

HB4455



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4455

Introduced 2/3/2020, by Rep. Joyce Mason

SYNOPSIS AS INTRODUCED:

750 ILCS 60/202

from Ch. 40, par. 2312-2

Amends the Illinois Domestic Violence Act of 1986. Requires all counties in the State, within 18 months of the effective date of the Act, to allow a petition for an order of protection to be filed electronically.

LRB101 17179 LNS 66580 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 Illinois Domestic Violence Act of 1986 is
5 amended by changing Section 202 as follows:

6 (750 ILCS 60/202) (from Ch. 40, par. 2312-2)

7 Sec. 202. Commencement of action; filing fees; dismissal.

8 (a) How to commence action. Actions for orders of
9 protection are commenced:

10 (1) Independently: By filing a petition for an order of
11 protection in any civil court, unless specific courts are
12 designated by local rule or order.

13 (2) In conjunction with another civil proceeding: By
14 filing a petition for an order of protection under the same
15 case number as another civil proceeding involving the
16 parties, including but not limited to: (i) any proceeding
17 under the Illinois Marriage and Dissolution of Marriage
18 Act, Illinois Parentage Act of 2015, Nonsupport of Spouse
19 and Children Act, Revised Uniform Reciprocal Enforcement
20 of Support Act or an action for nonsupport brought under
21 Article X of the Illinois Public Aid Code, provided that a
22 petitioner and the respondent are a party to or the subject
23 of that proceeding or (ii) a guardianship proceeding under

1 the Probate Act of 1975, or a proceeding for involuntary
2 commitment under the Mental Health and Developmental
3 Disabilities Code, or any proceeding, other than a
4 delinquency petition, under the Juvenile Court Act of 1987,
5 provided that a petitioner or the respondent is a party to
6 or the subject of such proceeding.

7 (3) In conjunction with a delinquency petition or a
8 criminal prosecution as provided in Section 112A-20 of the
9 Code of Criminal Procedure of 1963.

10 (a-5) When a petition for an emergency order of protection
11 is filed, the petition shall not be publicly available until
12 the petition is served on the respondent.

13 (a-10) A petition filed under this Section may be filed in
14 person or online as prescribed by subsection (e).

15 (b) Filing, certification, and service fees. No fee shall
16 be charged by the clerk for filing, amending, vacating,
17 certifying, or photocopying petitions or orders; or for issuing
18 alias summons; or for any related filing service. No fee shall
19 be charged by the sheriff for service by the sheriff of a
20 petition, rule, motion, or order in an action commenced under
21 this Section.

22 (c) Dismissal and consolidation. Withdrawal or dismissal
23 of any petition for an order of protection prior to
24 adjudication where the petitioner is represented by the State
25 shall operate as a dismissal without prejudice. No action for
26 an order of protection shall be dismissed because the

1 respondent is being prosecuted for a crime against the
2 petitioner. An independent action may be consolidated with
3 another civil proceeding, as provided by paragraph (2) of
4 subsection (a) of this Section. For any action commenced under
5 paragraph (2) or (3) of subsection (a) of this Section,
6 dismissal of the conjoined case (or a finding of not guilty)
7 shall not require dismissal of the action for the order of
8 protection; instead, it may be treated as an independent action
9 and, if necessary and appropriate, transferred to a different
10 court or division. Dismissal of any conjoined case shall not
11 affect the validity of any previously issued order of
12 protection, and thereafter subsections (b)(1) and (b)(2) of
13 Section 220 shall be inapplicable to such order.

14 (d) Pro se petitions. The court shall provide, through the
15 office of the clerk of the court, simplified forms and clerical
16 assistance to help with the writing and filing of a petition
17 under this Section by any person not represented by counsel. In
18 addition, that assistance may be provided by the state's
19 attorney.

20 (e) As provided in this subsection, the administrative
21 director of the Administrative Office of the Illinois Courts,
22 with the approval of the administrative board of the courts,
23 shall ~~may~~ adopt rules to establish and implement a ~~pilot~~
24 program to allow the electronic filing of petitions for
25 ~~temporary~~ orders of protection under this Act and the issuance
26 of such orders by audio-visual means to accommodate litigants

1 for whom attendance in court to file for and obtain emergency
2 relief would constitute an undue hardship or would constitute a
3 risk of harm to the litigant. All counties in this State shall
4 comply with this Section within 18 months of the effective date
5 of this amendatory Act of the 101st General Assembly.

6 (1) As used in this subsection:

7 (A) "Electronic means" means any method of
8 transmission of information between computers or other
9 machines designed for the purpose of sending or
10 receiving electronic transmission and that allows for
11 the recipient of information to reproduce the
12 information received in a tangible medium of
13 expression.

14 (B) "Independent audio-visual system" means an
15 electronic system for the transmission and receiving
16 of audio and visual signals, including those with the
17 means to preclude the unauthorized reception and
18 decoding of the signals by commercially available
19 television receivers, channel converters, or other
20 available receiving devices.

21 (C) "Electronic appearance" means an appearance in
22 which one or more of the parties are not present in the
23 court, but in which, by means of an independent
24 audio-visual system, all of the participants are
25 simultaneously able to see and hear reproductions of
26 the voices and images of the judge, counsel, parties,

1 witnesses, and any other participants.

2 (2) Any pilot program under this subsection (e) shall
3 be developed by the administrative director or his or her
4 delegate in consultation with at least one local
5 organization providing assistance to domestic violence
6 victims. The program plan shall include but not be limited
7 to:

8 (A) identification of agencies equipped with or
9 that have access to an independent audio-visual system
10 and electronic means for filing documents; and

11 (B) identification of one or more organizations
12 who are trained and available to assist petitioners in
13 preparing and filing petitions for temporary orders of
14 protection and in their electronic appearances before
15 the court to obtain such orders; and

16 (C) identification of the existing resources
17 available in local family courts for the
18 implementation and oversight of the pilot program; and

19 (D) procedures for filing petitions and documents
20 by electronic means, swearing in the petitioners and
21 witnesses, preparation of a transcript of testimony
22 and evidence presented, and a prompt transmission of
23 any orders issued to the parties; and

24 (E) a timeline for implementation and a plan for
25 informing the public about the availability of the
26 program; and

1 (F) a description of the data to be collected in
2 order to evaluate and make recommendations for
3 improvements to the pilot program.

4 (3) In conjunction with an electronic appearance, any
5 petitioner for an ex parte temporary order of protection
6 may, using the assistance of a trained advocate if
7 necessary, commence the proceedings by filing a petition by
8 electronic means.

9 (A) A petitioner who is seeking an ex parte
10 temporary order of protection using an electronic
11 appearance must file a petition in advance of the
12 appearance and may do so electronically.

13 (B) The petitioner must show that traveling to or
14 appearing in court would constitute an undue hardship
15 or create a risk of harm to the petitioner. In granting
16 or denying any relief sought by the petitioner, the
17 court shall state the names of all participants and
18 whether it is granting or denying an appearance by
19 electronic means and the basis for such a
20 determination. A party is not required to file a
21 petition or other document by electronic means or to
22 testify by means of an electronic appearance.

23 (C) Nothing in this subsection (e) affects or
24 changes any existing laws governing the service of
25 process, including requirements for personal service
26 or the sealing and confidentiality of court records in

1 court proceedings or access to court records by the
2 parties to the proceedings.

3 (4) Appearances.

4 (A) All electronic appearances by a petitioner
5 seeking an ex parte temporary order of protection under
6 this subsection (e) are strictly voluntary and the
7 court shall obtain the consent of the petitioner on the
8 record at the commencement of each appearance.

9 (B) Electronic appearances under this subsection
10 (e) shall be recorded and preserved for transcription.
11 Documentary evidence, if any, referred to by a party or
12 witness or the court may be transmitted and submitted
13 and introduced by electronic means.

14 (Source: P.A. 100-199, eff. 1-1-18; 100-201, eff. 8-18-17;
15 101-255, eff. 1-1-20.)