

TECHNOLOGY-ASSISTED HARASSMENT - AND - THE ILLINOIS DOMESTIC VIOLENCE ACT



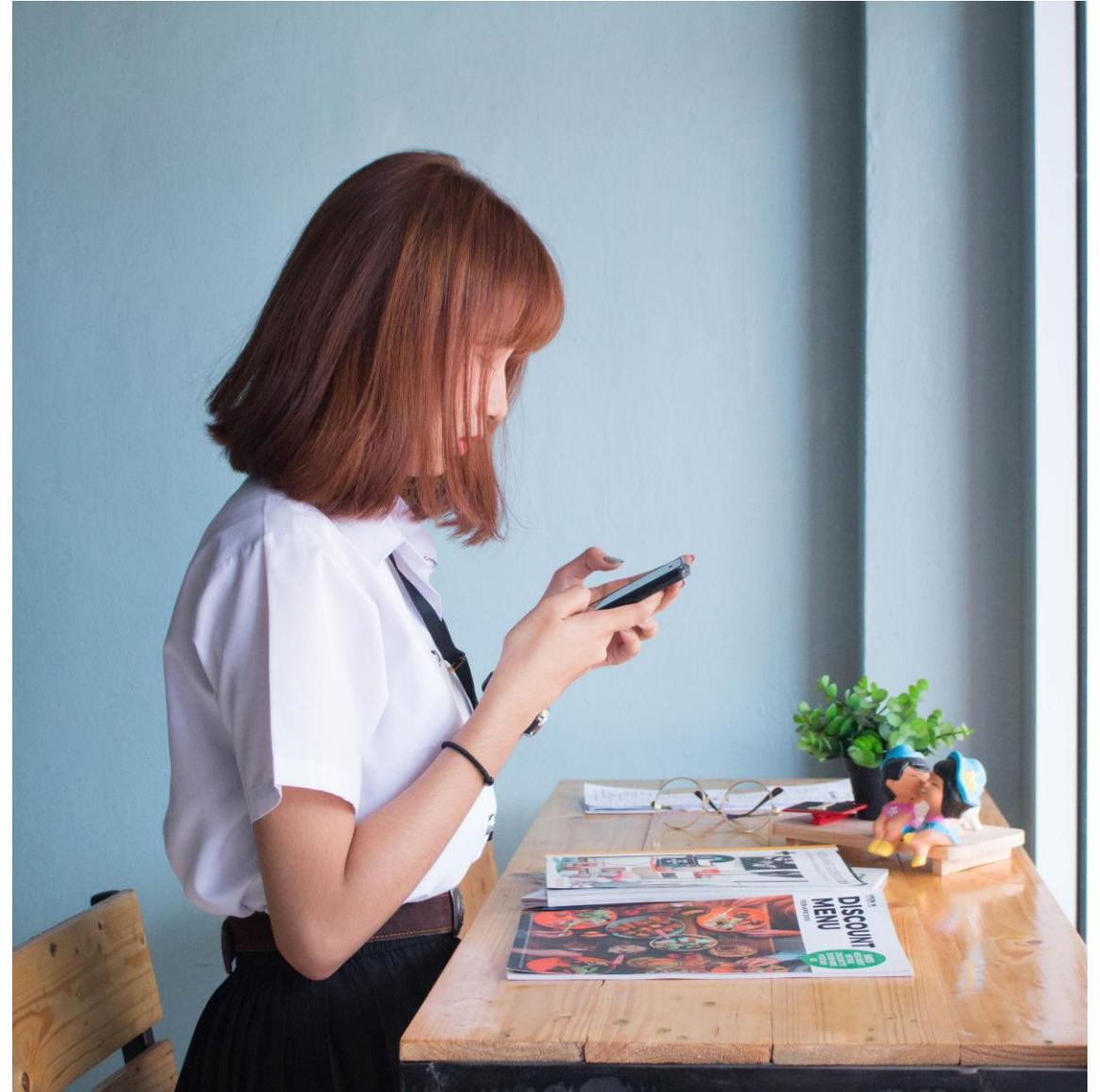
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WHAT IS AN EMERGENCY ORDER OF PROTECTION?

- First step in receiving a civil Order of Protection is to file for an EOP.
- The EOP remains in force for a maximum of 21 days at a time.
- The EOP must allege fear of further abuse/retaliation if Respondent is given notice of the order.



PRACTICAL CONSIDERATIONS FOR EOP/OP PETITIONS

Criteria to file for a civil Emergency Order of Protection under the Illinois Domestic Violence Act (IDVA):

- The parties must be related by blood, marriage, or through a child, or share the same household, or have a dating relationship.
- Petitioner must have suffered abuse or harassment by Respondent as defined in the IDVA
- 750 ILS 60/103.

WHAT IS ABUSE?

Abuse includes: physical abuse, harassment, intimidation of a dependent, restriction of personal liberty, and willful deprivation.

For abuse using revenge porn and/or social media, the most appropriate IDVA terms are likely “harassment” and “interference with personal liberty”.

Harassment is knowing conduct which isn't necessary to accomplish a legitimate purpose, would cause a reasonable person emotional distress, or does demonstrably cause emotional distress to the petitioner.

Interference with Personal Liberty is committing or threatening physical abuse, harassment, intimidation or willful deprivation to make someone do something, or keep someone from doing something they have a right to do.

BEST PRACTICES FOR ALLEGING TECHNOLOGY-ASSISTED ABUSE IN EOP/OP PETITIONS

- Describe the abuse on an affidavit. Do not use the small space provided in Box J of the OP form. In Box J, write “See affidavit.”
- Start with the most recent incident of abuse, the one that made Petitioner seek an EOP. This is the incident that answers the question “Why do you need this order today?”
- You **MUST** finish any affidavit for an EOP by alleging **TWO SPECIFIC THINGS**:
 - a) “Based on Respondent’s behavior, I am afraid that Respondent will continue to abuse and harass me, interfere with my personal liberty, stalk me, and [include any and all other acts of abuse, if applicable, such as “threaten my children.”]”
 - b) “I believe if Respondent knew I was here today to get an EOP they would try to stop me, or I would be at risk of further abuse. [Add evidence for belief Respondent would retaliate, including past retaliatory acts.]”



EOP/OP RELIEF FROM TECHNOLOGY-ASSISTED ABUSE

- The EOP Petition has space in Box 17 to request specific injunctive relief. The OP Petition has space in Box Z and Box 17 to request specific injunctive relief.
- Example: “No contact by any means, including via social media under Respondent’s name or any alias. Respondent must destroy all images of Petitioner in any format. Respondent is prohibited from transmitting any images of Petitioner for an improper or illegal purpose.”

Petitioner sought EOP after Respondent threatened to transmit partially-nude photos of her body to her work, a preschool.

Respondent had also engaged in a months-long campaign of harassment via phone and text, and in person.

Petitioner sought an EOP. The matter was treated as civil rather than criminal.

CASE STUDY

REMAINING CONCERNS

There are still common methods of technology-assisted abuse that are difficult or impossible to substantiate in an EOP/OP Petition:

- Anonymized online harassment.
- Text or phone harassment using temporary numbers.
- Revenge porn disseminated by online personas or by actors other than the Respondent online.



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