

AN ACT in relation to stalking.

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

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

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

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

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

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

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

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

the petition is brought.

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

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

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

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

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

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

Section 20. Commencement of action; filing fees.

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

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

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

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

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

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

Section 25. Pleading; non-disclosure of address.

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

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

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

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

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

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

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

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

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

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

Section 60. Process.

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

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

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

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

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

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

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

Section 75. Continuances.

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

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

Section 80. Stalking no contact orders; remedies.

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

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

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

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

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

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

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

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

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

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

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

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

Section 95. Emergency stalking no contact order.

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

(a). The petitioner shall establish that:

- (1) the court has jurisdiction under Section 50;
- (2) the requirements of Section 80 are satisfied; and
- (3) there is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

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

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

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

(c) Emergency orders; court holidays and evenings.

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

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

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

Section 100. Plenary stalking no contact order. A plenary

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

- (1) the court has jurisdiction under Section 50;
- (2) the requirements of Section 80 are satisfied;
- (3) a general appearance was made or filed by or for the respondent or process was served on the respondent in the manner required by Section 60; and
- (4) the respondent has answered or is in default.

Section 105. Duration and extension of orders.

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

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

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

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

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

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

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

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

Section 110. Contents of orders.

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

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

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

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

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

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

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

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

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

Section 115. Notice of orders.

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

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

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

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

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

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

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

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

Section 120. Modification; reopening of orders.

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

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

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

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

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

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

Section 130. Arrest without warrant.

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

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

Section 135. Data maintenance by law enforcement agencies.

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

(b) The Department of State Police shall maintain a

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