regardless of whether those third parties
14 know of the order;

15 (3) prohibit the respondent from knowingly coming
16 within, or knowingly remaining within, a specified
17 distance from the petitioner's residence, school, day care
18 or other specified location;

19 (4) order the respondent to stay away from any property
20 or animal owned, possessed, leased, kept, or held by the
21 petitioner and forbid the respondent from taking,
22 transferring, encumbering, concealing, harming, or
23 otherwise disposing of the property or animal; and

24 (5) order any other injunctive relief as necessary or
25 appropriate for the protection of the petitioner.

26 (b-6) When the petitioner and the respondent attend the

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

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

18 (b-7) The court may order the parents, guardian, or legal
19 custodian of a minor respondent to take certain actions or to
20 refrain from taking certain actions to ensure that the
21 respondent complies with the order. In the event the court
22 orders a transfer of the respondent to another school, the
23 parents or legal guardians of the respondent are responsible
24 for transportation and other costs associated with the change
25 of school by the respondent.

26 (c) Denial of a remedy may not be based, in whole or in

1 part, on evidence that:

2 (1) the respondent has cause for any use of force,
3 unless that cause satisfies the standards for justifiable
4 use of force provided by Article 7 of the Criminal Code of
5 2012;

6 (2) the respondent was voluntarily intoxicated;

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

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

13 (5) the petitioner left the residence or household to
14 avoid further non-consensual sexual conduct or
15 non-consensual sexual penetration by the respondent;

16 (6) the petitioner did not leave the residence or
17 household to avoid further non-consensual sexual conduct
18 or non-consensual sexual penetration by the respondent.

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

20 (Source: P.A. 101-255, eff. 1-1-20.)

21 Section 15. The Internet Dating, Internet Child Care,
22 Internet Senior Care, and Internet Home Care Safety Act is
23 amended by changing Section 5 as follows:

24 (815 ILCS 518/5)

1 Sec. 5. Definitions. As used in this Act:

2 "Criminal background screening" means a name search for a
3 person's criminal convictions initiated by an Internet dating
4 service provider, an Internet child care service provider, an
5 Internet senior care service provider, or an Internet home care
6 provider and conducted by:

7 (1) searching available and regularly updated
8 government public record databases for criminal
9 convictions so long as such databases, in the aggregate,
10 provide substantial national coverage; or

11 (2) searching a database maintained by a private vendor
12 that is regularly updated and is maintained in the United
13 States with substantial national coverage of criminal
14 history records and sexual offender registries.

15 "Internet dating service" means a person or entity in the
16 business, ~~for a fee,~~ of providing dating, romantic
17 relationship, or matrimonial services principally on or
18 through the Internet.

19 "Internet child care service" means a person or entity, in
20 the business, for a fee, of providing access to a database,
21 principally on or through the Internet, of seekers and
22 providers of child care services.

23 "Internet senior care service" means a person or entity in
24 the business, for a fee, of providing access to a database,
25 principally on or through the Internet, of seekers and
26 providers of senior care services.

1 "Internet home care service" means a person or entity in
2 the business, for a fee, of providing access to a database,
3 principally on or through the Internet, of seekers and
4 providers of domestic home care services including, dog
5 walkers, pet sitters, housekeepers, house cleaners, house
6 sitters, and tutors.

7 "Member" means a customer, client, or participant who
8 submits to an Internet dating service, Internet child care
9 service, Internet senior care service, or Internet home care
10 service information required to access the service for the
11 purpose of engaging in dating, relationship, compatibility,
12 matrimonial, or social, child care, senior care, or home care
13 referral.

14 "Illinois member" means a member who provides an Illinois
15 billing address or zip code when registering with the service.

16 "Criminal conviction" means a conviction for any crime
17 including but not limited to any sex offense that would qualify
18 the offender for registration pursuant to the Sex Offender
19 Registration Act or under another jurisdiction's equivalent
20 statute.

21 (Source: P.A. 97-1056, eff. 8-24-12; 98-458, eff. 8-16-13.)

22 Section 20. The Dating Referral Services Act is amended by
23 changing Section 15 as follows:

24 (815 ILCS 615/15) (from Ch. 29, par. 1051-15)

1 Sec. 15. Written contract required. Every contract for
2 dating referral services shall be in writing and shall be
3 subject to this Act. All provisions, requirements, and
4 prohibitions that are mandated by this Act and the Internet
5 Dating, Internet Child Care, Internet Senior Care, and Internet
6 Home Care Safety Act shall be contained in the written contract
7 before it is signed by the customer. A copy of the written
8 contract shall be given to the customer at the time the
9 customer signs the contract. Dating referral enterprises shall
10 maintain original copies of all contracts for services for as
11 long as the contracts are in effect and for a period of 3 years
12 thereafter.

13 (Source: P.A. 87-450.)