

SB1427



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1427

Introduced 2/11/2009, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

750 ILCS 60/202

from Ch. 40, par. 2312-2

Amends the Illinois Domestic Violence Act of 1986. Provides that any forms or materials prepared for persons not represented by counsel shall contain a prominent notice stating that false information stated in a sworn petition for a protective order is subject to a perjury prosecution.

LRB096 10705 AJ0 20883 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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 1984, Nonsupport of Spouse
19 and Children Act, Revised Uniform Reciprocal Enforcement
20 of Support Act or an action for nonsupport brought under
21 Article 10 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: By filing a petition for an order of
9 protection, under the same case number as the delinquency
10 petition or criminal prosecution, to be granted during
11 pre-trial release of a defendant, with any dispositional
12 order issued under Section 5-710 of the Juvenile Court Act
13 of 1987 or as a condition of release, supervision,
14 conditional discharge, probation, periodic imprisonment,
15 parole or mandatory supervised release, or in conjunction
16 with imprisonment or a bond forfeiture warrant; provided
17 that:

18 (i) the violation is alleged in an information,
19 complaint, indictment or delinquency petition on file,
20 and the alleged offender and victim are family or
21 household members or persons protected by this Act; and

22 (ii) the petition, which is filed by the State's
23 Attorney, names a victim of the alleged crime as a
24 petitioner.

25 (b) Filing, certification, and service fees. No fee shall
26 be charged by the clerk for filing, amending, vacating,

1 certifying, or photocopying petitions or orders; or for issuing
2 alias summons; or for any related filing service. No fee shall
3 be charged by the sheriff for service by the sheriff of a
4 petition, rule, motion, or order in an action commenced under
5 this Section.

6 (c) Dismissal and consolidation. Withdrawal or dismissal
7 of any petition for an order of protection prior to
8 adjudication where the petitioner is represented by the State
9 shall operate as a dismissal without prejudice. No action for
10 an order of protection shall be dismissed because the
11 respondent is being prosecuted for a crime against the
12 petitioner. An independent action may be consolidated with
13 another civil proceeding, as provided by paragraph (2) of
14 subsection (a) of this Section. For any action commenced under
15 paragraph (2) or (3) of subsection (a) of this Section,
16 dismissal of the conjoined case (or a finding of not guilty)
17 shall not require dismissal of the action for the order of
18 protection; instead, it may be treated as an independent action
19 and, if necessary and appropriate, transferred to a different
20 court or division. Dismissal of any conjoined case shall not
21 affect the validity of any previously issued order of
22 protection, and thereafter subsections (b) (1) and (b) (2) of
23 Section 220 shall be inapplicable to such order.

24 (d) Pro se petitions. The court shall provide, through the
25 office of the clerk of the court, simplified forms and clerical
26 assistance to help with the writing and filing of a petition

1 under this Section by any person not represented by counsel. In
2 addition, that assistance may be provided by the state's
3 attorney. Any simplified form or written materials prepared to
4 assist with the writing and filing of a petition by a person
5 not represented by counsel shall contain a prominent written
6 notice stating that written information included in the
7 petition for protective order is given under oath and that
8 false statements are subject to prosecution for perjury.

9 (Source: P.A. 93-458, eff. 1-1-04.)