



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0057

Introduced 1/11/2017, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-14
750 ILCS 60/214

from Ch. 38, par. 112A-14
from Ch. 40, par. 2312-14

Amends the Illinois Domestic Violence Act of 1986 and the Code of Criminal Procedure of 1963. Provides that, with exceptions, the court may, upon request by a petitioner for an order of protection, order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers. Provides that the petitioner may request transfer of each telephone number that the petitioner, or a minor child in his or her custody, uses. Provides that the order shall contain specified terms. Provides that a wireless telephone service provider may apply to the petitioner its routine and customary requirements for establishing an account or transferring a number, including requiring the petitioner to provide proof of identification, financial information, and customer preferences. Provides that a wireless telephone service provider is immune from civil liability for its actions taken in compliance with a court order issued under the new provisions.

LRB100 03951 HEP 13956 b

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-14 as follows:

6 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

7 Sec. 112A-14. Order of protection; remedies.

8 (a) Issuance of order. If the court finds that petitioner
9 has been abused by a family or household member, as defined in
10 this Article, an order of protection prohibiting such abuse
11 shall issue; provided that petitioner must also satisfy the
12 requirements of one of the following Sections, as appropriate:
13 Section 112A-17 on emergency orders, Section 112A-18 on interim
14 orders, or Section 112A-19 on plenary orders. Petitioner shall
15 not be denied an order of protection because petitioner or
16 respondent is a minor. The court, when determining whether or
17 not to issue an order of protection, shall not require physical
18 manifestations of abuse on the person of the victim.
19 Modification and extension of prior orders of protection shall
20 be in accordance with this Article.

21 (b) Remedies and standards. The remedies to be included in
22 an order of protection shall be determined in accordance with
23 this Section and one of the following Sections, as appropriate:

1 Section 112A-17 on emergency orders, Section 112A-18 on interim
2 orders, and Section 112A-19 on plenary orders. The remedies
3 listed in this subsection shall be in addition to other civil
4 or criminal remedies available to petitioner.

5 (1) Prohibition of abuse. Prohibit respondent's
6 harassment, interference with personal liberty,
7 intimidation of a dependent, physical abuse or willful
8 deprivation, as defined in this Article, if such abuse has
9 occurred or otherwise appears likely to occur if not
10 prohibited.

11 (2) Grant of exclusive possession of residence.
12 Prohibit respondent from entering or remaining in any
13 residence, household, or premises of the petitioner,
14 including one owned or leased by respondent, if petitioner
15 has a right to occupancy thereof. The grant of exclusive
16 possession of the residence, household, or premises shall
17 not affect title to real property, nor shall the court be
18 limited by the standard set forth in Section 701 of the
19 Illinois Marriage and Dissolution of Marriage Act.

20 (A) Right to occupancy. A party has a right to
21 occupancy of a residence or household if it is solely
22 or jointly owned or leased by that party, that party's
23 spouse, a person with a legal duty to support that
24 party or a minor child in that party's care, or by any
25 person or entity other than the opposing party that
26 authorizes that party's occupancy (e.g., a domestic

1 violence shelter). Standards set forth in subparagraph
2 (B) shall not preclude equitable relief.

3 (B) Presumption of hardships. If petitioner and
4 respondent each has the right to occupancy of a
5 residence or household, the court shall balance (i) the
6 hardships to respondent and any minor child or
7 dependent adult in respondent's care resulting from
8 entry of this remedy with (ii) the hardships to
9 petitioner and any minor child or dependent adult in
10 petitioner's care resulting from continued exposure to
11 the risk of abuse (should petitioner remain at the
12 residence or household) or from loss of possession of
13 the residence or household (should petitioner leave to
14 avoid the risk of abuse). When determining the balance
15 of hardships, the court shall also take into account
16 the accessibility of the residence or household.
17 Hardships need not be balanced if respondent does not
18 have a right to occupancy.

19 The balance of hardships is presumed to favor
20 possession by petitioner unless the presumption is
21 rebutted by a preponderance of the evidence, showing
22 that the hardships to respondent substantially
23 outweigh the hardships to petitioner and any minor
24 child or dependent adult in petitioner's care. The
25 court, on the request of petitioner or on its own
26 motion, may order respondent to provide suitable,

1 accessible, alternate housing for petitioner instead
2 of excluding respondent from a mutual residence or
3 household.

4 (3) Stay away order and additional prohibitions. Order
5 respondent to stay away from petitioner or any other person
6 protected by the order of protection, or prohibit
7 respondent from entering or remaining present at
8 petitioner's school, place of employment, or other
9 specified places at times when petitioner is present, or
10 both, if reasonable, given the balance of hardships.
11 Hardships need not be balanced for the court to enter a
12 stay away order or prohibit entry if respondent has no
13 right to enter the premises.

14 If an order of protection grants petitioner exclusive
15 possession of the residence, or prohibits respondent from
16 entering the residence, or orders respondent to stay away
17 from petitioner or other protected persons, then the court
18 may allow respondent access to the residence to remove
19 items of clothing and personal adornment used exclusively
20 by respondent, medications, and other items as the court
21 directs. The right to access shall be exercised on only one
22 occasion as the court directs and in the presence of an
23 agreed-upon adult third party or law enforcement officer.

24 (4) Counseling. Require or recommend the respondent to
25 undergo counseling for a specified duration with a social
26 worker, psychologist, clinical psychologist, psychiatrist,

1 family service agency, alcohol or substance abuse program,
2 mental health center guidance counselor, agency providing
3 services to elders, program designed for domestic violence
4 abusers or any other guidance service the court deems
5 appropriate. The court may order the respondent in any
6 intimate partner relationship to report to an Illinois
7 Department of Human Services protocol approved partner
8 abuse intervention program for an assessment and to follow
9 all recommended treatment.

10 (5) Physical care and possession of the minor child. In
11 order to protect the minor child from abuse, neglect, or
12 unwarranted separation from the person who has been the
13 minor child's primary caretaker, or to otherwise protect
14 the well-being of the minor child, the court may do either
15 or both of the following: (i) grant petitioner physical
16 care or possession of the minor child, or both, or (ii)
17 order respondent to return a minor child to, or not remove
18 a minor child from, the physical care of a parent or person
19 in loco parentis.

20 If a court finds, after a hearing, that respondent has
21 committed abuse (as defined in Section 112A-3) of a minor
22 child, there shall be a rebuttable presumption that
23 awarding physical care to respondent would not be in the
24 minor child's best interest.

25 (6) Temporary legal custody. Award temporary legal
26 custody to petitioner in accordance with this Section, the

1 Illinois Marriage and Dissolution of Marriage Act, the
2 Illinois Parentage Act of 2015, and this State's Uniform
3 Child-Custody Jurisdiction and Enforcement Act.

4 If a court finds, after a hearing, that respondent has
5 committed abuse (as defined in Section 112A-3) of a minor
6 child, there shall be a rebuttable presumption that
7 awarding temporary legal custody to respondent would not be
8 in the child's best interest.

9 (7) Visitation. Determine the visitation rights, if
10 any, of respondent in any case in which the court awards
11 physical care or temporary legal custody of a minor child
12 to petitioner. The court shall restrict or deny
13 respondent's visitation with a minor child if the court
14 finds that respondent has done or is likely to do any of
15 the following: (i) abuse or endanger the minor child during
16 visitation; (ii) use the visitation as an opportunity to
17 abuse or harass petitioner or petitioner's family or
18 household members; (iii) improperly conceal or detain the
19 minor child; or (iv) otherwise act in a manner that is not
20 in the best interests of the minor child. The court shall
21 not be limited by the standards set forth in Section 607.1
22 of the Illinois Marriage and Dissolution of Marriage Act.
23 If the court grants visitation, the order shall specify
24 dates and times for the visitation to take place or other
25 specific parameters or conditions that are appropriate. No
26 order for visitation shall refer merely to the term

1 "reasonable visitation".

2 Petitioner may deny respondent access to the minor
3 child if, when respondent arrives for visitation,
4 respondent is under the influence of drugs or alcohol and
5 constitutes a threat to the safety and well-being of
6 petitioner or petitioner's minor children or is behaving in
7 a violent or abusive manner.

8 If necessary to protect any member of petitioner's
9 family or household from future abuse, respondent shall be
10 prohibited from coming to petitioner's residence to meet
11 the minor child for visitation, and the parties shall
12 submit to the court their recommendations for reasonable
13 alternative arrangements for visitation. A person may be
14 approved to supervise visitation only after filing an
15 affidavit accepting that responsibility and acknowledging
16 accountability to the court.

17 (8) Removal or concealment of minor child. Prohibit
18 respondent from removing a minor child from the State or
19 concealing the child within the State.

20 (9) Order to appear. Order the respondent to appear in
21 court, alone or with a minor child, to prevent abuse,
22 neglect, removal or concealment of the child, to return the
23 child to the custody or care of the petitioner or to permit
24 any court-ordered interview or examination of the child or
25 the respondent.

26 (10) Possession of personal property. Grant petitioner

1 exclusive possession of personal property and, if
2 respondent has possession or control, direct respondent to
3 promptly make it available to petitioner, if:

4 (i) petitioner, but not respondent, owns the
5 property; or

6 (ii) the parties own the property jointly; sharing
7 it would risk abuse of petitioner by respondent or is
8 impracticable; and the balance of hardships favors
9 temporary possession by petitioner.

10 If petitioner's sole claim to ownership of the property
11 is that it is marital property, the court may award
12 petitioner temporary possession thereof under the
13 standards of subparagraph (ii) of this paragraph only if a
14 proper proceeding has been filed under the Illinois
15 Marriage and Dissolution of Marriage Act, as now or
16 hereafter amended.

17 No order under this provision shall affect title to
18 property.

19 (11) Protection of property. Forbid the respondent
20 from taking, transferring, encumbering, concealing,
21 damaging or otherwise disposing of any real or personal
22 property, except as explicitly authorized by the court, if:

23 (i) petitioner, but not respondent, owns the
24 property; or

25 (ii) the parties own the property jointly, and the
26 balance of hardships favors granting this remedy.

1 If petitioner's sole claim to ownership of the property
2 is that it is marital property, the court may grant
3 petitioner relief under subparagraph (ii) of this
4 paragraph only if a proper proceeding has been filed under
5 the Illinois Marriage and Dissolution of Marriage Act, as
6 now or hereafter amended.

7 The court may further prohibit respondent from
8 improperly using the financial or other resources of an
9 aged member of the family or household for the profit or
10 advantage of respondent or of any other person.

11 (11.5) Protection of animals. Grant the petitioner the
12 exclusive care, custody, or control of any animal owned,
13 possessed, leased, kept, or held by either the petitioner
14 or the respondent or a minor child residing in the
15 residence or household of either the petitioner or the
16 respondent and order the respondent to stay away from the
17 animal and forbid the respondent from taking,
18 transferring, encumbering, concealing, harming, or
19 otherwise disposing of the animal.

20 (12) Order for payment of support. Order respondent to
21 pay temporary support for the petitioner or any child in
22 the petitioner's care or custody, when the respondent has a
23 legal obligation to support that person, in accordance with
24 the Illinois Marriage and Dissolution of Marriage Act,
25 which shall govern, among other matters, the amount of
26 support, payment through the clerk and withholding of

1 income to secure payment. An order for child support may be
2 granted to a petitioner with lawful physical care or
3 custody of a child, or an order or agreement for physical
4 care or custody, prior to entry of an order for legal
5 custody. Such a support order shall expire upon entry of a
6 valid order granting legal custody to another, unless
7 otherwise provided in the custody order.

8 (13) Order for payment of losses. Order respondent to
9 pay petitioner for losses suffered as a direct result of
10 the abuse. Such losses shall include, but not be limited
11 to, medical expenses, lost earnings or other support,
12 repair or replacement of property damaged or taken,
13 reasonable attorney's fees, court costs and moving or other
14 travel expenses, including additional reasonable expenses
15 for temporary shelter and restaurant meals.

16 (i) Losses affecting family needs. If a party is
17 entitled to seek maintenance, child support or
18 property distribution from the other party under the
19 Illinois Marriage and Dissolution of Marriage Act, as
20 now or hereafter amended, the court may order
21 respondent to reimburse petitioner's actual losses, to
22 the extent that such reimbursement would be
23 "appropriate temporary relief", as authorized by
24 subsection (a) (3) of Section 501 of that Act.

25 (ii) Recovery of expenses. In the case of an
26 improper concealment or removal of a minor child, the

1 court may order respondent to pay the reasonable
2 expenses incurred or to be incurred in the search for
3 and recovery of the minor child, including but not
4 limited to legal fees, court costs, private
5 investigator fees, and travel costs.

6 (14) Prohibition of entry. Prohibit the respondent
7 from entering or remaining in the residence or household
8 while the respondent is under the influence of alcohol or
9 drugs and constitutes a threat to the safety and well-being
10 of the petitioner or the petitioner's children.

11 (14.5) Prohibition of firearm possession.

12 (A) A person who is subject to an existing order of
13 protection, interim order of protection, emergency
14 order of protection, or plenary order of protection,
15 issued under this Code may not lawfully possess weapons
16 under Section 8.2 of the Firearm Owners Identification
17 Card Act.

18 (B) Any firearms in the possession of the
19 respondent, except as provided in subparagraph (C) of
20 this paragraph (14.5), shall be ordered by the court to
21 be turned over to a person with a valid Firearm Owner's
22 Identification Card for safekeeping. The court shall
23 issue an order that the respondent's Firearm Owner's
24 Identification Card be turned over to the local law
25 enforcement agency, which in turn shall immediately
26 mail the card to the Department of State Police Firearm

1 Owner's Identification Card Office for safekeeping.
2 The period of safekeeping shall be for the duration of
3 the order of protection. The firearm or firearms and
4 Firearm Owner's Identification Card, if unexpired,
5 shall at the respondent's request be returned to the
6 respondent at expiration of the order of protection.

7 (C) If the respondent is a peace officer as defined
8 in Section 2-13 of the Criminal Code of 2012, the court
9 shall order that any firearms used by the respondent in
10 the performance of his or her duties as a peace officer
11 be surrendered to the chief law enforcement executive
12 of the agency in which the respondent is employed, who
13 shall retain the firearms for safekeeping for the
14 duration of the order of protection.

15 (D) Upon expiration of the period of safekeeping,
16 if the firearms or Firearm Owner's Identification Card
17 cannot be returned to respondent because respondent
18 cannot be located, fails to respond to requests to
19 retrieve the firearms, or is not lawfully eligible to
20 possess a firearm, upon petition from the local law
21 enforcement agency, the court may order the local law
22 enforcement agency to destroy the firearms, use the
23 firearms for training purposes, or for any other
24 application as deemed appropriate by the local law
25 enforcement agency; or that the firearms be turned over
26 to a third party who is lawfully eligible to possess

1 firearms, and who does not reside with respondent.

2 (15) Prohibition of access to records. If an order of
3 protection prohibits respondent from having contact with
4 the minor child, or if petitioner's address is omitted
5 under subsection (b) of Section 112A-5, or if necessary to
6 prevent abuse or wrongful removal or concealment of a minor
7 child, the order shall deny respondent access to, and
8 prohibit respondent from inspecting, obtaining, or
9 attempting to inspect or obtain, school or any other
10 records of the minor child who is in the care of
11 petitioner.

12 (16) Order for payment of shelter services. Order
13 respondent to reimburse a shelter providing temporary
14 housing and counseling services to the petitioner for the
15 cost of the services, as certified by the shelter and
16 deemed reasonable by the court.

17 (17) Order for injunctive relief. Enter injunctive
18 relief necessary or appropriate to prevent further abuse of
19 a family or household member or to effectuate one of the
20 granted remedies, if supported by the balance of hardships.
21 If the harm to be prevented by the injunction is abuse or
22 any other harm that one of the remedies listed in
23 paragraphs (1) through (16) of this subsection is designed
24 to prevent, no further evidence is necessary to establish
25 that the harm is an irreparable injury.

26 (18) Telephone services.

1 (A) Unless a condition described in subparagraph
2 (B) of this paragraph exists, the court may, upon
3 request by the petitioner, order a wireless telephone
4 service provider to transfer to the petitioner the
5 right to continue to use a telephone number or numbers
6 indicated by the petitioner and the financial
7 responsibility associated with the number or numbers,
8 as set forth in subparagraph (C) of this paragraph. The
9 petitioner may request the transfer of each telephone
10 number that the petitioner, or a minor child in his or
11 her custody, uses. The order shall contain all of the
12 following:

13 (i) The name and billing telephone number of
14 the account holder.

15 (ii) Each telephone number that will be
16 transferred.

17 (iii) A statement that the provider transfers
18 to the petitioner all financial responsibility for
19 and right to the use of any telephone number
20 transferred under this paragraph.

21 (B) A wireless telephone service provider shall
22 terminate the respondent's use of, and shall transfer
23 to the petitioner use of, the telephone number or
24 numbers indicated in subparagraph (A) of this
25 paragraph unless it notifies the petitioner, within 72
26 hours after it receives the order, that one of the

1 following applies:

2 (i) The account holder named in the order has
3 terminated the account.

4 (ii) A difference in network technology would
5 prevent or impair the functionality of a device on
6 a network if the transfer occurs.

7 (iii) The transfer would cause a geographic or
8 other limitation on network or service provision
9 to the petitioner.

10 (iv) Another technological or operational
11 issue would prevent or impair the use of the
12 telephone number if the transfer occurs.

13 (C) The petitioner assumes all financial
14 responsibility for and right to the use of any
15 telephone number transferred under this paragraph. In
16 this paragraph, "financial responsibility" includes
17 monthly service costs and costs associated with any
18 mobile device associated with the number.

19 (D) A wireless telephone service provider may
20 apply to the petitioner its routine and customary
21 requirements for establishing an account or
22 transferring a number, including requiring the
23 petitioner to provide proof of identification,
24 financial information, and customer preferences.

25 (E) A wireless telephone service provider is
26 immune from civil liability for its actions taken in

1 compliance with a court order issued under this
2 paragraph.

3 (c) Relevant factors; findings.

4 (1) In determining whether to grant a specific remedy,
5 other than payment of support, the court shall consider
6 relevant factors, including but not limited to the
7 following:

8 (i) the nature, frequency, severity, pattern and
9 consequences of the respondent's past abuse of the
10 petitioner or any family or household member,
11 including the concealment of his or her location in
12 order to evade service of process or notice, and the
13 likelihood of danger of future abuse to petitioner or
14 any member of petitioner's or respondent's family or
15 household; and

16 (ii) the danger that any minor child will be abused
17 or neglected or improperly removed from the
18 jurisdiction, improperly concealed within the State or
19 improperly separated from the child's primary
20 caretaker.

21 (2) In comparing relative hardships resulting to the
22 parties from loss of possession of the family home, the
23 court shall consider relevant factors, including but not
24 limited to the following:

25 (i) availability, accessibility, cost, safety,
26 adequacy, location and other characteristics of

1 alternate housing for each party and any minor child or
2 dependent adult in the party's care;

3 (ii) the effect on the party's employment; and

4 (iii) the effect on the relationship of the party,
5 and any minor child or dependent adult in the party's
6 care, to family, school, church and community.

7 (3) Subject to the exceptions set forth in paragraph
8 (4) of this subsection, the court shall make its findings
9 in an official record or in writing, and shall at a minimum
10 set forth the following:

11 (i) That the court has considered the applicable
12 relevant factors described in paragraphs (1) and (2) of
13 this subsection.

14 (ii) Whether the conduct or actions of respondent,
15 unless prohibited, will likely cause irreparable harm
16 or continued abuse.

17 (iii) Whether it is necessary to grant the
18 requested relief in order to protect petitioner or
19 other alleged abused persons.

20 (4) For purposes of issuing an ex parte emergency order
21 of protection, the court, as an alternative to or as a
22 supplement to making the findings described in paragraphs
23 (c) (3) (i) through (c) (3) (iii) of this subsection, may use
24 the following procedure:

25 When a verified petition for an emergency order of
26 protection in accordance with the requirements of Sections

1 112A-5 and 112A-17 is presented to the court, the court
2 shall examine petitioner on oath or affirmation. An
3 emergency order of protection shall be issued by the court
4 if it appears from the contents of the petition and the
5 examination of petitioner that the averments are
6 sufficient to indicate abuse by respondent and to support
7 the granting of relief under the issuance of the emergency
8 order of protection.

9 (5) Never married parties. No rights or
10 responsibilities for a minor child born outside of marriage
11 attach to a putative father until a father and child
12 relationship has been established under the Illinois
13 Parentage Act of 1984 or under the Illinois Parentage Act
14 of 2015 on and after the effective date of that Act. Absent
15 such an adjudication, no putative father shall be granted
16 temporary custody of the minor child, visitation with the
17 minor child, or physical care and possession of the minor
18 child, nor shall an order of payment for support of the
19 minor child be entered.

20 (d) Balance of hardships; findings. If the court finds that
21 the balance of hardships does not support the granting of a
22 remedy governed by paragraph (2), (3), (10), (11), or (16) of
23 subsection (b) of this Section, which may require such
24 balancing, the court's findings shall so indicate and shall
25 include a finding as to whether granting the remedy will result
26 in hardship to respondent that would substantially outweigh the

1 hardship to petitioner from denial of the remedy. The findings
2 shall be an official record or in writing.

3 (e) Denial of remedies. Denial of any remedy shall not be
4 based, in whole or in part, on evidence that:

5 (1) Respondent has cause for any use of force, unless
6 that cause satisfies the standards for justifiable use of
7 force provided by Article 7 of the Criminal Code of 2012;

8 (2) Respondent was voluntarily intoxicated;

9 (3) Petitioner acted in self-defense or defense of
10 another, provided that, if petitioner utilized force, such
11 force was justifiable under Article 7 of the Criminal Code
12 of 2012;

13 (4) Petitioner did not act in self-defense or defense
14 of another;

15 (5) Petitioner left the residence or household to avoid
16 further abuse by respondent;

17 (6) Petitioner did not leave the residence or household
18 to avoid further abuse by respondent;

19 (7) Conduct by any family or household member excused
20 the abuse by respondent, unless that same conduct would
21 have excused such abuse if the parties had not been family
22 or household members.

23 (Source: P.A. 98-63, eff. 7-9-13; 99-85, eff. 1-1-16.)

24 Section 10. The Illinois Domestic Violence Act of 1986 is
25 amended by changing Section 214 as follows:

1 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

2 Sec. 214. Order of protection; remedies.

3 (a) Issuance of order. If the court finds that petitioner
4 has been abused by a family or household member or that
5 petitioner is a high-risk adult who has been abused, neglected,
6 or exploited, as defined in this Act, an order of protection
7 prohibiting the abuse, neglect, or exploitation shall issue;
8 provided that petitioner must also satisfy the requirements of
9 one of the following Sections, as appropriate: Section 217 on
10 emergency orders, Section 218 on interim orders, or Section 219
11 on plenary orders. Petitioner shall not be denied an order of
12 protection because petitioner or respondent is a minor. The
13 court, when determining whether or not to issue an order of
14 protection, shall not require physical manifestations of abuse
15 on the person of the victim. Modification and extension of
16 prior orders of protection shall be in accordance with this
17 Act.

18 (b) Remedies and standards. The remedies to be included in
19 an order of protection shall be determined in accordance with
20 this Section and one of the following Sections, as appropriate:
21 Section 217 on emergency orders, Section 218 on interim orders,
22 and Section 219 on plenary orders. The remedies listed in this
23 subsection shall be in addition to other civil or criminal
24 remedies available to petitioner.

25 (1) Prohibition of abuse, neglect, or exploitation.

1 Prohibit respondent's harassment, interference with
2 personal liberty, intimidation of a dependent, physical
3 abuse, or willful deprivation, neglect or exploitation, as
4 defined in this Act, or stalking of the petitioner, as
5 defined in Section 12-7.3 of the Criminal Code of 2012, if
6 such abuse, neglect, exploitation, or stalking has
7 occurred or otherwise appears likely to occur if not
8 prohibited.

9 (2) Grant of exclusive possession of residence.
10 Prohibit respondent from entering or remaining in any
11 residence, household, or premises of the petitioner,
12 including one owned or leased by respondent, if petitioner
13 has a right to occupancy thereof. The grant of exclusive
14 possession of the residence, household, or premises shall
15 not affect title to real property, nor shall the court be
16 limited by the standard set forth in Section 701 of the
17 Illinois Marriage and Dissolution of Marriage Act.

18 (A) Right to occupancy. A party has a right to
19 occupancy of a residence or household if it is solely
20 or jointly owned or leased by that party, that party's
21 spouse, a person with a legal duty to support that
22 party or a minor child in that party's care, or by any
23 person or entity other than the opposing party that
24 authorizes that party's occupancy (e.g., a domestic
25 violence shelter). Standards set forth in subparagraph
26 (B) shall not preclude equitable relief.

1 (B) Presumption of hardships. If petitioner and
2 respondent each has the right to occupancy of a
3 residence or household, the court shall balance (i) the
4 hardships to respondent and any minor child or
5 dependent adult in respondent's care resulting from
6 entry of this remedy with (ii) the hardships to
7 petitioner and any minor child or dependent adult in
8 petitioner's care resulting from continued exposure to
9 the risk of abuse (should petitioner remain at the
10 residence or household) or from loss of possession of
11 the residence or household (should petitioner leave to
12 avoid the risk of abuse). When determining the balance
13 of hardships, the court shall also take into account
14 the accessibility of the residence or household.
15 Hardships need not be balanced if respondent does not
16 have a right to occupancy.

17 The balance of hardships is presumed to favor
18 possession by petitioner unless the presumption is
19 rebutted by a preponderance of the evidence, showing
20 that the hardships to respondent substantially
21 outweigh the hardships to petitioner and any minor
22 child or dependent adult in petitioner's care. The
23 court, on the request of petitioner or on its own
24 motion, may order respondent to provide suitable,
25 accessible, alternate housing for petitioner instead
26 of excluding respondent from a mutual residence or

1 household.

2 (3) Stay away order and additional prohibitions. Order
3 respondent to stay away from petitioner or any other person
4 protected by the order of protection, or prohibit
5 respondent from entering or remaining present at
6 petitioner's school, place of employment, or other
7 specified places at times when petitioner is present, or
8 both, if reasonable, given the balance of hardships.
9 Hardships need not be balanced for the court to enter a
10 stay away order or prohibit entry if respondent has no
11 right to enter the premises.

12 (A) If an order of protection grants petitioner
13 exclusive possession of the residence, or prohibits
14 respondent from entering the residence, or orders
15 respondent to stay away from petitioner or other
16 protected persons, then the court may allow respondent
17 access to the residence to remove items of clothing and
18 personal adornment used exclusively by respondent,
19 medications, and other items as the court directs. The
20 right to access shall be exercised on only one occasion
21 as the court directs and in the presence of an
22 agreed-upon adult third party or law enforcement
23 officer.

24 (B) When the petitioner and the respondent attend
25 the same public, private, or non-public elementary,
26 middle, or high school, the court when issuing an order

1 of protection and providing relief shall consider the
2 severity of the act, any continuing physical danger or
3 emotional distress to the petitioner, the educational
4 rights guaranteed to the petitioner and respondent
5 under federal and State law, the availability of a
6 transfer of the respondent to another school, a change
7 of placement or a change of program of the respondent,
8 the expense, difficulty, and educational disruption
9 that would be caused by a transfer of the respondent to
10 another school, and any other relevant facts of the
11 case. The court may order that the respondent not
12 attend the public, private, or non-public elementary,
13 middle, or high school attended by the petitioner,
14 order that the respondent accept a change of placement
15 or change of program, as determined by the school
16 district or private or non-public school, or place
17 restrictions on the respondent's movements within the
18 school attended by the petitioner. The respondent
19 bears the burden of proving by a preponderance of the
20 evidence that a transfer, change of placement, or
21 change of program of the respondent is not available.
22 The respondent also bears the burden of production with
23 respect to the expense, difficulty, and educational
24 disruption that would be caused by a transfer of the
25 respondent to another school. A transfer, change of
26 placement, or change of program is not unavailable to

1 the respondent solely on the ground that the respondent
2 does not agree with the school district's or private or
3 non-public school's transfer, change of placement, or
4 change of program or solely on the ground that the
5 respondent fails or refuses to consent or otherwise
6 does not take an action required to effectuate a
7 transfer, change of placement, or change of program.
8 When a court orders a respondent to stay away from the
9 public, private, or non-public school attended by the
10 petitioner and the respondent requests a transfer to
11 another attendance center within the respondent's
12 school district or private or non-public school, the
13 school district or private or non-public school shall
14 have sole discretion to determine the attendance
15 center to which the respondent is transferred. In the
16 event the court order results in a transfer of the
17 minor respondent to another attendance center, a
18 change in the respondent's placement, or a change of
19 the respondent's program, the parents, guardian, or
20 legal custodian of the respondent is responsible for
21 transportation and other costs associated with the
22 transfer or change.

23 (C) The court may order the parents, guardian, or
24 legal custodian of a minor respondent to take certain
25 actions or to refrain from taking certain actions to
26 ensure that the respondent complies with the order. In

1 the event the court orders a transfer of the respondent
2 to another school, the parents, guardian, or legal
3 custodian of the respondent is responsible for
4 transportation and other costs associated with the
5 change of school by the respondent.

6 (4) Counseling. Require or recommend the respondent to
7 undergo counseling for a specified duration with a social
8 worker, psychologist, clinical psychologist, psychiatrist,
9 family service agency, alcohol or substance abuse program,
10 mental health center guidance counselor, agency providing
11 services to elders, program designed for domestic violence
12 abusers or any other guidance service the court deems
13 appropriate. The Court may order the respondent in any
14 intimate partner relationship to report to an Illinois
15 Department of Human Services protocol approved partner
16 abuse intervention program for an assessment and to follow
17 all recommended treatment.

18 (5) Physical care and possession of the minor child. In
19 order to protect the minor child from abuse, neglect, or
20 unwarranted separation from the person who has been the
21 minor child's primary caretaker, or to otherwise protect
22 the well-being of the minor child, the court may do either
23 or both of the following: (i) grant petitioner physical
24 care or possession of the minor child, or both, or (ii)
25 order respondent to return a minor child to, or not remove
26 a minor child from, the physical care of a parent or person

1 in loco parentis.

2 If a court finds, after a hearing, that respondent has
3 committed abuse (as defined in Section 103) of a minor
4 child, there shall be a rebuttable presumption that
5 awarding physical care to respondent would not be in the
6 minor child's best interest.

7 (6) Temporary allocation of parental responsibilities:
8 significant decision-making. Award temporary
9 decision-making responsibility to petitioner in accordance
10 with this Section, the Illinois Marriage and Dissolution of
11 Marriage Act, the Illinois Parentage Act of 2015, and this
12 State's Uniform Child-Custody Jurisdiction and Enforcement
13 Act.

14 If a court finds, after a hearing, that respondent has
15 committed abuse (as defined in Section 103) of a minor
16 child, there shall be a rebuttable presumption that
17 awarding temporary significant decision-making
18 responsibility to respondent would not be in the child's
19 best interest.

20 (7) Parenting time. Determine the parenting time, if
21 any, of respondent in any case in which the court awards
22 physical care or allocates temporary significant
23 decision-making responsibility of a minor child to
24 petitioner. The court shall restrict or deny respondent's
25 parenting time with a minor child if the court finds that
26 respondent has done or is likely to do any of the

1 following: (i) abuse or endanger the minor child during
2 parenting time; (ii) use the parenting time as an
3 opportunity to abuse or harass petitioner or petitioner's
4 family or household members; (iii) improperly conceal or
5 detain the minor child; or (iv) otherwise act in a manner
6 that is not in the best interests of the minor child. The
7 court shall not be limited by the standards set forth in
8 Section 603.10 of the Illinois Marriage and Dissolution of
9 Marriage Act. If the court grants parenting time, the order
10 shall specify dates and times for the parenting time to
11 take place or other specific parameters or conditions that
12 are appropriate. No order for parenting time shall refer
13 merely to the term "reasonable parenting time".

14 Petitioner may deny respondent access to the minor
15 child if, when respondent arrives for parenting time,
16 respondent is under the influence of drugs or alcohol and
17 constitutes a threat to the safety and well-being of
18 petitioner or petitioner's minor children or is behaving in
19 a violent or abusive manner.

20 If necessary to protect any member of petitioner's
21 family or household from future abuse, respondent shall be
22 prohibited from coming to petitioner's residence to meet
23 the minor child for parenting time, and the parties shall
24 submit to the court their recommendations for reasonable
25 alternative arrangements for parenting time. A person may
26 be approved to supervise parenting time only after filing

1 an affidavit accepting that responsibility and
2 acknowledging accountability to the court.

3 (8) Removal or concealment of minor child. Prohibit
4 respondent from removing a minor child from the State or
5 concealing the child within the State.

6 (9) Order to appear. Order the respondent to appear in
7 court, alone or with a minor child, to prevent abuse,
8 neglect, removal or concealment of the child, to return the
9 child to the custody or care of the petitioner or to permit
10 any court-ordered interview or examination of the child or
11 the respondent.

12 (10) Possession of personal property. Grant petitioner
13 exclusive possession of personal property and, if
14 respondent has possession or control, direct respondent to
15 promptly make it available to petitioner, if:

16 (i) petitioner, but not respondent, owns the
17 property; or

18 (ii) the parties own the property jointly; sharing
19 it would risk abuse of petitioner by respondent or is
20 impracticable; and the balance of hardships favors
21 temporary possession by petitioner.

22 If petitioner's sole claim to ownership of the property
23 is that it is marital property, the court may award
24 petitioner temporary possession thereof under the
25 standards of subparagraph (ii) of this paragraph only if a
26 proper proceeding has been filed under the Illinois

1 Marriage and Dissolution of Marriage Act, as now or
2 hereafter amended.

3 No order under this provision shall affect title to
4 property.

5 (11) Protection of property. Forbid the respondent
6 from taking, transferring, encumbering, concealing,
7 damaging or otherwise disposing of any real or personal
8 property, except as explicitly authorized by the court, if:

9 (i) petitioner, but not respondent, owns the
10 property; or

11 (ii) the parties own the property jointly, and the
12 balance of hardships favors granting this remedy.

13 If petitioner's sole claim to ownership of the property
14 is that it is marital property, the court may grant
15 petitioner relief under subparagraph (ii) of this
16 paragraph only if a proper proceeding has been filed under
17 the Illinois Marriage and Dissolution of Marriage Act, as
18 now or hereafter amended.

19 The court may further prohibit respondent from
20 improperly using the financial or other resources of an
21 aged member of the family or household for the profit or
22 advantage of respondent or of any other person.

23 (11.5) Protection of animals. Grant the petitioner the
24 exclusive care, custody, or control of any animal owned,
25 possessed, leased, kept, or held by either the petitioner
26 or the respondent or a minor child residing in the

1 residence or household of either the petitioner or the
2 respondent and order the respondent to stay away from the
3 animal and forbid the respondent from taking,
4 transferring, encumbering, concealing, harming, or
5 otherwise disposing of the animal.

6 (12) Order for payment of support. Order respondent to
7 pay temporary support for the petitioner or any child in
8 the petitioner's care or over whom the petitioner has been
9 allocated parental responsibility, when the respondent has
10 a legal obligation to support that person, in accordance
11 with the Illinois Marriage and Dissolution of Marriage Act,
12 which shall govern, among other matters, the amount of
13 support, payment through the clerk and withholding of
14 income to secure payment. An order for child support may be
15 granted to a petitioner with lawful physical care of a
16 child, or an order or agreement for physical care of a
17 child, prior to entry of an order allocating significant
18 decision-making responsibility. Such a support order shall
19 expire upon entry of a valid order allocating parental
20 responsibility differently and vacating the petitioner's
21 significant decision-making authority, unless otherwise
22 provided in the order.

23 (13) Order for payment of losses. Order respondent to
24 pay petitioner for losses suffered as a direct result of
25 the abuse, neglect, or exploitation. Such losses shall
26 include, but not be limited to, medical expenses, lost

1 earnings or other support, repair or replacement of
2 property damaged or taken, reasonable attorney's fees,
3 court costs and moving or other travel expenses, including
4 additional reasonable expenses for temporary shelter and
5 restaurant meals.

6 (i) Losses affecting family needs. If a party is
7 entitled to seek maintenance, child support or
8 property distribution from the other party under the
9 Illinois Marriage and Dissolution of Marriage Act, as
10 now or hereafter amended, the court may order
11 respondent to reimburse petitioner's actual losses, to
12 the extent that such reimbursement would be
13 "appropriate temporary relief", as authorized by
14 subsection (a) (3) of Section 501 of that Act.

15 (ii) Recovery of expenses. In the case of an
16 improper concealment or removal of a minor child, the
17 court may order respondent to pay the reasonable
18 expenses incurred or to be incurred in the search for
19 and recovery of the minor child, including but not
20 limited to legal fees, court costs, private
21 investigator fees, and travel costs.

22 (14) Prohibition of entry. Prohibit the respondent
23 from entering or remaining in the residence or household
24 while the respondent is under the influence of alcohol or
25 drugs and constitutes a threat to the safety and well-being
26 of the petitioner or the petitioner's children.

1 (14.5) Prohibition of firearm possession.

2 (a) Prohibit a respondent against whom an order of
3 protection was issued from possessing any firearms
4 during the duration of the order if the order:

5 (1) was issued after a hearing of which such
6 person received actual notice, and at which such
7 person had an opportunity to participate;

8 (2) restrains such person from harassing,
9 stalking, or threatening an intimate partner of
10 such person or child of such intimate partner or
11 person, or engaging in other conduct that would
12 place an intimate partner in reasonable fear of
13 bodily injury to the partner or child; and

14 (3) (i) includes a finding that such person
15 represents a credible threat to the physical
16 safety of such intimate partner or child; or (ii)
17 by its terms explicitly prohibits the use,
18 attempted use, or threatened use of physical force
19 against such intimate partner or child that would
20 reasonably be expected to cause bodily injury.

21 Any Firearm Owner's Identification Card in the
22 possession of the respondent, except as provided in
23 subsection (b), shall be ordered by the court to be
24 turned over to the local law enforcement agency. The
25 local law enforcement agency shall immediately mail
26 the card to the Department of State Police Firearm

1 Owner's Identification Card Office for safekeeping.
2 The court shall issue a warrant for seizure of any
3 firearm in the possession of the respondent, to be kept
4 by the local law enforcement agency for safekeeping,
5 except as provided in subsection (b). The period of
6 safekeeping shall be for the duration of the order of
7 protection. The firearm or firearms and Firearm
8 Owner's Identification Card, if unexpired, shall at
9 the respondent's request, be returned to the
10 respondent at the end of the order of protection. It is
11 the respondent's responsibility to notify the
12 Department of State Police Firearm Owner's
13 Identification Card Office.

14 (b) If the respondent is a peace officer as defined
15 in Section 2-13 of the Criminal Code of 2012, the court
16 shall order that any firearms used by the respondent in
17 the performance of his or her duties as a peace officer
18 be surrendered to the chief law enforcement executive
19 of the agency in which the respondent is employed, who
20 shall retain the firearms for safekeeping for the
21 duration of the order of protection.

22 (c) Upon expiration of the period of safekeeping,
23 if the firearms or Firearm Owner's Identification Card
24 cannot be returned to respondent because respondent
25 cannot be located, fails to respond to requests to
26 retrieve the firearms, or is not lawfully eligible to

1 possess a firearm, upon petition from the local law
2 enforcement agency, the court may order the local law
3 enforcement agency to destroy the firearms, use the
4 firearms for training purposes, or for any other
5 application as deemed appropriate by the local law
6 enforcement agency; or that the firearms be turned over
7 to a third party who is lawfully eligible to possess
8 firearms, and who does not reside with respondent.

9 (15) Prohibition of access to records. If an order of
10 protection prohibits respondent from having contact with
11 the minor child, or if petitioner's address is omitted
12 under subsection (b) of Section 203, or if necessary to
13 prevent abuse or wrongful removal or concealment of a minor
14 child, the order shall deny respondent access to, and
15 prohibit respondent from inspecting, obtaining, or
16 attempting to inspect or obtain, school or any other
17 records of the minor child who is in the care of
18 petitioner.

19 (16) Order for payment of shelter services. Order
20 respondent to reimburse a shelter providing temporary
21 housing and counseling services to the petitioner for the
22 cost of the services, as certified by the shelter and
23 deemed reasonable by the court.

24 (17) Order for injunctive relief. Enter injunctive
25 relief necessary or appropriate to prevent further abuse of
26 a family or household member or further abuse, neglect, or

1 exploitation of a high-risk adult with disabilities or to
2 effectuate one of the granted remedies, if supported by the
3 balance of hardships. If the harm to be prevented by the
4 injunction is abuse or any other harm that one of the
5 remedies listed in paragraphs (1) through (16) of this
6 subsection is designed to prevent, no further evidence is
7 necessary that the harm is an irreparable injury.

8 (18) Telephone services.

9 (A) Unless a condition described in subparagraph
10 (B) of this paragraph exists, the court may, upon
11 request by the petitioner, order a wireless telephone
12 service provider to transfer to the petitioner the
13 right to continue to use a telephone number or numbers
14 indicated by the petitioner and the financial
15 responsibility associated with the number or numbers,
16 as set forth in subparagraph (C) of this paragraph. The
17 petitioner may request the transfer of each telephone
18 number that the petitioner, or a minor child in his or
19 her custody, uses. The order shall contain all of the
20 following:

21 (i) The name and billing telephone number of
22 the account holder.

23 (ii) Each telephone number that will be
24 transferred.

25 (iii) A statement that the provider transfers
26 to the petitioner all financial responsibility for

1 and right to the use of any telephone number
2 transferred under this paragraph.

3 (B) A wireless telephone service provider shall
4 terminate the respondent's use of, and shall transfer
5 to the petitioner use of, the telephone number or
6 numbers indicated in subparagraph (A) of this
7 paragraph unless it notifies the petitioner, within 72
8 hours after it receives the order, that one of the
9 following applies:

10 (i) The account holder named in the order has
11 terminated the account.

12 (ii) A difference in network technology would
13 prevent or impair the functionality of a device on
14 a network if the transfer occurs.

15 (iii) The transfer would cause a geographic or
16 other limitation on network or service provision
17 to the petitioner.

18 (iv) Another technological or operational
19 issue would prevent or impair the use of the
20 telephone number if the transfer occurs.

21 (C) The petitioner assumes all financial
22 responsibility for and right to the use of any
23 telephone number transferred under this paragraph. In
24 this paragraph, "financial responsibility" includes
25 monthly service costs and costs associated with any
26 mobile device associated with the number.

1 (D) A wireless telephone service provider may
2 apply to the petitioner its routine and customary
3 requirements for establishing an account or
4 transferring a number, including requiring the
5 petitioner to provide proof of identification,
6 financial information, and customer preferences.

7 (E) A wireless telephone service provider is
8 immune from civil liability for its actions taken in
9 compliance with a court order issued under this
10 paragraph.

11 (c) Relevant factors; findings.

12 (1) In determining whether to grant a specific remedy,
13 other than payment of support, the court shall consider
14 relevant factors, including but not limited to the
15 following:

16 (i) the nature, frequency, severity, pattern and
17 consequences of the respondent's past abuse, neglect
18 or exploitation of the petitioner or any family or
19 household member, including the concealment of his or
20 her location in order to evade service of process or
21 notice, and the likelihood of danger of future abuse,
22 neglect, or exploitation to petitioner or any member of
23 petitioner's or respondent's family or household; and

24 (ii) the danger that any minor child will be abused
25 or neglected or improperly relocated from the
26 jurisdiction, improperly concealed within the State or

1 improperly separated from the child's primary
2 caretaker.

3 (2) In comparing relative hardships resulting to the
4 parties from loss of possession of the family home, the
5 court shall consider relevant factors, including but not
6 limited to the following:

7 (i) availability, accessibility, cost, safety,
8 adequacy, location and other characteristics of
9 alternate housing for each party and any minor child or
10 dependent adult in the party's care;

11 (ii) the effect on the party's employment; and

12 (iii) the effect on the relationship of the party,
13 and any minor child or dependent adult in the party's
14 care, to family, school, church and community.

15 (3) Subject to the exceptions set forth in paragraph
16 (4) of this subsection, the court shall make its findings
17 in an official record or in writing, and shall at a minimum
18 set forth the following:

19 (i) That the court has considered the applicable
20 relevant factors described in paragraphs (1) and (2) of
21 this subsection.

22 (ii) Whether the conduct or actions of respondent,
23 unless prohibited, will likely cause irreparable harm
24 or continued abuse.

25 (iii) Whether it is necessary to grant the
26 requested relief in order to protect petitioner or

1 other alleged abused persons.

2 (4) For purposes of issuing an ex parte emergency order
3 of protection, the court, as an alternative to or as a
4 supplement to making the findings described in paragraphs
5 (c)(3)(i) through (c)(3)(iii) of this subsection, may use
6 the following procedure:

7 When a verified petition for an emergency order of
8 protection in accordance with the requirements of Sections
9 203 and 217 is presented to the court, the court shall
10 examine petitioner on oath or affirmation. An emergency
11 order of protection shall be issued by the court if it
12 appears from the contents of the petition and the
13 examination of petitioner that the averments are
14 sufficient to indicate abuse by respondent and to support
15 the granting of relief under the issuance of the emergency
16 order of protection.

17 (5) Never married parties. No rights or
18 responsibilities for a minor child born outside of marriage
19 attach to a putative father until a father and child
20 relationship has been established under the Illinois
21 Parentage Act of 1984, the Illinois Parentage Act of 2015,
22 the Illinois Public Aid Code, Section 12 of the Vital
23 Records Act, the Juvenile Court Act of 1987, the Probate
24 Act of 1985, the Revised Uniform Reciprocal Enforcement of
25 Support Act, the Uniform Interstate Family Support Act, the
26 Expedited Child Support Act of 1990, any judicial,

1 administrative, or other act of another state or territory,
2 any other Illinois statute, or by any foreign nation
3 establishing the father and child relationship, any other
4 proceeding substantially in conformity with the Personal
5 Responsibility and Work Opportunity Reconciliation Act of
6 1996 (Pub. L. 104-193), or where both parties appeared in
7 open court or at an administrative hearing acknowledging
8 under oath or admitting by affirmation the existence of a
9 father and child relationship. Absent such an
10 adjudication, finding, or acknowledgement, no putative
11 father shall be granted temporary allocation of parental
12 responsibilities, including parenting time with the minor
13 child, or physical care and possession of the minor child,
14 nor shall an order of payment for support of the minor
15 child be entered.

16 (d) Balance of hardships; findings. If the court finds that
17 the balance of hardships does not support the granting of a
18 remedy governed by paragraph (2), (3), (10), (11), or (16) of
19 subsection (b) of this Section, which may require such
20 balancing, the court's findings shall so indicate and shall
21 include a finding as to whether granting the remedy will result
22 in hardship to respondent that would substantially outweigh the
23 hardship to petitioner from denial of the remedy. The findings
24 shall be an official record or in writing.

25 (e) Denial of remedies. Denial of any remedy shall not be
26 based, in whole or in part, on evidence that:

1 (1) Respondent has cause for any use of force, unless
2 that cause satisfies the standards for justifiable use of
3 force provided by Article 7 of the Criminal Code of 2012;

4 (2) Respondent was voluntarily intoxicated;

5 (3) Petitioner acted in self-defense or defense of
6 another, provided that, if petitioner utilized force, such
7 force was justifiable under Article 7 of the Criminal Code
8 of 2012;

9 (4) Petitioner did not act in self-defense or defense
10 of another;

11 (5) Petitioner left the residence or household to avoid
12 further abuse, neglect, or exploitation by respondent;

13 (6) Petitioner did not leave the residence or household
14 to avoid further abuse, neglect, or exploitation by
15 respondent;

16 (7) Conduct by any family or household member excused
17 the abuse, neglect, or exploitation by respondent, unless
18 that same conduct would have excused such abuse, neglect,
19 or exploitation if the parties had not been family or
20 household members.

21 (Source: P.A. 99-85, eff. 1-1-16; 99-90, eff. 1-1-16; 99-642,
22 eff. 7-28-16.)