



Sen. James F. Clayborne Jr.

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LRB095 05209 DRJ 34896 a

1 AMENDMENT TO HOUSE BILL 616

2 AMENDMENT NO. _____. Amend House Bill 616 on page 11,
3 after line 19, by inserting the following:

4 "Section 10. The Juvenile Court Act of 1987 is amended by
5 changing Sections 2-10, 2-13, and 2-25 as follows:

6 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

7 Sec. 2-10. Temporary custody hearing. At the appearance of
8 the minor before the court at the temporary custody hearing,
9 all witnesses present shall be examined before the court in
10 relation to any matter connected with the allegations made in
11 the petition.

12 (1) If the court finds that there is not probable cause to
13 believe that the minor is abused, neglected or dependent it
14 shall release the minor and dismiss the petition.

15 (2) If the court finds that there is probable cause to
16 believe that the minor is abused, neglected or dependent, the

1 court shall state in writing the factual basis supporting its
2 finding and the minor, his or her parent, guardian, custodian
3 and other persons able to give relevant testimony shall be
4 examined before the court. The Department of Children and
5 Family Services shall give testimony concerning indicated
6 reports of abuse and neglect, of which they are aware of
7 through the central registry, involving the minor's parent,
8 guardian or custodian. After such testimony, the court may,
9 consistent with the health, safety and best interests of the
10 minor, enter an order that the minor shall be released upon the
11 request of parent, guardian or custodian if the parent,
12 guardian or custodian appears to take custody. If it is
13 determined that a parent's, guardian's, or custodian's
14 compliance with critical services mitigates the necessity for
15 removal of the minor from his or her home, the court may enter
16 an Order of Protection setting forth reasonable conditions of
17 behavior that a parent, guardian, or custodian must observe for
18 a specified period of time, not to exceed 12 months, without a
19 violation; provided, however, that the 12-month period shall
20 begin anew after any violation. Custodian shall include any
21 agency of the State which has been given custody or wardship of
22 the child. If it is consistent with the health, safety and best
23 interests of the minor, the court may also prescribe shelter
24 care and order that the minor be kept in a suitable place
25 designated by the court or in a shelter care facility
26 designated by the Department of Children and Family Services or

1 a licensed child welfare agency; however, a minor charged with
2 a criminal offense under the Criminal Code of 1961 or
3 adjudicated delinquent shall not be placed in the custody of or
4 committed to the Department of Children and Family Services by
5 any court, except a minor less than 13 years of age and
6 committed to the Department of Children and Family Services
7 under Section 5-710 of this Act or a minor for whom an
8 independent basis of abuse, neglect, or dependency exists,
9 which must be defined by departmental rule. In placing the
10 minor, the Department or other agency shall, to the extent
11 compatible with the court's order, comply with Section 7 of the
12 Children and Family Services Act. In determining the health,
13 safety and best interests of the minor to prescribe shelter
14 care, the court must find that it is a matter of immediate and
15 urgent necessity for the safety and protection of the minor or
16 of the person or property of another that the minor be placed
17 in a shelter care facility or that he or she is likely to flee
18 the jurisdiction of the court, and must further find that
19 reasonable efforts have been made or that, consistent with the
20 health, safety and best interests of the minor, no efforts
21 reasonably can be made to prevent or eliminate the necessity of
22 removal of the minor from his or her home. The court shall
23 require documentation from the Department of Children and
24 Family Services as to the reasonable efforts that were made to
25 prevent or eliminate the necessity of removal of the minor from
26 his or her home or the reasons why no efforts reasonably could

1 be made to prevent or eliminate the necessity of removal. When
2 a minor is placed in the home of a relative, the Department of
3 Children and Family Services shall complete a preliminary
4 background review of the members of the minor's custodian's
5 household in accordance with Section 4.3 of the Child Care Act
6 of 1969 within 90 days of that placement. If the minor is
7 ordered placed in a shelter care facility of the Department of
8 Children and Family Services or a licensed child welfare
9 agency, the court shall, upon request of the appropriate
10 Department or other agency, appoint the Department of Children
11 and Family Services Guardianship Administrator or other
12 appropriate agency executive temporary custodian of the minor
13 and the court may enter such other orders related to the
14 temporary custody as it deems fit and proper, including the
15 provision of services to the minor or his family to ameliorate
16 the causes contributing to the finding of probable cause or to
17 the finding of the existence of immediate and urgent necessity.

18 Where the Department of Children and Family Services
19 Guardianship Administrator is appointed as the executive
20 temporary custodian, the Department of Children and Family
21 Services shall file with the court and serve on the parties a
22 parent-child visiting plan, within 10 days, excluding weekends
23 and holidays, after the appointment. The parent-child visiting
24 plan shall set out the time and place of visits, the frequency
25 of visits, the length of visits, who shall be present at the
26 visits, and where appropriate, the minor's opportunities to

1 have telephone and mail communication with the parents. For
2 good cause, the court may waive the requirement to file the
3 parent-child visiting plan or extend the time for filing the
4 parent-child visiting plan. Any party may, by motion, request
5 the court to review the parent-child visiting plan to determine
6 whether it is reasonably calculated to expeditiously
7 facilitate the achievement of the permanency goal and is
8 consistent with the minor's best interest. The frequency,
9 duration, and locations of visitation shall be measured by the
10 needs of the child and family, and not by the convenience of
11 Department personnel. Child development principles shall be
12 considered by the court in its analysis of how frequent
13 visitation should be, how long it should last, where it should
14 take place, and who should be present. If upon motion of the
15 party to review the plan and after receiving evidence, the
16 court determines that the parent-child visiting plan is not
17 reasonably calculated to expeditiously facilitate the
18 achievement of the permanency goal or that the restrictions
19 placed on parent-child contact are contrary to the child's best
20 interests, the court shall put in writing the factual basis
21 supporting the determination and enter specific findings based
22 on the evidence. The court shall enter an order for the
23 Department to implement changes to the parent-child visiting
24 plan, consistent with the court's findings. At any stage of
25 proceeding, any party may by motion request the court to enter
26 any orders necessary to implement the parent-child visiting

1 plan. Nothing under this subsection (2) shall restrict the
2 court from granting discretionary authority to the Department
3 to increase opportunities for additional parent-child
4 contacts, without further court orders. Nothing in this
5 subsection (2) shall restrict the Department from immediately
6 restricting or terminating parent-child contact, without
7 either amending the parent-child visiting plan or obtaining a
8 court order, where the Department or its assigns reasonably
9 believe that continuation of parent-child contact, as set out
10 in the parent-child visiting plan, would be contrary to the
11 child's health, safety, and welfare. The Department shall file
12 with the court and serve on the parties any amendments to the
13 visitation plan within 10 days, excluding weekends and
14 holidays, of the change of the visitation. Any party may, by
15 motion, request the court to review the parent-child visiting
16 plan to determine whether the parent-child visiting plan is
17 reasonably calculated to expeditiously facilitate the
18 achievement of the permanency goal, and is consistent with the
19 minor's health, safety, and best interest.

20 Acceptance of services shall not be considered an admission
21 of any allegation in a petition made pursuant to this Act, nor
22 may a referral of services be considered as evidence in any
23 proceeding pursuant to this Act, except where the issue is
24 whether the Department has made reasonable efforts to reunite
25 the family. In making its findings that it is consistent with
26 the health, safety and best interests of the minor to prescribe

1 shelter care, the court shall state in writing (i) the factual
2 basis supporting its findings concerning the immediate and
3 urgent necessity for the protection of the minor or of the
4 person or property of another and (ii) the factual basis
5 supporting its findings that reasonable efforts were made to
6 prevent or eliminate the removal of the minor from his or her
7 home or that no efforts reasonably could be made to prevent or
8 eliminate the removal of the minor from his or her home. The
9 parents, guardian, custodian, temporary custodian and minor
10 shall each be furnished a copy of such written findings. The
11 temporary custodian shall maintain a copy of the court order
12 and written findings in the case record for the child. The
13 order together with the court's findings of fact in support
14 thereof shall be entered of record in the court.

15 Once the court finds that it is a matter of immediate and
16 urgent necessity for the protection of the minor that the minor
17 be placed in a shelter care facility, the minor shall not be
18 returned to the parent, custodian or guardian until the court
19 finds that such placement is no longer necessary for the
20 protection of the minor.

21 If the child is placed in the temporary custody of the
22 Department of Children and Family Services for his or her
23 protection, the court shall admonish the parents, guardian,
24 custodian or responsible relative that the parents must
25 cooperate with the Department of Children and Family Services,
26 comply with the terms of the service plans, and correct the

1 conditions which require the child to be in care, or risk
2 termination of their parental rights.

3 (3) If prior to the shelter care hearing for a minor
4 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
5 unable to serve notice on the party respondent, the shelter
6 care hearing may proceed ex-parte. A shelter care order from an
7 ex-parte hearing shall be endorsed with the date and hour of
8 issuance and shall be filed with the clerk's office and entered
9 of record. The order shall expire after 10 days from the time
10 it is issued unless before its expiration it is renewed, at a
11 hearing upon appearance of the party respondent, or upon an
12 affidavit of the moving party as to all diligent efforts to
13 notify the party respondent by notice as herein prescribed. The
14 notice prescribed shall be in writing and shall be personally
15 delivered to the minor or the minor's attorney and to the last
16 known address of the other person or persons entitled to
17 notice. The notice shall also state the nature of the
18 allegations, the nature of the order sought by the State,
19 including whether temporary custody is sought, and the
20 consequences of failure to appear and shall contain a notice
21 that the parties will not be entitled to further written
22 notices or publication notices of proceedings in this case,
23 including the filing of an amended petition or a motion to
24 terminate parental rights, except as required by Supreme Court
25 Rule 11; and shall explain the right of the parties and the
26 procedures to vacate or modify a shelter care order as provided

1 in this Section. The notice for a shelter care hearing shall be
2 substantially as follows:

3 NOTICE TO PARENTS AND CHILDREN
4 OF SHELTER CARE HEARING

5 On at, before the Honorable
6, (address:), the State
7 of Illinois will present evidence (1) that (name of child
8 or children) are abused, neglected
9 or dependent for the following reasons:

10 and (2)
11 whether ~~that~~ there is "immediate and urgent necessity" to
12 remove the child or children from the responsible relative.

13 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
14 PLACEMENT of the child or children in foster care until a
15 trial can be held. A trial may not be held for up to 90
16 days. You will not be entitled to further notices of
17 proceedings in this case, including the filing of an
18 amended petition or a motion to terminate parental rights.

19 At the shelter care hearing, parents have the following
20 rights:

- 21 1. To ask the court to appoint a lawyer if they
- 22 cannot afford one.
- 23 2. To ask the court to continue the hearing to
- 24 allow them time to prepare.
- 25 3. To present evidence concerning:
- 26 a. Whether or not the child or children were

1 abused, neglected or dependent.

2 b. Whether or not there is "immediate and
3 urgent necessity" to remove the child from home
4 (including: their ability to care for the child,
5 conditions in the home, alternative means of
6 protecting the child other than removal).

7 c. The best interests of the child.

8 4. To cross examine the State's witnesses.

9 The Notice for rehearings shall be substantially as
10 follows:

11 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
12 TO REHEARING ON TEMPORARY CUSTODY

13 If you were not present at and did not have adequate
14 notice of the Shelter Care Hearing at which temporary
15 custody of was awarded to
16, you have the right to request a full
17 rehearing on whether the State should have temporary
18 custody of To request this rehearing,
19 you must file with the Clerk of the Juvenile Court
20 (address):, in person or by
21 mailing a statement (affidavit) setting forth the
22 following:

23 1. That you were not present at the shelter care
24 hearing.

25 2. That you did not get adequate notice (explaining

1 how the notice was inadequate).

2 3. Your signature.

3 4. Signature must be notarized.

4 The rehearing should be scheduled within 48 hours of
5 your filing this affidavit.

6 At the rehearing, your rights are the same as at the
7 initial shelter care hearing. The enclosed notice explains
8 those rights.

9 At the Shelter Care Hearing, children have the
10 following rights:

11 1. To have a guardian ad litem appointed.

12 2. To be declared competent as a witness and to
13 present testimony concerning:

14 a. Whether they are abused, neglected or
15 dependent.

16 b. Whether there is "immediate and urgent
17 necessity" to be removed from home.

18 c. Their best interests.

19 3. To cross examine witnesses for other parties.

20 4. To obtain an explanation of any proceedings and
21 orders of the court.

22 (4) If the parent, guardian, legal custodian, responsible
23 relative, minor age 8 or over, or counsel of the minor did not
24 have actual notice of or was not present at the shelter care
25 hearing, he or she may file an affidavit setting forth these
26 facts, and the clerk shall set the matter for rehearing not

1 later than 48 hours, excluding Sundays and legal holidays,
2 after the filing of the affidavit. At the rehearing, the court
3 shall proceed in the same manner as upon the original hearing.

4 (5) Only when there is reasonable cause to believe that the
5 minor taken into custody is a person described in subsection
6 (3) of Section 5-105 may the minor be kept or detained in a
7 detention home or county or municipal jail. This Section shall
8 in no way be construed to limit subsection (6).

9 (6) No minor under 16 years of age may be confined in a
10 jail or place ordinarily used for the confinement of prisoners
11 in a police station. Minors under 17 years of age must be kept
12 separate from confined adults and may not at any time be kept
13 in the same cell, room, or yard with adults confined pursuant
14 to the criminal law.

15 (7) If the minor is not brought before a judicial officer
16 within the time period as specified in Section 2-9, the minor
17 must immediately be released from custody.

18 (8) If neither the parent, guardian or custodian appears
19 within 24 hours to take custody of a minor released upon
20 request pursuant to subsection (2) of this Section, then the
21 clerk of the court shall set the matter for rehearing not later
22 than 7 days after the original order and shall issue a summons
23 directed to the parent, guardian or custodian to appear. At the
24 same time the probation department shall prepare a report on
25 the minor. If a parent, guardian or custodian does not appear
26 at such rehearing, the judge may enter an order prescribing

1 that the minor be kept in a suitable place designated by the
2 Department of Children and Family Services or a licensed child
3 welfare agency.

4 (9) Notwithstanding any other provision of this Section any
5 interested party, including the State, the temporary
6 custodian, an agency providing services to the minor or family
7 under a service plan pursuant to Section 8.2 of the Abused and
8 Neglected Child Reporting Act, foster parent, or any of their
9 representatives, on notice to all parties entitled to notice,
10 may file a motion that it is in the best interests of the minor
11 to modify or vacate a temporary custody order on any of the
12 following grounds:

13 (a) It is no longer a matter of immediate and urgent
14 necessity that the minor remain in shelter care; or

15 (b) There is a material change in the circumstances of
16 the natural family from which the minor was removed and the
17 child can be cared for at home without endangering the
18 child's health or safety; or

19 (c) A person not a party to the alleged abuse, neglect
20 or dependency, including a parent, relative or legal
21 guardian, is capable of assuming temporary custody of the
22 minor; or

23 (d) Services provided by the Department of Children and
24 Family Services or a child welfare agency or other service
25 provider have been successful in eliminating the need for
26 temporary custody and the child can be cared for at home

1 without endangering the child's health or safety.

2 In ruling on the motion, the court shall determine whether
3 it is consistent with the health, safety and best interests of
4 the minor to modify or vacate a temporary custody order.

5 The clerk shall set the matter for hearing not later than
6 14 days after such motion is filed. In the event that the court
7 modifies or vacates a temporary custody order but does not
8 vacate its finding of probable cause, the court may order that
9 appropriate services be continued or initiated in behalf of the
10 minor and his or her family.

11 (10) When the court finds or has found that there is
12 probable cause to believe a minor is an abused minor as
13 described in subsection (2) of Section 2-3 and that there is an
14 immediate and urgent necessity for the abused minor to be
15 placed in shelter care, immediate and urgent necessity shall be
16 presumed for any other minor residing in the same household as
17 the abused minor provided:

18 (a) Such other minor is the subject of an abuse or
19 neglect petition pending before the court; and

20 (b) A party to the petition is seeking shelter care for
21 such other minor.

22 Once the presumption of immediate and urgent necessity has
23 been raised, the burden of demonstrating the lack of immediate
24 and urgent necessity shall be on any party that is opposing
25 shelter care for the other minor.

26 (Source: P.A. 94-604, eff. 1-1-06.)

1 (705 ILCS 405/2-13) (from Ch. 37, par. 802-13)

2 Sec. 2-13. Petition.

3 (1) Any adult person, any agency or association by its
4 representative may file, or the court on its own motion,
5 consistent with the health, safety and best interests of the
6 minor may direct the filing through the State's Attorney of a
7 petition in respect of a minor under this Act. The petition and
8 all subsequent court documents shall be entitled "In the
9 interest of, a minor".

10 (2) The petition shall be verified but the statements may
11 be made upon information and belief. It shall allege that the
12 minor is abused, neglected, or dependent, with citations to the
13 appropriate provisions of this Act, and set forth (a) facts
14 sufficient to bring the minor under Section 2-3 or 2-4 and to
15 inform respondents of the cause of action, including, but not
16 limited to, a plain and concise statement of the factual
17 allegations that form the basis for the filing of the petition;
18 (b) the name, age and residence of the minor; (c) the names and
19 residences of his parents; (d) the name and residence of his
20 legal guardian or the person or persons having custody or
21 control of the minor, or of the nearest known relative if no
22 parent or guardian can be found; and (e) if the minor upon
23 whose behalf the petition is brought is sheltered in custody,
24 the date on which such temporary custody was ordered by the
25 court or the date set for a temporary custody hearing. If any

1 of the facts herein required are not known by the petitioner,
2 the petition shall so state.

3 (3) The petition must allege that it is in the best
4 interests of the minor and of the public that he be adjudged a
5 ward of the court and may pray generally for relief available
6 under this Act. The petition need not specify any proposed
7 disposition following adjudication of wardship. The petition
8 may request that the minor remain in the custody of the parent,
9 guardian, or custodian under an Order of Protection.

10 (4) If termination of parental rights and appointment of a
11 guardian of the person with power to consent to adoption of the
12 minor under Section 2-29 is sought, the petition shall so
13 state. If the petition includes this request, the prayer for
14 relief shall clearly and obviously state that the parents could
15 permanently lose their rights as a parent at this hearing.

16 In addition to the foregoing, the petitioner, by motion,
17 may request the termination of parental rights and appointment
18 of a guardian of the person with power to consent to adoption
19 of the minor under Section 2-29 at any time after the entry of
20 a dispositional order under Section 2-22.

21 (4.5) (a) With respect to any minors committed to its care
22 pursuant to this Act, the Department of Children and Family
23 Services shall request the State's Attorney to file a petition
24 or motion for termination of parental rights and appointment of
25 guardian of the person with power to consent to adoption of the
26 minor under Section 2-29 if:

1 (i) a minor has been in foster care, as described in
2 subsection (b), for 15 months of the most recent 22 months;
3 or

4 (ii) a minor under the age of 2 years has been
5 previously determined to be abandoned at an adjudicatory
6 hearing; or

7 (iii) the parent is criminally convicted of (A) first
8 degree murder or second degree murder of any child, (B)
9 attempt or conspiracy to commit first degree murder or
10 second degree murder of any child, (C) solicitation to
11 commit murder of any child, solicitation to commit murder
12 for hire of any child, or solicitation to commit second
13 degree murder of any child, (D) aggravated battery,
14 aggravated battery of a child, or felony domestic battery,
15 any of which has resulted in serious injury to the minor or
16 a sibling of the minor, (E) aggravated criminal sexual
17 assault in violation of subdivision (b) (1) of Section 12-14
18 of the Criminal Code of 1961, or (F) an offense in any
19 other state the elements of which are similar and bear a
20 substantial relationship to any of the foregoing offenses

21 unless:

22 (i) the child is being cared for by a relative,

23 (ii) the Department has documented in the case plan a
24 compelling reason for determining that filing such
25 petition would not be in the best interests of the child,

26 (iii) the court has found within the preceding 12

1 months that the Department has failed to make reasonable
2 efforts to reunify the child and family, or

3 (iv) paragraph (c) of this subsection (4.5) provides
4 otherwise.

5 (b) For purposes of this subsection, the date of entering
6 foster care is defined as the earlier of:

7 (1) The date of a judicial finding at an adjudicatory
8 hearing that the child is an abused, neglected, or
9 dependent minor; or

10 (2) 60 days after the date on which the child is
11 removed from his or her parent, guardian, or legal
12 custodian.

13 (c) With respect to paragraph (a)(i), the following
14 transition rules shall apply:

15 (1) If the child entered foster care after November 19,
16 1997 and this amendatory Act of 1998 takes effect before
17 the child has been in foster care for 15 months of the
18 preceding 22 months, then the Department shall comply with
19 the requirements of paragraph (a) of this subsection (4.5)
20 for that child as soon as the child has been in foster care
21 for 15 of the preceding 22 months.

22 (2) If the child entered foster care after November 19,
23 1997 and this amendatory Act of 1998 takes effect after the
24 child has been in foster care for 15 of the preceding 22
25 months, then the Department shall comply with the
26 requirements of paragraph (a) of this subsection (4.5) for

1 that child within 3 months after the end of the next
2 regular session of the General Assembly.

3 (3) If the child entered foster care prior to November
4 19, 1997, then the Department shall comply with the
5 requirements of paragraph (a) of this subsection (4.5) for
6 that child in accordance with Department policy or rule.

7 (d) If the State's Attorney determines that the
8 Department's request for filing of a petition or motion
9 conforms to the requirements set forth in subdivisions (a),
10 (b), and (c) of this subsection (4.5), then the State's
11 Attorney shall file the petition or motion as requested.

12 (5) The court shall liberally allow the petitioner to amend
13 the petition to set forth a cause of action or to add, amend,
14 or supplement factual allegations that form the basis for a
15 cause of action up until 14 days before the adjudicatory
16 hearing. The petitioner may amend the petition after that date
17 and prior to the adjudicatory hearing if the court grants leave
18 to amend upon a showing of good cause. The court may allow
19 amendment of the petition to conform with the evidence at any
20 time prior to ruling. In all cases in which the court has
21 granted leave to amend based on new evidence or new
22 allegations, the court shall permit the respondent an adequate
23 opportunity to prepare a defense to the amended petition.

24 (6) At any time before dismissal of the petition or before
25 final closing and discharge under Section 2-31, one or more
26 motions in the best interests of the minor may be filed. The

1 motion shall specify sufficient facts in support of the relief
2 requested.

3 (Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by P.A.
4 90-443); 90-28, eff. 1-1-98; 90-608, eff. 6-30-98.)

5 (705 ILCS 405/2-25) (from Ch. 37, par. 802-25)
6 Sec. 2-25. Order of protection.

7 (1) The court may make an order of protection in assistance
8 of or as a condition of any other order authorized by this Act.
9 The order of protection shall be based on the health, safety
10 and best interests of the minor and may set forth reasonable
11 conditions of behavior to be observed for a specified period.
12 Such an order may require a person:

13 (a) to stay away from the home or the minor;

14 (b) to permit a parent to visit the minor at stated
15 periods;

16 (c) to abstain from offensive conduct against the
17 minor, his parent or any person to whom custody of the
18 minor is awarded;

19 (d) to give proper attention to the care of the home;

20 (e) to cooperate in good faith with an agency to which
21 custody of a minor is entrusted by the court or with an
22 agency or association to which the minor is referred by the
23 court;

24 (f) to prohibit and prevent any contact whatsoever with
25 the respondent minor by a specified individual or

1 individuals who are alleged in either a criminal or
2 juvenile proceeding to have caused injury to a respondent
3 minor or a sibling of a respondent minor;

4 (g) to refrain from acts of commission or omission that
5 tend to make the home not a proper place for the minor;

6 (h) to refrain from contacting the minor and the foster
7 parents in any manner that is not specified in writing in
8 the case plan.

9 (2) The court shall enter an order of protection to
10 prohibit and prevent any contact between a respondent minor or
11 a sibling of a respondent minor and any person named in a
12 petition seeking an order of protection who has been convicted
13 of heinous battery under Section 12-4.1, aggravated battery of
14 a child under Section 12-4.3, criminal sexual assault under
15 Section 12-13, aggravated criminal sexual assault under
16 Section 12-14, predatory criminal sexual assault of a child
17 under Section 12-14.1, criminal sexual abuse under Section
18 12-15, or aggravated criminal sexual abuse under Section 12-16
19 of the Criminal Code of 1961, or has been convicted of an
20 offense that resulted in the death of a child, or has violated
21 a previous order of protection under this Section.

22 (3) When the court issues an order of protection against
23 any person as provided by this Section, the court shall direct
24 a copy of such order to the Sheriff of that county. The Sheriff
25 shall furnish a copy of the order of protection to the
26 Department of State Police within 24 hours of receipt, in the

1 form and manner required by the Department. The Department of
2 State Police shall maintain a complete record and index of such
3 orders of protection and make this data available to all local
4 law enforcement agencies.

5 (4) After notice and opportunity for hearing afforded to a
6 person subject to an order of protection, the order may be
7 modified or extended for a further specified period or both or
8 may be terminated if the court finds that the health, safety,
9 and best interests of the minor and the public will be served
10 thereby.

11 (5) An order of protection may be sought at any time during
12 the course of any proceeding conducted pursuant to this Act if
13 such an order is consistent with the health, safety, and best
14 interests of the minor. Any person against whom an order of
15 protection is sought may retain counsel to represent him at a
16 hearing, and has rights to be present at the hearing, to be
17 informed prior to the hearing in writing of the contents of the
18 petition seeking a protective order and of the date, place and
19 time of such hearing, and to cross examine witnesses called by
20 the petitioner and to present witnesses and argument in
21 opposition to the relief sought in the petition.

22 (6) Diligent efforts shall be made by the petitioner to
23 serve any person or persons against whom any order of
24 protection is sought with written notice of the contents of the
25 petition seeking a protective order and of the date, place and
26 time at which the hearing on the petition is to be held. When a

1 protective order is being sought in conjunction with a
2 temporary custody hearing, if the court finds that the person
3 against whom the protective order is being sought has been
4 notified of the hearing or that diligent efforts have been made
5 to notify such person, the court may conduct a hearing. If a
6 protective order is sought at any time other than in
7 conjunction with a temporary custody hearing, the court may not
8 conduct a hearing on the petition in the absence of the person
9 against whom the order is sought unless the petitioner has
10 notified such person by personal service at least 3 days before
11 the hearing or has sent written notice by first class mail to
12 such person's last known address at least 5 days before the
13 hearing.

14 (7) A person against whom an order of protection is being
15 sought who is neither a parent, guardian, legal custodian or
16 responsible relative as described in Section 1-5 is not a party
17 or respondent as defined in that Section and shall not be
18 entitled to the rights provided therein. Such person does not
19 have a right to appointed counsel or to be present at any
20 hearing other than the hearing in which the order of protection
21 is being sought or a hearing directly pertaining to that order.
22 Unless the court orders otherwise, such person does not have a
23 right to inspect the court file.

24 (8) All protective orders entered under this Section shall
25 be in writing. Unless the person against whom the order was
26 obtained was present in court when the order was issued, the

1 sheriff, other law enforcement official or special process
2 server shall promptly serve that order upon that person and
3 file proof of such service, in the manner provided for service
4 of process in civil proceedings. The person against whom the
5 protective order was obtained may seek a modification of the
6 order by filing a written motion to modify the order within 7
7 days after actual receipt by the person of a copy of the order.
8 Any modification of the order granted by the court must be
9 determined to be consistent with the best interests of the
10 minor.

11 (9) If a petition is filed charging a violation of a
12 condition contained in the protective order and if the court
13 determines that this violation is of a critical service
14 necessary to the safety and welfare of the minor, the court may
15 proceed to findings and an order for temporary custody.

16 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;
17 90-15, eff. 6-13-97; 90-28, eff. 1-1-98; 90-655, eff.
18 7-30-98.)".