

1 AN ACT in relation to stalking.

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

4 Section 1. Short title. This Act may be cited as the
5 Stalking No Contact Order Act.

6 Section 5. Purpose. Stalking generally refers to a course
7 of conduct, not a single act. Stalking behavior includes
8 following a person, conducting surveillance of the person,
9 appearing at the person's home, work or school, making unwanted
10 phone calls, sending unwanted emails or text messages, leaving
11 objects for the person, vandalizing the person's property, or
12 injuring a pet. Stalking is a serious crime. Victims experience
13 fear for their safety, fear for the safety of others and suffer
14 emotional distress. Many victims alter their daily routines to
15 avoid the persons who are stalking them. Some victims are in
16 such fear that they relocate to another city, town or state.
17 While estimates suggest that 70% of victims know the
18 individuals stalking them, only 30% of victims have dated or
19 been in intimate relationships with their stalkers. All
20 stalking victims should be able to seek a civil remedy
21 requiring the offenders stay away from the victims and third
22 parties.

1 Section 10. Definitions. For the purposes of this Act:

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

12 "Emotional distress" means significant mental suffering,
13 anxiety or alarm.

14 "Contact" includes any contact with the victim, that is
15 initiated or continued without the victim's consent, or that is
16 in disregard of the victim's expressed desire that the contact
17 be avoided or discontinued, including but not limited to being
18 in the physical presence of the victim; appearing within the
19 sight of the victim; approaching or confronting the victim in a
20 public place or on private property; appearing at the workplace
21 or residence of the victim; entering onto or remaining on
22 property owned, leased, or occupied by the victim; or placing
23 an object on, or delivering an object to, property owned,
24 leased, or occupied by the victim.

25 "Petitioner" means any named petitioner for the stalking no
26 contact order or any named victim of stalking on whose behalf

1 the petition is brought.

2 "Reasonable person" means a person in the petitioner's
3 circumstances with the petitioner's knowledge of the
4 respondent and the respondent's prior acts.

5 "Stalking" means engaging in a course of conduct directed
6 at a specific person, and he or she knows or should know that
7 this course of conduct would cause a reasonable person to fear
8 for his or her safety or the safety of a third person or suffer
9 emotional distress. Stalking does not include an exercise of
10 the right to free speech or assembly that is otherwise lawful
11 or picketing occurring at the workplace that is otherwise
12 lawful and arises out of a bona fide labor dispute, including
13 any controversy concerning wages, salaries, hours, working
14 conditions or benefits, including health and welfare, sick
15 leave, insurance, and pension or retirement provisions, the
16 making or maintaining of collective bargaining agreements, and
17 the terms to be included in those agreements.

18 "Stalking No Contact Order" means an emergency order or
19 plenary order granted under this Act, which includes a remedy
20 authorized by Section 80 of this Act.

21 Section 15. Persons protected by this Act. A petition for a
22 stalking no contact order may be filed when relief is not
23 available to the petitioner under the Illinois Domestic
24 Violence Act of 1986:

25 (1) by any person who is a victim of stalking; or

1 (2) by a person on behalf of a minor child or an adult
2 who is a victim of stalking but, because of age,
3 disability, health, or inaccessibility, cannot file the
4 petition.

5 Section 20. Commencement of action; filing fees.

6 (a) An action for a stalking no contact order is commenced:

7 (1) independently, by filing a petition for a stalking
8 no contact order in any civil court, unless specific courts
9 are designated by local rule or order; or

10 (2) in conjunction with a delinquency petition or a
11 criminal prosecution, by filing a petition for a stalking
12 no contact order under the same case number as the
13 delinquency petition or criminal prosecution, to be
14 granted during pre-trial release of a defendant, with any
15 dispositional order issued under Section 5-710 of the
16 Juvenile Court Act of 1987 or as a condition of release,
17 supervision, conditional discharge, probation, periodic
18 imprisonment, parole, or mandatory supervised release, or
19 in conjunction with imprisonment or a bond forfeiture
20 warrant, provided that (i) the violation is alleged in an
21 information, complaint, indictment, or delinquency
22 petition on file and the alleged victim is a person
23 protected by this Act, and (ii) the petition, which is
24 filed by the State's Attorney, names a victim of the
25 alleged crime as a petitioner.

1 (b) Withdrawal or dismissal of any petition for a stalking
2 no contact order prior to adjudication where the petitioner is
3 represented by the State shall operate as a dismissal without
4 prejudice. No action for a stalking no contact order shall be
5 dismissed because the respondent is being prosecuted for a
6 crime against the petitioner. For any action commenced under
7 item (2) of subsection (a) of this Section, dismissal of the
8 conjoined case (or a finding of not guilty) shall not require
9 dismissal of the action for a stalking no contact order;
10 instead, it may be treated as an independent action and, if
11 necessary and appropriate, transferred to a different court or
12 division.

13 (c) No fee shall be charged by the clerk of the court for
14 filing petitions or modifying or certifying orders. No fee
15 shall be charged by the sheriff for service by the sheriff of a
16 petition, rule, motion, or order in an action commenced under
17 this Section.

18 (d) The court shall provide, through the office of the
19 clerk of the court, simplified forms for filing of a petition
20 under this Section by any person not represented by counsel.

21 Section 25. Pleading; non-disclosure of address.

22 (a) A petition for a stalking no contact order shall be in
23 writing and verified or accompanied by affidavit and shall
24 allege that the petitioner has been the victim of stalking by
25 the respondent.

1 (b) If the petition states that disclosure of the
2 petitioner's address would risk abuse of the petitioner or any
3 member of the petitioner's family or household, that address
4 may be omitted from all documents filed with the court. If the
5 petitioner has not disclosed an address under this subsection,
6 the petitioner shall designate an alternative address at which
7 the respondent may serve notice of any motions.

8 Section 30. Application of rules of civil procedure; victim
9 advocates.

10 (a) Any proceeding to obtain, modify, reopen or appeal a
11 stalking no contact order shall be governed by the rules of
12 civil procedure of this State. The standard of proof in such a
13 proceeding is proof by a preponderance of the evidence. The
14 Code of Civil Procedure and Supreme Court and local court rules
15 applicable to civil proceedings shall apply, except as
16 otherwise provided by this Act.

17 (b) In circuit courts, victim advocates shall be allowed to
18 accompany the petitioner and confer with the petitioner, unless
19 otherwise directed by the court. Court administrators shall
20 allow victim advocates to assist victims of stalking in the
21 preparation of petitions for stalking no contact orders. Victim
22 advocates are not engaged in the unauthorized practice of law
23 when providing assistance of the types specified in this
24 subsection (b).

1 Section 35. Appointment of counsel. The court may appoint
2 counsel to represent the petitioner if the respondent is
3 represented by counsel.

4 Section 40. Trial by jury. There shall be no right to trial
5 by jury in any proceeding to obtain, modify, vacate or extend
6 any stalking no contact order under this Act. However, nothing
7 in this Section shall deny any existing right to trial by jury
8 in a criminal proceeding.

9 Section 45. Subject matter jurisdiction. Each of the
10 circuit courts has the power to issue stalking no contact
11 orders.

12 Section 50. Jurisdiction over persons. The courts of this
13 State have jurisdiction to bind (1) State residents and (2)
14 non-residents having minimum contacts with this State, to the
15 extent permitted by the long-arm statute, Section 2-209 of the
16 Code of Civil Procedure.

17 Section 55. Venue. A petition for a stalking no contact
18 order may be filed in any county where (1) the petitioner
19 resides, (2) the respondent resides, or (3) one or more acts of
20 the alleged stalking occurred.

21 Section 60. Process.

1 (a) Any action for a stalking no contact order requires
2 that a separate summons be issued and served. The summons shall
3 be in the form prescribed by Supreme Court Rule 101(d), except
4 that it shall require the respondent to answer or appear within
5 7 days. Attachments to the summons or notice shall include the
6 petition for stalking no contact order and supporting
7 affidavits, if any, and any emergency stalking no contact order
8 that has been issued.

9 (b) The summons shall be served by the sheriff or other law
10 enforcement officer at the earliest time and shall take
11 precedence over other summonses except those of a similar
12 emergency nature. Special process servers may be appointed at
13 any time, and their designation shall not affect the
14 responsibilities and authority of the sheriff or other official
15 process servers.

16 (c) Service of process on a member of the respondent's
17 household or by publication shall be adequate if: (1) the
18 petitioner has made all reasonable efforts to accomplish actual
19 service of process personally upon the respondent, but the
20 respondent cannot be found to effect such service; and (2) the
21 petitioner files an affidavit or presents sworn testimony as to
22 those efforts.

23 (d) A plenary stalking no contact order may be entered by
24 default for the remedy sought in the petition, if the
25 respondent has been served or given notice in accordance with
26 subsection (a) and if the respondent then fails to appear as

1 directed or fails to appear on any subsequent appearance or
2 hearing date agreed to by the parties or set by the court.

3 Section 65. Service of notice of hearings. Except as
4 provided in Section 60, notice of hearings on petitions or
5 motions shall be served in accordance with Supreme Court Rules
6 11 and 12, unless notice is excused by Section 100 of this Act
7 or by the Code of Civil Procedure, Supreme Court Rules, or
8 local rules.

9 Section 70. Hearings. A petition for a stalking no contact
10 order shall be treated as an expedited proceeding, and no court
11 may transfer or otherwise decline to decide all or part of such
12 petition. Nothing in this Section shall prevent the court from
13 reserving issues if jurisdiction or notice requirements are not
14 met.

15 Section 75. Continuances.

16 (a) Petitions for emergency remedies shall be granted or
17 denied in accordance with the standards of Section 100,
18 regardless of the respondent's appearance or presence in court.

19 (b) Any action for a stalking no contact order is an
20 expedited proceeding. Continuances shall be granted only for
21 good cause shown and kept to the minimum reasonable duration,
22 taking into account the reasons for the continuance.

1 Section 80. Stalking no contact orders; remedies.

2 (a) If the court finds that the petitioner has been a
3 victim of stalking, a stalking no contact order shall issue;
4 provided that the petitioner must also satisfy the requirements
5 of Section 95 on emergency orders or Section 100 on plenary
6 orders. The petitioner shall not be denied a stalking no
7 contact order because the petitioner or the respondent is a
8 minor. The court, when determining whether or not to issue a
9 stalking no contact order, may not require physical injury on
10 the person of the petitioner. Modification and extension of
11 prior stalking no contact orders shall be in accordance with
12 this Act.

13 (b) A stalking no contact order shall order one or more of
14 the following:

15 (1) prohibit the respondent from threatening to commit
16 or committing stalking;

17 (2) order the respondent not to have any contact with
18 the petitioner or a third person specifically named by the
19 court;

20 (3) prohibit the respondent from knowingly coming
21 within, or knowingly remaining within a specified distance
22 of the petitioner or the petitioner's residence, school,
23 daycare, or place of employment, or any specified place
24 frequented by the petitioner; however, the court may order
25 the respondent to stay away from the respondent's own
26 residence, school, or place of employment only if the

1 respondent has been provided actual notice of the
2 opportunity to appear and be heard on the petition;

3 (4) prohibit the respondent from possessing a Firearm
4 Owners Identification Card, or possessing or buying
5 firearms; and

6 (5) order other injunctive relief the court determines
7 to be necessary to protect the petitioner or third party
8 specifically named by the court.

9 (c) The court may award the petitioner costs and attorneys
10 fees if a stalking no contact order is granted.

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

12 Section 85. Mutual stalking no contact orders are
13 prohibited. Correlative separate orders undermine the purposes
14 of this Act. If separate orders are sought, both must comply
15 with all provisions of this Act.

16 Section 90. Accountability for actions of others. For the
17 purposes of issuing a stalking no contact order, deciding what
18 remedies should be included and enforcing the order, Article 5
19 of the Criminal Code of 1961 shall govern whether respondent is
20 legally accountable for the conduct of another person.

21 Section 95. Emergency stalking no contact order.

22 (a) An emergency stalking no contact order shall issue if
23 the petitioner satisfies the requirements of this subsection

1 (a). The petitioner shall establish that:

2 (1) the court has jurisdiction under Section 50;

3 (2) the requirements of Section 80 are satisfied; and

4 (3) there is good cause to grant the remedy, regardless
5 of prior service of process or of notice upon the
6 respondent, because the harm which that remedy is intended
7 to prevent would be likely to occur if the respondent were
8 given any prior notice, or greater notice than was actually
9 given, of the petitioner's efforts to obtain judicial
10 relief.

11 An emergency stalking no contact order shall be issued by
12 the court if it appears from the contents of the petition and
13 the examination of the petitioner that the averments are
14 sufficient to indicate stalking by the respondent and to
15 support the granting of relief under the issuance of the
16 stalking no contact order.

17 An emergency stalking no contact order shall be issued if
18 the court finds that items (1), (2), and (3) of this subsection
19 (a) are met.

20 (b) If the respondent appears in court for this hearing for
21 an emergency order, he or she may elect to file a general
22 appearance and testify. Any resulting order may be an emergency
23 order, governed by this Section. Notwithstanding the
24 requirements of this Section, if all requirements of Section
25 100 have been met, the court may issue a plenary order.

26 (c) Emergency orders; court holidays and evenings.

1 (1) When the court is unavailable at the close of
2 business, the petitioner may file a petition for a 21-day
3 emergency order before any available circuit judge or
4 associate judge who may grant relief under this Act. If the
5 judge finds that there is an immediate and present danger
6 of abuse against the petitioner and that the petitioner has
7 satisfied the prerequisites set forth in subsection (a),
8 that judge may issue an emergency stalking no contact
9 order.

10 (2) The chief judge of the circuit court may designate
11 for each county in the circuit at least one judge to be
12 reasonably available to issue orally, by telephone, by
13 facsimile, or otherwise, an emergency stalking no contact
14 order at all times, whether or not the court is in session.

15 (3) Any order issued under this Section and any
16 documentation in support of the order shall be certified on
17 the next court day to the appropriate court. The clerk of
18 that court shall immediately assign a case number, file the
19 petition, order, and other documents with the court, and
20 enter the order of record and file it with the sheriff for
21 service, in accordance with Section 60. Filing the petition
22 shall commence proceedings for further relief under
23 Section 20. Failure to comply with the requirements of this
24 paragraph (3) does not affect the validity of the order.

25 Section 100. Plenary stalking no contact order. A plenary

1 stalking no contact order shall issue if the petitioner has
2 served notice of the hearing for that order on the respondent,
3 in accordance with Section 65, and satisfies the requirements
4 of this Section. The petitioner must establish that:

5 (1) the court has jurisdiction under Section 50;

6 (2) the requirements of Section 80 are satisfied;

7 (3) a general appearance was made or filed by or for
8 the respondent or process was served on the respondent in
9 the manner required by Section 60; and

10 (4) the respondent has answered or is in default.

11 Section 105. Duration and extension of orders.

12 (a) Unless re-opened or extended or voided by entry of an
13 order of greater duration, an emergency order shall be
14 effective for not less than 14 nor more than 21 days.

15 (b) Except as otherwise provided in this Section, a plenary
16 stalking no contact order shall be effective for a fixed period
17 of time, not to exceed 2 years. A plenary stalking no contact
18 order entered in conjunction with a criminal prosecution shall
19 remain in effect as follows:

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

25 (2) if in effect in conjunction with a bond forfeiture

1 warrant, until final disposition or an additional period of
2 time not exceeding 2 years; no stalking no contact order,
3 however, shall be terminated by a dismissal that is
4 accompanied by the issuance of a bond forfeiture warrant;

5 (3) permanent if a judgment of conviction for stalking
6 is entered.

7 (c) Any emergency or plenary order may be extended one or
8 more times, as required, provided that the requirements of
9 Section 95 or 100, as appropriate, are satisfied. If the motion
10 for extension is uncontested and the petitioner seeks no
11 modification of the order, the order may be extended on the
12 basis of the petitioner's motion or affidavit stating that
13 there has been no material change in relevant circumstances
14 since entry of the order and stating the reason for the
15 requested extension. Extensions may be granted only in open
16 court and not under the provisions of subsection (c) of Section
17 95, which applies only when the court is unavailable at the
18 close of business or on a court holiday.

19 (d) Any stalking no contact order which would expire on a
20 court holiday shall instead expire at the close of the next
21 court business day.

22 (e) The practice of dismissing or suspending a criminal
23 prosecution in exchange for the issuance of a stalking no
24 contact order undermines the purposes of this Act. This Section
25 shall not be construed as encouraging that practice.

1 Section 110. Contents of orders.

2 (a) Any stalking no contact order shall describe each
3 remedy granted by the court, in reasonable detail and not by
4 reference to any other document, so that the respondent may
5 clearly understand what he or she must do or refrain from
6 doing.

7 (b) A stalking no contact order shall further state the
8 following:

9 (1) The name of each petitioner that the court finds
10 was the victim of stalking by the respondent.

11 (2) The date and time the stalking no contact order was
12 issued, whether it is an emergency or plenary order, and
13 the duration of the order.

14 (3) The date, time, and place for any scheduled hearing
15 for extension of that stalking no contact order or for
16 another order of greater duration or scope.

17 (4) For each remedy in an emergency stalking no contact
18 order, the reason for entering that remedy without prior
19 notice to the respondent or greater notice than was
20 actually given.

21 (5) For emergency stalking no contact orders, that the
22 respondent may petition the court, in accordance with
23 Section 120, to reopen the order if he or she did not
24 receive actual prior notice of the hearing as required
25 under Section 65 of this Act and if the respondent alleges
26 that he or she had a meritorious defense to the order or

1 that the order or its remedy is not authorized by this Act.

2 (c) A stalking no contact order shall include the following
3 notice, printed in conspicuous type: "An initial knowing
4 violation of a stalking no contact order is a Class A
5 misdemeanor. Any second or subsequent knowing violation is a
6 Class 4 felony."

7 Section 115. Notice of orders.

8 (a) Upon issuance of any stalking no contact order, the
9 clerk shall immediately, or on the next court day if an
10 emergency order is issued in accordance with subsection (c) of
11 Section 95:

12 (1) enter the order on the record and file it in
13 accordance with the circuit court procedures; and

14 (2) provide a file stamped copy of the order to the
15 respondent, if present, and to the petitioner.

16 (b) The clerk of the issuing judge shall, or the petitioner
17 may, on the same day that a stalking no contact order is
18 issued, file a certified copy of that order with the sheriff or
19 other law enforcement officials charged with maintaining
20 Department of State Police records or charged with serving the
21 order upon the respondent. If the order was issued in
22 accordance with subsection (c) of Section 95, the clerk shall,
23 on the next court day, file a certified copy of the order with
24 the sheriff or other law enforcement officials charged with
25 maintaining Department of State Police records.

1 (c) Unless the respondent was present in court when the
2 order was issued, the sheriff, other law enforcement official,
3 or special process server shall promptly serve that order upon
4 the respondent and file proof of such service in the manner
5 provided for service of process in civil proceedings. If
6 process has not yet been served upon the respondent, it shall
7 be served with the order or short form notification.

8 (d) If the person against whom the stalking no contact
9 order is issued is arrested and the written order is issued in
10 accordance with subsection (c) of Section 95 and received by
11 the custodial law enforcement agency before the respondent or
12 arrestee is released from custody, the custodial law
13 enforcement agent shall promptly serve the order upon the
14 respondent or arrestee before the respondent or arrestee is
15 released from custody. In no event shall detention of the
16 respondent or arrestee be extended for hearing on the petition
17 for stalking no contact order or receipt of the order issued
18 under Section 95 of this Act.

19 (e) Any order extending, modifying, or revoking any
20 stalking no contact order shall be promptly recorded, issued,
21 and served as provided in this Section.

22 (f) Upon the request of the petitioner, within 24 hours of
23 the issuance of a stalking no contact order, the clerk of the
24 issuing judge shall send written notice of the order along with
25 a certified copy of the order to any school, daycare, college,
26 or university at which the petitioner is enrolled.

1 Section 120. Modification; reopening of orders.

2 (a) Except as otherwise provided in this Section, upon
3 motion by the petitioner, the court may modify an emergency or
4 plenary stalking no contact order by altering the remedy,
5 subject to Section 80.

6 (b) After 30 days following entry of a plenary stalking no
7 contact order, a court may modify that order only when a change
8 in the applicable law or facts since that plenary order was
9 entered warrants a modification of its terms.

10 (c) Upon 2 days' notice to the petitioner, or such shorter
11 notice as the court may prescribe, a respondent subject to an
12 emergency stalking no contact order issued under this Act may
13 appear and petition the court to rehear the original or amended
14 petition. Any petition to rehear shall be verified and shall
15 allege the following:

16 (1) that the respondent did not receive prior notice of
17 the initial hearing in which the emergency order was
18 entered under Sections 65 and 95; and

19 (2) that the respondent had a meritorious defense to
20 the order or any of its remedies or that the order or any
21 of its remedies was not authorized by this Act.

22 Section 125. Violation. An initial knowing violation of a
23 stalking no contact order is a Class A misdemeanor. A second or
24 subsequent knowing violation is a Class 4 felony.

1 Section 130. Arrest without warrant.

2 (a) Any law enforcement officer may make an arrest without
3 warrant if the officer has probable cause to believe that the
4 person has committed or is committing a violation of a stalking
5 no contact order.

6 (b) The law enforcement officer may verify the existence of
7 a stalking no contact order by telephone or radio communication
8 with his or her law enforcement agency or by referring to the
9 copy of the order provided by the petitioner or the respondent.

10 Section 135. Data maintenance by law enforcement agencies.

11 (a) All sheriffs shall furnish to the Department of State
12 Police, on the same day as received, in the form and detail the
13 Department requires, copies of any recorded emergency or
14 plenary stalking no contact orders issued by the court and
15 transmitted to the sheriff by the clerk of the court in
16 accordance with subsection (b) of Section 115 of this Act. Each
17 stalking no contact order shall be entered in the Law
18 Enforcement Agencies Data System on the same day it is issued
19 by the court. If an emergency stalking no contact order was
20 issued in accordance with subsection (c) of Section 100, the
21 order shall be entered in the Law Enforcement Agencies Data
22 System as soon as possible after receipt from the clerk of the
23 court.

24 (b) The Department of State Police shall maintain a

1 complete and systematic record and index of all valid and
2 recorded stalking no contact orders issued under this Act. The
3 data shall be used to inform all dispatchers and law
4 enforcement officers at the scene of an alleged incident of
5 stalking or violation of a stalking no contact order of any
6 recorded prior incident of stalking involving the petitioner
7 and the effective dates and terms of any recorded stalking no
8 contact order.