



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5684

Introduced 2/16/2012, by Rep. Carol A. Sente

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-20
750 ILCS 60/220

from Ch. 38, par. 112A-20
from Ch. 40, par. 2312-20

Amends the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that a plenary order of protection shall be automatically extended by the court for an additional 2-year period from the time the order would have otherwise expired, upon a determination by the court by a preponderance of the evidence that the respondent has violated the order.

LRB097 16382 RLC 61544 b

1 AN ACT concerning orders of protection.

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-20 as follows:

6 (725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

7 Sec. 112A-20. Duration and extension of orders.

8 (a) Duration of emergency and interim orders. Unless
9 re-opened or extended or voided by entry of an order of greater
10 duration:

11 (1) Emergency orders issued under Section 112A-17
12 shall be effective for not less than 14 nor more than 21
13 days;

14 (2) Interim orders shall be effective for up to 30
15 days.

16 (b) Duration of plenary orders. Except as otherwise
17 provided in this Section, a plenary order of protection shall
18 be valid for a fixed period of time not to exceed 2 years. A
19 plenary order of protection entered in conjunction with a
20 criminal prosecution shall remain in effect as follows:

21 (1) if entered during pre-trial release, until
22 disposition, withdrawal, or dismissal of the underlying
23 charge; if, however, the case is continued as an

1 independent cause of action, the order's duration may be
2 for a fixed period of time not to exceed 2 years;

3 (2) if in effect in conjunction with a bond forfeiture
4 warrant, until final disposition or an additional period of
5 time not exceeding 2 years; no order of protection,
6 however, shall be terminated by a dismissal that is
7 accompanied by the issuance of a bond forfeiture warrant;

8 (3) until expiration of any supervision, conditional
9 discharge, probation, periodic imprisonment, parole or
10 mandatory supervised release and for an additional period
11 of time thereafter not exceeding 2 years; or

12 (4) until the date set by the court for expiration of
13 any sentence of imprisonment and subsequent parole or
14 mandatory supervised release and for an additional period
15 of time thereafter not exceeding 2 years.

16 Notwithstanding any other provision of this subsection (b)
17 to the contrary, a plenary order of protection shall be
18 automatically extended by the court for an additional 2-year
19 period from the time the order would have otherwise expired,
20 upon a determination by the court by a preponderance of the
21 evidence that the respondent has violated the order.

22 (c) Computation of time. The duration of an order of
23 protection shall not be reduced by the duration of any prior
24 order of protection.

25 (d) Law enforcement records. When a plenary order of
26 protection expires upon the occurrence of a specified event,

1 rather than upon a specified date as provided in subsection
2 (b), no expiration date shall be entered in Department of State
3 Police records. To remove the plenary order from those records,
4 either party shall request the clerk of the court to file a
5 certified copy of an order stating that the specified event has
6 occurred or that the plenary order has been vacated or modified
7 with the sheriff, and the sheriff shall direct that law
8 enforcement records shall be promptly corrected in accordance
9 with the filed order.

10 (e) Extension of Orders. Any emergency, interim or plenary
11 order of protection may be extended one or more times, as
12 required, provided that the requirements of Section 112A-17,
13 112A-18 or 112A-19, as appropriate, are satisfied. If the
14 motion for extension is uncontested and petitioner seeks no
15 modification of the order, the order may be extended on the
16 basis of petitioner's motion or affidavit stating that there
17 has been no material change in relevant circumstances since
18 entry of the order and stating the reason for the requested
19 extension. An extension of a plenary order of protection may be
20 granted, upon good cause shown, to remain in effect until the
21 order of protection is vacated or modified. Extensions may be
22 granted only in open court and not under the provisions of
23 Section 112A-17(c), which applies only when the court is
24 unavailable at the close of business or on a court holiday.

25 (f) Termination date. Any order of protection which would
26 expire on a court holiday shall instead expire at the close of

1 the next court business day.

2 (g) Statement of purpose. The practice of dismissing or
3 suspending a criminal prosecution in exchange for issuing an
4 order of protection undermines the purposes of this Article.
5 This Section shall not be construed as encouraging that
6 practice.

7 (Source: P.A. 95-886, eff. 1-1-09.)

8 Section 10. The Illinois Domestic Violence Act of 1986 is
9 amended by changing Section 220 as follows:

10 (750 ILCS 60/220) (from Ch. 40, par. 2312-20)

11 Sec. 220. Duration and extension of orders.

12 (a) Duration of emergency and interim orders. Unless
13 re-opened or extended or voided by entry of an order of greater
14 duration:

15 (1) Emergency orders issued under Section 217 shall be
16 effective for not less than 14 nor more than 21 days;

17 (2) Interim orders shall be effective for up to 30
18 days.

19 (b) Duration of plenary orders. Except as otherwise
20 provided in this Section, a plenary order of protection shall
21 be valid for a fixed period of time, not to exceed two years.

22 (1) A plenary order of protection entered in
23 conjunction with another civil proceeding shall remain in
24 effect as follows:

1 (i) if entered as preliminary relief in that other
2 proceeding, until entry of final judgment in that other
3 proceeding;

4 (ii) if incorporated into the final judgment in
5 that other proceeding, until the order of protection is
6 vacated or modified; or

7 (iii) if incorporated in an order for involuntary
8 commitment, until termination of both the involuntary
9 commitment and any voluntary commitment, or for a fixed
10 period of time not exceeding 2 years.

11 (2) A plenary order of protection entered in
12 conjunction with a criminal prosecution shall remain in
13 effect as follows:

14 (i) if entered during pre-trial release, until
15 disposition, withdrawal, or dismissal of the
16 underlying charge; if, however, the case is continued
17 as an independent cause of action, the order's duration
18 may be for a fixed period of time not to exceed 2
19 years;

20 (ii) if in effect in conjunction with a bond
21 forfeiture warrant, until final disposition or an
22 additional period of time not exceeding 2 years; no
23 order of protection, however, shall be terminated by a
24 dismissal that is accompanied by the issuance of a bond
25 forfeiture warrant;

26 (iii) until expiration of any supervision,

1 conditional discharge, probation, periodic
2 imprisonment, parole or mandatory supervised release
3 and for an additional period of time thereafter not
4 exceeding 2 years; or

5 (iv) until the date set by the court for expiration
6 of any sentence of imprisonment and subsequent parole
7 or mandatory supervised release and for an additional
8 period of time thereafter not exceeding 2 years.

9 Notwithstanding any other provision of this subsection (b)
10 to the contrary, a plenary order of protection shall be
11 automatically extended by the court for an additional 2-year
12 period from the time the order would have otherwise expired,
13 upon a determination by the court by a preponderance of the
14 evidence that the respondent has violated the order.

15 (c) Computation of time. The duration of an order of
16 protection shall not be reduced by the duration of any prior
17 order of protection.

18 (d) Law enforcement records. When a plenary order of
19 protection expires upon the occurrence of a specified event,
20 rather than upon a specified date as provided in subsection
21 (b), no expiration date shall be entered in Department of State
22 Police records. To remove the plenary order from those records,
23 either party shall request the clerk of the court to file a
24 certified copy of an order stating that the specified event has
25 occurred or that the plenary order has been vacated or modified
26 with the Sheriff, and the Sheriff shall direct that law

1 enforcement records shall be promptly corrected in accordance
2 with the filed order.

3 (e) Extension of orders. Any emergency, interim or plenary
4 order may be extended one or more times, as required, provided
5 that the requirements of Section 217, 218 or 219, as
6 appropriate, are satisfied. If the motion for extension is
7 uncontested and petitioner seeks no modification of the order,
8 the order may be extended on the basis of petitioner's motion
9 or affidavit stating that there has been no material change in
10 relevant circumstances since entry of the order and stating the
11 reason for the requested extension. An extension of a plenary
12 order of protection may be granted, upon good cause shown, to
13 remain in effect until the order of protection is vacated or
14 modified. Extensions may be granted only in open court and not
15 under the provisions of subsection (c) of Section 217, which
16 applies only when the court is unavailable at the close of
17 business or on a court holiday.

18 (f) Termination date. Any order of protection which would
19 expire on a court holiday shall instead expire at the close of
20 the next court business day.

21 (g) Statement of purpose. The practice of dismissing or
22 suspending a criminal prosecution in exchange for the issuance
23 of an order of protection undermines the purposes of this Act.
24 This Section shall not be construed as encouraging that
25 practice.

26 (Source: P.A. 95-886, eff. 1-1-09.)