

HB2437



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2437

by Rep. Mary E. Flowers - LaToya Greenwood

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-3
750 ILCS 60/103

from Ch. 38, par. 112A-3
from Ch. 40, par. 2311-3

Amends the Illinois Domestic Violence Act of 1986 and the Protective Orders Article of the Code of Criminal Procedure of 1963. Includes economic or financial abuse in the definition of "abuse". Defines "economic or financial abuse" as controlling a person's access to economic or financial resources in a way that forces him or her to depend on the person controlling the economic or financial resources.

LRB101 08527 LNS 53605 b

A BILL FOR

1 AN ACT concerning domestic violence.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-3 as follows:

6 (725 ILCS 5/112A-3) (from Ch. 38, par. 112A-3)

7 Sec. 112A-3. Definitions.

8 (a) In this Article:

9 "Advocate" means a person whose communications with the
10 victim are privileged under Section 8-802.1 or 8-802.2 of the
11 Code of Civil Procedure or Section 227 of the Illinois Domestic
12 Violence Act of 1986.

13 "Named victim" means the person named as the victim in the
14 delinquency petition or criminal prosecution.

15 "Protective order" means a domestic violence order of
16 protection, a civil no contact order, or a stalking no contact
17 order.

18 (b) For the purposes of domestic violence cases, the
19 following terms shall have the following meanings in this
20 Article:

21 (1) "Abuse" means physical abuse, economic or
22 financial abuse, harassment, intimidation of a dependent,
23 interference with personal liberty or willful deprivation

1 but does not include reasonable direction of a minor child
2 by a parent or person in loco parentis.

3 (2) "Domestic violence" means abuse as described in
4 paragraph (1) of this subsection (b).

5 (2.5) "Economic or financial abuse" has the meaning
6 provided in Section 103 of the Illinois Domestic Violence Act
7 of 1986.

8 (3) "Family or household members" include spouses,
9 former spouses, parents, children, stepchildren, and other
10 persons related by blood or by present or prior marriage,
11 persons who share or formerly shared a common dwelling,
12 persons who have or allegedly have a child in common,
13 persons who share or allegedly share a blood relationship
14 through a child, persons who have or have had a dating or
15 engagement relationship, persons with disabilities and
16 their personal assistants, and caregivers as defined in
17 subsection (e) of Section 12-4.4a of the Criminal Code of
18 2012. For purposes of this paragraph (3), neither a casual
19 acquaintanceship nor ordinary fraternization between 2
20 individuals in business or social contexts shall be deemed
21 to constitute a dating relationship.

22 (4) "Harassment" means knowing conduct which is not
23 necessary to accomplish a purpose which is reasonable under
24 the circumstances; would cause a reasonable person
25 emotional distress; and does cause emotional distress to
26 the petitioner. Unless the presumption is rebutted by a

1 preponderance of the evidence, the following types of
2 conduct shall be presumed to cause emotional distress:

3 (i) creating a disturbance at petitioner's place
4 of employment or school;

5 (ii) repeatedly telephoning petitioner's place of
6 employment, home or residence;

7 (iii) repeatedly following petitioner about in a
8 public place or places;

9 (iv) repeatedly keeping petitioner under
10 surveillance by remaining present outside his or her
11 home, school, place of employment, vehicle or other
12 place occupied by petitioner or by peering in
13 petitioner's windows;

14 (v) improperly concealing a minor child from
15 petitioner, repeatedly threatening to improperly
16 remove a minor child of petitioner's from the
17 jurisdiction or from the physical care of petitioner,
18 repeatedly threatening to conceal a minor child from
19 petitioner, or making a single such threat following an
20 actual or attempted improper removal or concealment,
21 unless respondent was fleeing from an incident or
22 pattern of domestic violence; or

23 (vi) threatening physical force, confinement or
24 restraint on one or more occasions.

25 (5) "Interference with personal liberty" means
26 committing or threatening physical abuse, harassment,

1 intimidation or willful deprivation so as to compel another
2 to engage in conduct from which she or he has a right to
3 abstain or to refrain from conduct in which she or he has a
4 right to engage.

5 (6) "Intimidation of a dependent" means subjecting a
6 person who is dependent because of age, health, or
7 disability to participation in or the witnessing of:
8 physical force against another or physical confinement or
9 restraint of another which constitutes physical abuse as
10 defined in this Article, regardless of whether the abused
11 person is a family or household member.

12 (7) "Order of protection" or "domestic violence order
13 of protection" means an ex parte or final order, granted
14 pursuant to this Article, which includes any or all of the
15 remedies authorized by Section 112A-14 of this Code.

16 (8) "Petitioner" may mean not only any named petitioner
17 for the domestic violence order of protection and any named
18 victim of abuse on whose behalf the petition is brought,
19 but also any other person protected by this Article.

20 (9) "Physical abuse" includes sexual abuse and means
21 any of the following:

22 (i) knowing or reckless use of physical force,
23 confinement or restraint;

24 (ii) knowing, repeated and unnecessary sleep
25 deprivation; or

26 (iii) knowing or reckless conduct which creates an

1 immediate risk of physical harm.

2 (9.3) "Respondent" in a petition for a domestic
3 violence order of protection means the defendant.

4 (9.5) "Stay away" means for the respondent to refrain
5 from both physical presence and nonphysical contact with
6 the petitioner whether direct, indirect (including, but
7 not limited to, telephone calls, mail, email, faxes, and
8 written notes), or through third parties who may or may not
9 know about the domestic violence order of protection.

10 (10) "Willful deprivation" means wilfully denying a
11 person who because of age, health or disability requires
12 medication, medical care, shelter, accessible shelter or
13 services, food, therapeutic device, or other physical
14 assistance, and thereby exposing that person to the risk of
15 physical, mental or emotional harm, except with regard to
16 medical care and treatment when such dependent person has
17 expressed the intent to forgo such medical care or
18 treatment. This paragraph (10) does not create any new
19 affirmative duty to provide support to dependent persons.

20 (c) For the purposes of cases involving sexual offenses,
21 the following terms shall have the following meanings in this
22 Article:

23 (1) "Civil no contact order" means an ex parte or final
24 order granted under this Article, which includes a remedy
25 authorized by Section 112A-14.5 of this Code.

26 (2) "Family or household members" include spouses,

1 parents, children, stepchildren, and persons who share a
2 common dwelling.

3 (3) "Non-consensual" means a lack of freely given
4 agreement.

5 (4) "Petitioner" means not only any named petitioner
6 for the civil no contact order and any named victim of
7 non-consensual sexual conduct or non-consensual sexual
8 penetration on whose behalf the petition is brought, but
9 includes any other person sought to be protected under this
10 Article.

11 (5) "Respondent" in a petition for a civil no contact
12 order means the defendant.

13 (6) "Sexual conduct" means any intentional or knowing
14 touching or fondling by the petitioner or the respondent,
15 either directly or through clothing, of the sex organs,
16 anus, or breast of the petitioner or the respondent, or any
17 part of the body of a child under 13 years of age, or any
18 transfer or transmission of semen by the respondent upon
19 any part of the clothed or unclothed body of the
20 petitioner, for the purpose of sexual gratification or
21 arousal of the petitioner or the respondent.

22 (7) "Sexual penetration" means any contact, however
23 slight, between the sex organ or anus of one person by an
24 object, the sex organ, mouth or anus of another person, or
25 any intrusion, however slight, of any part of the body of
26 one person or of any animal or object into the sex organ or

1 anus of another person, including, but not limited to,
2 cunnilingus, fellatio, or anal penetration. Evidence of
3 emission of semen is not required to prove sexual
4 penetration.

5 (8) "Stay away" means to refrain from both physical
6 presence and nonphysical contact with the petitioner
7 directly, indirectly, or through third parties who may or
8 may not know of the order. "Nonphysical contact" includes,
9 but is not limited to, telephone calls, mail, e-mail, fax,
10 and written notes.

11 (d) For the purposes of cases involving stalking offenses,
12 the following terms shall have the following meanings in this
13 Article:

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

24 (2) "Emotional distress" means significant mental
25 suffering, anxiety, or alarm.

26 (3) "Contact" includes any contact with the victim,

1 that is initiated or continued without the victim's
2 consent, or that is in disregard of the victim's expressed
3 desire that the contact be avoided or discontinued,
4 including, but not limited to, being in the physical
5 presence of the victim; appearing within the sight of the
6 victim; approaching or confronting the victim in a public
7 place or on private property; appearing at the workplace or
8 residence of the victim; entering onto or remaining on
9 property owned, leased, or occupied by the victim; or
10 placing an object on, or delivering an object to, property
11 owned, leased, or occupied by the victim.

12 (4) "Petitioner" means any named petitioner for the
13 stalking no contact order or any named victim of stalking
14 on whose behalf the petition is brought.

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

18 (6) "Respondent" in a petition for a civil no contact
19 order means the defendant.

20 (7) "Stalking" means engaging in a course of conduct
21 directed at a specific person, and he or she knows or
22 should know that this course of conduct would cause a
23 reasonable person to fear for his or her safety or the
24 safety of a third person or suffer emotional distress.
25 "Stalking" does not include an exercise of the right to
26 free speech or assembly that is otherwise lawful or

1 picketing occurring at the workplace that is otherwise
2 lawful and arises out of a bona fide labor dispute,
3 including any controversy concerning wages, salaries,
4 hours, working conditions or benefits, including health
5 and welfare, sick leave, insurance, and pension or
6 retirement provisions, the making or maintaining of
7 collective bargaining agreements, and the terms to be
8 included in those agreements.

9 (8) "Stalking no contact order" means an ex parte or
10 final order granted under this Article, which includes a
11 remedy authorized by Section 112A-14.7 of this Code.

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

13 Section 10. The Illinois Domestic Violence Act of 1986 is
14 amended by changing Section 103 as follows:

15 (750 ILCS 60/103) (from Ch. 40, par. 2311-3)

16 Sec. 103. Definitions. For the purposes of this Act, the
17 following terms shall have the following meanings:

18 (1) "Abuse" means physical abuse, economic or financial
19 abuse, harassment, intimidation of a dependent, interference
20 with personal liberty or willful deprivation but does not
21 include reasonable direction of a minor child by a parent or
22 person in loco parentis.

23 (2) "Adult with disabilities" means an elder adult with
24 disabilities or a high-risk adult with disabilities. A person

1 may be an adult with disabilities for purposes of this Act even
2 though he or she has never been adjudicated an incompetent
3 adult. However, no court proceeding may be initiated or
4 continued on behalf of an adult with disabilities over that
5 adult's objection, unless such proceeding is approved by his or
6 her legal guardian, if any.

7 (3) "Domestic violence" means abuse as defined in paragraph
8 (1).

9 (3.5) "Economic or financial abuse" means controlling a
10 person's access to economic or financial resources in a way
11 that forces him or her to depend on the person controlling the
12 economic or financial resources. "Economic or financial abuse"
13 includes, but is not limited to: forbidding a person to work;
14 sabotaging work or employment opportunities, including
15 stalking a person at his or her work place or causing the
16 person to lose his or her job by physically abusing him or her
17 prior to important meetings or interviews; forbidding the
18 person from attending job training or advancement
19 opportunities; controlling how all money is spent; not
20 including the person in investment or banking decisions; not
21 allowing the person access to bank accounts; withholding money
22 or giving an allowance to the person; forcing the person to
23 write bad checks or file fraudulent tax returns; running up
24 large amounts of debt on joint accounts; refusing to work or
25 contribute to shared income; withholding funds for the person
26 or children to obtain basic needs, including food and medicine;

1 hiding assets; stealing the person's identity, property, or
2 inheritance; forcing the person to work in a family or shared
3 business without pay; refusing to pay bills; ruining the
4 person's credit score; forcing the person to turn over public
5 benefits or threatening to accuse the person of misusing
6 benefits; filing false insurance claims; refusing to pay or
7 evading child support, and manipulating dissolution of
8 marriage proceedings by hiding or not disclosing assets.

9 (4) "Elder adult with disabilities" means an adult
10 prevented by advanced age from taking appropriate action to
11 protect himself or herself from abuse by a family or household
12 member.

13 (5) "Exploitation" means the illegal, including tortious,
14 use of a high-risk adult with disabilities or of the assets or
15 resources of a high-risk adult with disabilities. Exploitation
16 includes, but is not limited to, the misappropriation of assets
17 or resources of a high-risk adult with disabilities by undue
18 influence, by breach of a fiduciary relationship, by fraud,
19 deception, or extortion, or the use of such assets or resources
20 in a manner contrary to law.

21 (6) "Family or household members" include spouses, former
22 spouses, parents, children, stepchildren and other persons
23 related by blood or by present or prior marriage, persons who
24 share or formerly shared a common dwelling, persons who have or
25 allegedly have a child in common, persons who share or
26 allegedly share a blood relationship through a child, persons

1 who have or have had a dating or engagement relationship,
2 persons with disabilities and their personal assistants, and
3 caregivers as defined in Section 12-4.4a of the Criminal Code
4 of 2012. For purposes of this paragraph, neither a casual
5 acquaintanceship nor ordinary fraternization between 2
6 individuals in business or social contexts shall be deemed to
7 constitute a dating relationship. In the case of a high-risk
8 adult with disabilities, "family or household members"
9 includes any person who has the responsibility for a high-risk
10 adult as a result of a family relationship or who has assumed
11 responsibility for all or a portion of the care of a high-risk
12 adult with disabilities voluntarily, or by express or implied
13 contract, or by court order.

14 (7) "Harassment" means knowing conduct which is not
15 necessary to accomplish a purpose that is reasonable under the
16 circumstances; would cause a reasonable person emotional
17 distress; and does cause emotional distress to the petitioner.
18 Unless the presumption is rebutted by a preponderance of the
19 evidence, the following types of conduct shall be presumed to
20 cause emotional distress:

21 (i) creating a disturbance at petitioner's place of
22 employment or school;

23 (ii) repeatedly telephoning petitioner's place of
24 employment, home or residence;

25 (iii) repeatedly following petitioner about in a
26 public place or places;

1 (iv) repeatedly keeping petitioner under surveillance
2 by remaining present outside his or her home, school, place
3 of employment, vehicle or other place occupied by
4 petitioner or by peering in petitioner's windows;

5 (v) improperly concealing a minor child from
6 petitioner, repeatedly threatening to improperly remove a
7 minor child of petitioner's from the jurisdiction or from
8 the physical care of petitioner, repeatedly threatening to
9 conceal a minor child from petitioner, or making a single
10 such threat following an actual or attempted improper
11 removal or concealment, unless respondent was fleeing an
12 incident or pattern of domestic violence; or

13 (vi) threatening physical force, confinement or
14 restraint on one or more occasions.

15 (8) "High-risk adult with disabilities" means a person aged
16 18 or over whose physical or mental disability impairs his or
17 her ability to seek or obtain protection from abuse, neglect,
18 or exploitation.

19 (9) "Interference with personal liberty" means committing
20 or threatening physical abuse, harassment, intimidation or
21 willful deprivation so as to compel another to engage in
22 conduct from which she or he has a right to abstain or to
23 refrain from conduct in which she or he has a right to engage.

24 (10) "Intimidation of a dependent" means subjecting a
25 person who is dependent because of age, health or disability to
26 participation in or the witnessing of: physical force against

1 another or physical confinement or restraint of another which
2 constitutes physical abuse as defined in this Act, regardless
3 of whether the abused person is a family or household member.

4 (11) (A) "Neglect" means the failure to exercise that
5 degree of care toward a high-risk adult with disabilities which
6 a reasonable person would exercise under the circumstances and
7 includes but is not limited to:

8 (i) the failure to take reasonable steps to protect a
9 high-risk adult with disabilities from acts of abuse;

10 (ii) the repeated, careless imposition of unreasonable
11 confinement;

12 (iii) the failure to provide food, shelter, clothing,
13 and personal hygiene to a high-risk adult with disabilities
14 who requires such assistance;

15 (iv) the failure to provide medical and rehabilitative
16 care for the physical and mental health needs of a
17 high-risk adult with disabilities; or

18 (v) the failure to protect a high-risk adult with
19 disabilities from health and safety hazards.

20 (B) Nothing in this subsection (10) shall be construed to
21 impose a requirement that assistance be provided to a high-risk
22 adult with disabilities over his or her objection in the
23 absence of a court order, nor to create any new affirmative
24 duty to provide support to a high-risk adult with disabilities.

25 (12) "Order of protection" means an emergency order,
26 interim order or plenary order, granted pursuant to this Act,

1 which includes any or all of the remedies authorized by Section
2 214 of this Act.

3 (13) "Petitioner" may mean not only any named petitioner
4 for the order of protection and any named victim of abuse on
5 whose behalf the petition is brought, but also any other person
6 protected by this Act.

7 (14) "Physical abuse" includes sexual abuse and means any
8 of the following:

9 (i) knowing or reckless use of physical force,
10 confinement or restraint;

11 (ii) knowing, repeated and unnecessary sleep
12 deprivation; or

13 (iii) knowing or reckless conduct which creates an
14 immediate risk of physical harm.

15 (14.5) "Stay away" means for the respondent to refrain from
16 both physical presence and nonphysical contact with the
17 petitioner whether direct, indirect (including, but not
18 limited to, telephone calls, mail, email, faxes, and written
19 notes), or through third parties who may or may not know about
20 the order of protection.

21 (15) "Willful deprivation" means wilfully denying a person
22 who because of age, health or disability requires medication,
23 medical care, shelter, accessible shelter or services, food,
24 therapeutic device, or other physical assistance, and thereby
25 exposing that person to the risk of physical, mental or
26 emotional harm, except with regard to medical care or treatment

1 when the dependent person has expressed an intent to forgo such
2 medical care or treatment. This paragraph does not create any
3 new affirmative duty to provide support to dependent persons.
4 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)