



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0145

Introduced 1/30/2009, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-22
750 ILCS 5/602.1

from Ch. 38, par. 112A-22
from Ch. 40, par. 602.1

Amends the Code of Criminal Procedure of 1963. Provides that in a domestic violence case upon the request of the petitioner, the clerk shall send a certified copy of the order to each specified health care facility or health care provider requested by the petitioner. Provides that the health care provider may place the order in the child's records or use another method to identify these records. Provides that no health care provider who receives an order prohibiting a respondent's access to the records of any child who is protected by the order shall allow a respondent access to the records unless the order has expired or the respondent shows a certified copy of an order vacating the other order. Provides that nothing shall be construed to require altered billing procedures. Provides that any person or facility that is licensed to administer health care shall not be civilly liable for any act or omission for complying with these provisions. Amends the Illinois Marriage and Dissolution of Marriage Act by making a conforming change.

LRB096 03772 RLC 13802 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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-22 as follows:

6 (725 ILCS 5/112A-22) (from Ch. 38, par. 112A-22)

7 Sec. 112A-22. Notice of orders.

8 (a) Entry and issuance. Upon issuance of any order of
9 protection, the clerk shall immediately, or on the next court
10 day if an emergency order is issued in accordance with
11 subsection (c) of Section 112A-17, (i) enter the order on the
12 record and file it in accordance with the circuit court
13 procedures and (ii) provide a file stamped copy of the order to
14 respondent, if present, and to petitioner.

15 (b) Filing with sheriff. The clerk of the issuing judge
16 shall, or the petitioner may, on the same day that an order of
17 protection is issued, file a copy of that order with the
18 sheriff or other law enforcement officials charged with
19 maintaining Department of State Police records or charged with
20 serving the order upon respondent. If the order was issued in
21 accordance with subsection (c) of Section 112A-17, the clerk
22 shall on the next court day, file a certified copy of the order
23 with the Sheriff or other law enforcement officials charged

1 with maintaining Department of State Police records.

2 (c) Service by sheriff. Unless respondent was present in
3 court when the order was issued, the sheriff, other law
4 enforcement official or special process server shall promptly
5 serve that order upon respondent and file proof of such
6 service, in the manner provided for service of process in civil
7 proceedings. Instead of serving the order upon the respondent,
8 however, the sheriff, other law enforcement official, or
9 special process server may serve the respondent with a short
10 form notification as provided in Section 112A-22.10. If process
11 has not yet been served upon the respondent, it shall be served
12 with the order or short form notification.

13 (c-5) If the person against whom the order of protection is
14 issued is arrested and the written order is issued in
15 accordance with subsection (c) of Section 112A-17 and received
16 by the custodial law enforcement agency before the respondent
17 or arrestee is released from custody, the custodial law
18 enforcement agent shall promptly serve the order upon the
19 respondent or arrestee before the respondent or arrestee is
20 released from custody. In no event shall detention of the
21 respondent or arrestee be extended for hearing on the petition
22 for order of protection or receipt of the order issued under
23 Section 112A-17 of this Code.

24 (d) Extensions, modifications and revocations. Any order
25 extending, modifying or revoking any order of protection shall
26 be promptly recorded, issued and served as provided in this

1 Section.

2 (e) Notice to health care facilities and health care
3 practitioners. Upon the request of the petitioner, the clerk of
4 the circuit court shall send a certified copy of the order of
5 protection to any specified health care facility or health care
6 practitioner requested by the petitioner at the mailing address
7 provided by the petitioner.

8 (f) Disclosure by health care facilities and health care
9 practitioners. After receiving a certified copy of an order of
10 protection that prohibits a respondent's access to records, no
11 health care facility or health care practitioner shall allow a
12 respondent access to the records of any child who is a
13 protected person under the order of protection, or release
14 information in those records to the respondent, unless the
15 order has expired or the respondent shows a certified copy of
16 the court order vacating the corresponding order of protection
17 that was sent to the health care facility or practitioner.
18 Nothing in this Section shall be construed to require health
19 care facilities or health care practitioners to alter
20 procedures related to billing and payment. The health care
21 facility or health care practitioner may file the copy of the
22 order of protection in the records of a child who is a
23 protected person under the order of protection, or may employ
24 any other method to identify the records to which a respondent
25 is prohibited access. No health care facility or health care
26 practitioner shall be civilly or professionally liable for

1 reliance on a copy of an order of protection, except for
2 willful and wanton misconduct.

3 (Source: P.A. 92-162, eff. 1-1-02.)

4 Section 10. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 602.1 as follows:

6 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

7 Sec. 602.1. (a) The dissolution of marriage, the
8 declaration of invalidity of marriage, the legal separation of
9 the parents, or the parents living separate and apart shall not
10 diminish parental powers, rights, and responsibilities except
11 as the court for good reason may determine under the standards
12 of Section 602.

13 (b) Upon the application of either or both parents, or upon
14 its own motion, the court shall consider an award of joint
15 custody. Joint custody means custody determined pursuant to a
16 Joint Parenting Agreement or a Joint Parenting Order. In such
17 cases, the court shall initially request the parents to produce
18 a Joint Parenting Agreement. Such Agreement shall specify each
19 parent's powers, rights and responsibilities for the personal
20 care of the child and for major decisions such as education,
21 health care, and religious training. The Agreement shall
22 further specify a procedure by which proposed changes, disputes
23 and alleged breaches may be mediated or otherwise resolved and
24 shall provide for a periodic review of its terms by the

1 parents. In producing a Joint Parenting Agreement, the parents
2 shall be flexible in arriving at resolutions which further the
3 policy of this State as expressed in Sections 102 and 602. For
4 the purpose of assisting the court in making a determination
5 whether an award of joint custody is appropriate, the court may
6 order mediation and may direct that an investigation be
7 conducted pursuant to the provisions of Section 605. If there
8 is a danger to the health or safety of a partner, joint
9 mediation shall not be required by the court. In the event the
10 parents fail to produce a Joint Parenting Agreement, the court
11 may enter an appropriate Joint Parenting Order under the
12 standards of Section 602 which shall specify and contain the
13 same elements as a Joint Parenting Agreement, or it may award
14 sole custody under the standards of Sections 602, 607, and 608.

15 (c) The court may enter an order of joint custody if it
16 determines that joint custody would be in the best interests of
17 the child, taking into account the following:

18 (1) the ability of the parents to cooperate effectively
19 and consistently in matters that directly affect the joint
20 parenting of the child. "Ability of the parents to
21 cooperate" means the parents' capacity to substantially
22 comply with a Joint Parenting Order. The court shall not
23 consider the inability of the parents to cooperate
24 effectively and consistently in matters that do not
25 directly affect the joint parenting of the child;

26 (2) The residential circumstances of each parent; and

1 (3) all other factors which may be relevant to the best
2 interest of the child.

3 (d) Nothing within this section shall imply or presume that
4 joint custody shall necessarily mean equal parenting time. The
5 physical residence of the child in joint custodial situations
6 shall be determined by:

7 (1) express agreement of the parties; or

8 (2) order of the court under the standards of this
9 Section.

10 (e) Notwithstanding any other provision of law, access to
11 records and information pertaining to a child, including but
12 not limited to medical, dental, child care and school records,
13 shall not be denied to a parent for the reason that such parent
14 is not the child's custodial parent; however, no parent shall
15 have access to the school records of a child if the parent is
16 prohibited by an order of protection from inspecting or
17 obtaining such records pursuant to the Illinois Domestic
18 Violence Act of 1986, as now or hereafter amended. No parent
19 who is a named respondent in an order of protection issued
20 pursuant to the Illinois Domestic Violence Act of 1986 or the
21 Code of Criminal Procedure of 1963 shall have access to the
22 health care records of a child who is a protected person under
23 that order of protection.

24 (Source: P.A. 94-377, eff. 7-29-05; 95-912, eff. 1-1-09.)