



Rep. Dave Vella

Filed: 3/19/2021

10200HB0734ham001

LRB102 11400 KMF 23722 a

1 AMENDMENT TO HOUSE BILL 734

2 AMENDMENT NO. _____. Amend House Bill 734 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 112A-20 and 112A-23 as follows:

6 (725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

7 Sec. 112A-20. Duration and extension of final protective
8 orders.

9 (a) (Blank).

10 (b) A final protective order shall remain in effect as
11 follows:

12 (1) if entered during pre-trial release, until
13 disposition, withdrawal, or dismissal of the underlying
14 charge; if, however, the case is continued as an
15 independent cause of action, the order's duration may be
16 for a fixed period of time not to exceed 2 years;

1 (2) if in effect in conjunction with a bond forfeiture
2 warrant, until final disposition or an additional period
3 of time not exceeding 2 years; no domestic violence order
4 of protection, however, shall be terminated by a dismissal
5 that is accompanied by the issuance of a bond forfeiture
6 warrant;

7 (3) until 2 years after the expiration of any
8 supervision, conditional discharge, probation, periodic
9 imprisonment, parole, aftercare release, or mandatory
10 supervised release for domestic violence orders of
11 protection and civil no contact orders; ~~or~~

12 (4) until 2 years after the date set by the court for
13 expiration of any sentence of imprisonment and subsequent
14 parole, aftercare release, or mandatory supervised release
15 for domestic violence orders of protection and civil no
16 contact orders; ~~and~~

17 (5) permanent for a stalking no contact order if a
18 judgment of conviction for stalking is entered; ~~or~~

19 (6) permanent for a civil no contact order at the
20 victim's request if a judgment of conviction for criminal
21 sexual assault, aggravated criminal sexual assault,
22 criminal sexual abuse, excluding a conviction under
23 subsection (c) of Section 11-1.50 of the Criminal Code of
24 2012, or aggravated criminal sexual abuse is entered.

25 (c) Computation of time. The duration of a domestic
26 violence order of protection shall not be reduced by the

1 duration of any prior domestic violence order of protection.

2 (d) Law enforcement records. When a protective order
3 expires upon the occurrence of a specified event, rather than
4 upon a specified date as provided in subsection (b), no
5 expiration date shall be entered in Department of State Police
6 records. To remove the protective order from those records,
7 either the petitioner or the respondent shall request the
8 clerk of the court to file a certified copy of an order stating
9 that the specified event has occurred or that the protective
10 order has been vacated or modified with the sheriff, and the
11 sheriff shall direct that law enforcement records shall be
12 promptly corrected in accordance with the filed order.

13 (e) Extension of Orders. Any domestic violence order of
14 protection or civil no contact order that expires 2 years
15 after the expiration of the defendant's sentence under
16 paragraph (2), (3), or (4) of subsection (b) of Section
17 112A-20 of this Article may be extended one or more times, as
18 required. The petitioner, petitioner's counsel, or the State's
19 Attorney on the petitioner's behalf shall file the motion for
20 an extension of the final protective order in the criminal
21 case and serve the motion in accordance with Supreme Court
22 Rules 11 and 12. The court shall transfer the motion to the
23 appropriate court or division for consideration under
24 subsection (e) of Section 220 of the Illinois Domestic
25 Violence Act of 1986, subsection (c) of Section 216 of the
26 Civil No Contact Order Act, or subsection (c) of Section 105 of

1 the Stalking No Contact Order as appropriate.

2 (f) Termination date. Any final protective order which
3 would expire on a court holiday shall instead expire at the
4 close of the next court business day.

5 (g) Statement of purpose. The practice of dismissing or
6 suspending a criminal prosecution in exchange for issuing a
7 protective order undermines the purposes of this Article. This
8 Section shall not be construed as encouraging that practice.

9 (Source: P.A. 100-199, eff. 1-1-18; 100-597, eff. 6-29-18.)

10 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

11 Sec. 112A-23. Enforcement of protective orders.

12 (a) When violation is crime. A violation of any protective
13 order, whether issued in a civil, quasi-criminal proceeding,
14 shall be enforced by a criminal court when:

15 (1) The respondent commits the crime of violation of a
16 domestic violence order of protection pursuant to Section
17 12-3.4 or 12-30 of the Criminal Code of 1961 or the
18 Criminal Code of 2012, by having knowingly violated:

19 (i) remedies described in paragraphs (1), (2),
20 (3), (14), or (14.5) of subsection (b) of Section
21 112A-14 of this Code,

22 (ii) a remedy, which is substantially similar to
23 the remedies authorized under paragraphs (1), (2),
24 (3), (14), or (14.5) of subsection (b) of Section 214
25 of the Illinois Domestic Violence Act of 1986, in a

1 valid order of protection, which is authorized under
2 the laws of another state, tribe or United States
3 territory, or

4 (iii) ~~or~~ any other remedy when the act constitutes
5 a crime against the protected parties as defined by
6 the Criminal Code of 1961 or the Criminal Code of 2012.

7 Prosecution for a violation of a domestic violence
8 order of protection shall not bar concurrent prosecution
9 for any other crime, including any crime that may have
10 been committed at the time of the violation of the
11 domestic violence order of protection; or

12 (2) The respondent commits the crime of child
13 abduction pursuant to Section 10-5 of the Criminal Code of
14 1961 or the Criminal Code of 2012, by having knowingly
15 violated:

16 (i) remedies described in paragraphs (5), (6), or
17 (8) of subsection (b) of Section 112A-14 of this Code,
18 or

19 (ii) a remedy, which is substantially similar to
20 the remedies authorized under paragraphs (1), (5),
21 (6), or (8) of subsection (b) of Section 214 of the
22 Illinois Domestic Violence Act of 1986, in a valid
23 domestic violence order of protection, which is
24 authorized under the laws of another state, tribe or
25 United States territory.

26 (3) The respondent commits the crime of violation of a

1 civil no contact order when the respondent violates
2 Section 12-3.8 of the Criminal Code of 2012. Prosecution
3 for a violation of a civil no contact order shall not bar
4 concurrent prosecution for any other crime, including any
5 crime that may have been committed at the time of the
6 violation of the civil no contact order.

7 (4) The respondent commits the crime of violation of a
8 stalking no contact order when the respondent violates
9 Section 12-3.9 of the Criminal Code of 2012. Prosecution
10 for a violation of a stalking no contact order shall not
11 bar concurrent prosecution for any other crime, including
12 any crime that may have been committed at the time of the
13 violation of the stalking no contact order.

14 (b) When violation is contempt of court. A violation of
15 any valid protective order, whether issued in a civil or
16 criminal proceeding, may be enforced through civil or criminal
17 contempt procedures, as appropriate, by any court with
18 jurisdiction, regardless where the act or acts which violated
19 the protective order were committed, to the extent consistent
20 with the venue provisions of this Article. Nothing in this
21 Article shall preclude any Illinois court from enforcing any
22 valid protective order issued in another state. Illinois
23 courts may enforce protective orders through both criminal
24 prosecution and contempt proceedings, unless the action which
25 is second in time is barred by collateral estoppel or the
26 constitutional prohibition against double jeopardy.

1 (1) In a contempt proceeding where the petition for a
2 rule to show cause sets forth facts evidencing an
3 immediate danger that the respondent will flee the
4 jurisdiction, conceal a child, or inflict physical abuse
5 on the petitioner or minor children or on dependent adults
6 in petitioner's care, the court may order the attachment
7 of the respondent without prior service of the rule to
8 show cause or the petition for a rule to show cause. Bond
9 shall be set unless specifically denied in writing.

10 (2) A petition for a rule to show cause for violation
11 of a protective order shall be treated as an expedited
12 proceeding.

13 (c) Violation of custody, allocation of parental
14 responsibility, or support orders. A violation of remedies
15 described in paragraphs (5), (6), (8), or (9) of subsection
16 (b) of Section 112A-14 of this Code may be enforced by any
17 remedy provided by Section 607.5 of the Illinois Marriage and
18 Dissolution of Marriage Act. The court may enforce any order
19 for support issued under paragraph (12) of subsection (b) of
20 Section 112A-14 of this Code in the manner provided for under
21 Parts V and VII of the Illinois Marriage and Dissolution of
22 Marriage Act.

23 (d) Actual knowledge. A protective order may be enforced
24 pursuant to this Section if the respondent violates the order
25 after respondent has actual knowledge of its contents as shown
26 through one of the following means:

1 (1) (Blank).

2 (2) (Blank).

3 (3) By service of a protective order under subsection
4 (f) of Section 112A-17.5 or Section 112A-22 of this Code.

5 (4) By other means demonstrating actual knowledge of
6 the contents of the order.

7 (e) The enforcement of a protective order in civil or
8 criminal court shall not be affected by either of the
9 following:

10 (1) The existence of a separate, correlative order
11 entered under Section 112A-15 of this Code.

12 (2) Any finding or order entered in a conjoined
13 criminal proceeding.

14 (e-5) If a domestic violence order of protection between
15 the victim and the defendant issued pursuant to the Juvenile
16 Court Act of 1987 or the Illinois Marriage and Dissolution of
17 Marriage Act conflicts with a domestic violence order of
18 protection issued by a criminal court, the conflicting
19 provisions of the domestic violence order of protection issued
20 by the criminal court shall be void.

21 (f) Circumstances. The court, when determining whether or
22 not a violation of a protective order has occurred, shall not
23 require physical manifestations of abuse on the person of the
24 victim.

25 (g) Penalties.

26 (1) Except as provided in paragraph (3) of this

1 subsection (g), where the court finds the commission of a
2 crime or contempt of court under subsections (a) or (b) of
3 this Section, the penalty shall be the penalty that
4 generally applies in such criminal or contempt
5 proceedings, and may include one or more of the following:
6 incarceration, payment of restitution, a fine, payment of
7 attorneys' fees and costs, or community service.

8 (2) The court shall hear and take into account
9 evidence of any factors in aggravation or mitigation
10 before deciding an appropriate penalty under paragraph (1)
11 of this subsection (g).

12 (3) To the extent permitted by law, the court is
13 encouraged to:

14 (i) increase the penalty for the knowing violation
15 of any protective order over any penalty previously
16 imposed by any court for respondent's violation of any
17 protective order or penal statute involving petitioner
18 as victim and respondent as defendant;

19 (ii) impose a minimum penalty of 24 hours
20 imprisonment for respondent's first violation of any
21 protective order; and

22 (iii) impose a minimum penalty of 48 hours
23 imprisonment for respondent's second or subsequent
24 violation of a protective order

25 unless the court explicitly finds that an increased
26 penalty or that period of imprisonment would be manifestly

1 unjust.

2 (4) In addition to any other penalties imposed for a
3 violation of a protective order, a criminal court may
4 consider evidence of any violations of a protective order:

5 (i) to increase, revoke, or modify the bail bond
6 on an underlying criminal charge pursuant to Section
7 110-6 of this Code;

8 (ii) to revoke or modify an order of probation,
9 conditional discharge, or supervision, pursuant to
10 Section 5-6-4 of the Unified Code of Corrections;

11 (iii) to revoke or modify a sentence of periodic
12 imprisonment, pursuant to Section 5-7-2 of the Unified
13 Code of Corrections.

14 (Source: P.A. 99-90, eff. 1-1-16; 100-199, eff. 1-1-18;
15 100-597, eff. 6-29-18; revised 7-12-19.)".