



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0192

Introduced 01/18/11, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

740 ILCS 21/80
740 ILCS 22/213
750 ILCS 60/214

from Ch. 40, par. 2312-14

Amends the Stalking No Contact Order Act, the Civil No Contact Order Act, and the Illinois Domestic Violence Act of 1986 to provide that under no circumstances shall a stalking no contact order, civil no contact order, or order of protection require a school district to prohibit entrance of a respondent student where the respondent student is the recipient of special education services pursuant to an individualized education plan. Provides that no stalking no contact order, civil no contact order, or order of protection may require a change in placement or a material change in services for either the petitioner or respondent student under the federal Individuals with Disabilities Education Act and the School Code. Provides that federal and State law regarding special education and related services prevail in the event of a conflict with an order under any of the Acts. Provides that where a respondent student subject to an order under any of the Acts requests a transfer to another school within the district, then the district may, in its sole discretion, transfer the student to another school. Provides that the choice of school to which a respondent student is transferred is at the sole discretion of the district. Provides that no district violates an order under any of the Acts for permitting a respondent student to attend a school in the district where the student is a properly enrolled student.

LRB097 03001 AJ0 43032 b

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 Stalking No Contact Order Act is amended by
5 changing Section 80 as follows:

6 (740 ILCS 21/80)

7 Sec. 80. Stalking no contact orders; remedies.

8 (a) If the court finds that the petitioner has been a
9 victim of stalking, a stalking no contact order shall issue;
10 provided that the petitioner must also satisfy the requirements
11 of Section 95 on emergency orders or Section 100 on plenary
12 orders. The petitioner shall not be denied a stalking no
13 contact order because the petitioner or the respondent is a
14 minor. The court, when determining whether or not to issue a
15 stalking no contact order, may not require physical injury on
16 the person of the petitioner. Modification and extension of
17 prior stalking no contact orders shall be in accordance with
18 this Act.

19 (b) A stalking no contact order shall order one or more of
20 the following:

21 (1) prohibit the respondent from threatening to commit
22 or committing stalking;

23 (2) order the respondent not to have any contact with

1 the petitioner or a third person specifically named by the
2 court;

3 (3) prohibit the respondent from knowingly coming
4 within, or knowingly remaining within a specified distance
5 of the petitioner or the petitioner's residence, school,
6 daycare, or place of employment, or any specified place
7 frequented by the petitioner; however, the court may order
8 the respondent to stay away from the respondent's own
9 residence, ~~school,~~ or place of employment only if the
10 respondent has been provided actual notice of the
11 opportunity to appear and be heard on the petition;

12 (4) prohibit the respondent from possessing a Firearm
13 Owners Identification Card, or possessing or buying
14 firearms; and

15 (5) order other injunctive relief the court determines
16 to be necessary to protect the petitioner or third party
17 specifically named by the court.

18 (b-6) Notwithstanding the other provisions of this
19 Section, under no circumstances shall a stalking no contact
20 order require a school district to prohibit entrance of a
21 respondent student where the respondent student is the
22 recipient of special education services pursuant to an
23 Individualized Education Plan. No stalking no contact order may
24 require a change in placement or a material change in the
25 provision of services for either the petitioner or respondent
26 student under the federal Individuals with Disabilities

1 Education Act and Article 14 of the School Code. The provisions
2 under federal and State law regarding the implementation and
3 provision of special education and related services shall
4 prevail in the event of a conflict with any order entered under
5 this Act.

6 (b-7) Where a respondent student subject to an order under
7 this Act requests transfer to another attendance center, if one
8 exists, within his or her school district, then the district
9 may, in its sole discretion after consideration of the
10 feasibility and ability of effecting such transfer, transfer
11 the student to another attendance center in the district. The
12 choice of attendance center to which a respondent student is
13 transferred is at the sole discretion of the school district.

14 (b-8) No school district shall be in violation of an order
15 under this Act for permitting a respondent student to attend an
16 attendance center in the school district where the student is a
17 properly enrolled student of the district.

18 (c) The court may award the petitioner costs and attorneys
19 fees if a stalking no contact order is granted.

20 (d) Monetary damages are not recoverable as a remedy.

21 (Source: P.A. 96-246, eff. 1-1-10.)

22 Section 10. The Civil No Contact Order Act is amended by
23 changing Section 213 as follows:

24 (740 ILCS 22/213)

1 Sec. 213. Civil no contact order; remedies.

2 (a) If the court finds that the petitioner has been a
3 victim of non-consensual sexual conduct or non-consensual
4 sexual penetration, a civil no contact order shall issue;
5 provided that the petitioner must also satisfy the requirements
6 of Section 214 on emergency orders or Section 215 on plenary
7 orders. The petitioner shall not be denied a civil no contact
8 order because the petitioner or the respondent is a minor. The
9 court, when determining whether or not to issue a civil no
10 contact order, may not require physical injury on the person of
11 the victim. Modification and extension of prior civil no
12 contact orders shall be in accordance with this Act.

13 (b) (Blank).

14 (b-5) The court may provide relief as follows:

15 (1) prohibit the respondent from knowingly coming
16 within, or knowingly remaining within, a specified
17 distance from the petitioner;

18 (2) restrain the respondent from having any contact,
19 including nonphysical contact, with the petitioner
20 directly, indirectly, or through third parties, regardless
21 of whether those third parties know of the order;

22 (3) prohibit the respondent from knowingly coming
23 within, or knowingly remaining within, a specified
24 distance from the petitioner's residence, school, day care
25 or other specified location;

26 (4) order the respondent to stay away from any property

1 or animal owned, possessed, leased, kept, or held by the
2 petitioner and forbid the respondent from taking,
3 transferring, encumbering, concealing, harming, or
4 otherwise disposing of the property or animal; and

5 (5) order any other injunctive relief as necessary or
6 appropriate for the protection of the petitioner.

7 (b-6) Notwithstanding the other provisions of this
8 Section, under no circumstances shall a civil no contact order
9 have the effect of prohibiting entrance of a respondent student
10 to his or her school attendance center, where the respondent
11 student is the recipient of special education services pursuant
12 to an Individualized Education Plan. No civil no contact order
13 may require a change in placement or a material change in the
14 provision of services for either the petitioner or respondent
15 student under the federal Individuals with Disabilities
16 Education Act and Article 14 of the School Code. The provisions
17 under federal and State law regarding the implementation and
18 provision of special education and related services shall
19 prevail in the event of a conflict with any order entered under
20 this Act. ~~When the petitioner and the respondent attend the~~
21 ~~same public or private elementary, middle, or high school, the~~
22 ~~court when issuing a civil no contact order and providing~~
23 ~~relief shall consider, among the other facts of the case, the~~
24 ~~severity of the act, any continuing physical danger or~~
25 ~~emotional distress to the petitioner, and the expense,~~
26 ~~difficulty, and educational disruption that would be caused by~~

1 ~~a transfer of the respondent to another school. The court may~~
2 ~~order that the respondent not attend the public or private~~
3 ~~elementary, middle, or high school attended by the petitioner.~~
4 ~~In the event the court orders a transfer of the respondent to~~
5 ~~another school, the parents or legal guardians of the~~
6 ~~respondent are responsible for transportation and other costs~~
7 ~~associated with the change of school by the respondent.~~

8 (b-7) Where a respondent student subject to an order under
9 this Act requests transfer to another attendance center, if one
10 exists, within his or her school district, then the district
11 may, in its sole discretion after consideration of the
12 feasibility and ability of effecting such transfer, transfer
13 the student to another attendance center in the district. The
14 choice of attendance center to which a respondent student is
15 transferred is at the sole discretion of the school district.

16 (b-8) No school district shall be in violation of an order
17 under this Act for permitting a respondent student to attend an
18 attendance center in the school district where the student is a
19 properly enrolled student of the district.

20 (c) Denial of a remedy may not be based, in whole or in
21 part, on evidence that:

22 (1) the respondent has cause for any use of force,
23 unless that cause satisfies the standards for justifiable
24 use of force provided by Article VII of the Criminal Code
25 of 1961;

26 (2) the respondent was voluntarily intoxicated;

1 (3) the petitioner acted in self-defense or defense of
2 another, provided that, if the petitioner utilized force,
3 such force was justifiable under Article VII of the
4 Criminal Code of 1961;

5 (4) the petitioner did not act in self-defense or
6 defense of another;

7 (5) the petitioner left the residence or household to
8 avoid further non-consensual sexual conduct or
9 non-consensual sexual penetration by the respondent; or

10 (6) the petitioner did not leave the residence or
11 household to avoid further non-consensual sexual conduct
12 or non-consensual sexual penetration by the respondent.

13 (d) Monetary damages are not recoverable as a remedy.

14 (Source: P.A. 96-311, eff. 1-1-10.)

15 Section 15. The Illinois Domestic Violence Act of 1986 is
16 amended by changing Section 214 as follows:

17 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

18 Sec. 214. Order of protection; remedies.

19 (a) Issuance of order. If the court finds that petitioner
20 has been abused by a family or household member or that
21 petitioner is a high-risk adult who has been abused, neglected,
22 or exploited, as defined in this Act, an order of protection
23 prohibiting the abuse, neglect, or exploitation shall issue;
24 provided that petitioner must also satisfy the requirements of

1 one of the following Sections, as appropriate: Section 217 on
2 emergency orders, Section 218 on interim orders, or Section 219
3 on plenary orders. Petitioner shall not be denied an order of
4 protection because petitioner or respondent is a minor. The
5 court, when determining whether or not to issue an order of
6 protection, shall not require physical manifestations of abuse
7 on the person of the victim. Modification and extension of
8 prior orders of protection shall be in accordance with this
9 Act.

10 (b) Remedies and standards. The remedies to be included in
11 an order of protection shall be determined in accordance with
12 this Section and one of the following Sections, as appropriate:
13 Section 217 on emergency orders, Section 218 on interim orders,
14 and Section 219 on plenary orders. The remedies listed in this
15 subsection shall be in addition to other civil or criminal
16 remedies available to petitioner.

17 (1) Prohibition of abuse, neglect, or exploitation.
18 Prohibit respondent's harassment, interference with
19 personal liberty, intimidation of a dependent, physical
20 abuse, or willful deprivation, neglect or exploitation, as
21 defined in this Act, or stalking of the petitioner, as
22 defined in Section 12-7.3 of the Criminal Code of 1961, if
23 such abuse, neglect, exploitation, or stalking has
24 occurred or otherwise appears likely to occur if not
25 prohibited.

26 (2) Grant of exclusive possession of residence.

1 Prohibit respondent from entering or remaining in any
2 residence, household, or premises of the petitioner,
3 including one owned or leased by respondent, if petitioner
4 has a right to occupancy thereof. The grant of exclusive
5 possession of the residence, household, or premises shall
6 not affect title to real property, nor shall the court be
7 limited by the standard set forth in Section 701 of the
8 Illinois Marriage and Dissolution of Marriage Act.

9 (A) Right to occupancy. A party has a right to
10 occupancy of a residence or household if it is solely
11 or jointly owned or leased by that party, that party's
12 spouse, a person with a legal duty to support that
13 party or a minor child in that party's care, or by any
14 person or entity other than the opposing party that
15 authorizes that party's occupancy (e.g., a domestic
16 violence shelter). Standards set forth in subparagraph
17 (B) shall not preclude equitable relief.

18 (B) Presumption of hardships. If petitioner and
19 respondent each has the right to occupancy of a
20 residence or household, the court shall balance (i) the
21 hardships to respondent and any minor child or
22 dependent adult in respondent's care resulting from
23 entry of this remedy with (ii) the hardships to
24 petitioner and any minor child or dependent adult in
25 petitioner's care resulting from continued exposure to
26 the risk of abuse (should petitioner remain at the

1 residence or household) or from loss of possession of
2 the residence or household (should petitioner leave to
3 avoid the risk of abuse). When determining the balance
4 of hardships, the court shall also take into account
5 the accessibility of the residence or household.
6 Hardships need not be balanced if respondent does not
7 have a right to occupancy.

8 The balance of hardships is presumed to favor
9 possession by petitioner unless the presumption is
10 rebutted by a preponderance of the evidence, showing
11 that the hardships to respondent substantially
12 outweigh the hardships to petitioner and any minor
13 child or dependent adult in petitioner's care. The
14 court, on the request of petitioner or on its own
15 motion, may order respondent to provide suitable,
16 accessible, alternate housing for petitioner instead
17 of excluding respondent from a mutual residence or
18 household.

19 (3) Stay away order and additional prohibitions. Order
20 respondent to stay away from petitioner or any other person
21 protected by the order of protection, or prohibit
22 respondent from entering or remaining present at
23 petitioner's school, place of employment, or other
24 specified places at times when petitioner is present, or
25 both, if reasonable, given the balance of hardships.
26 Hardships need not be balanced for the court to enter a

1 stay away order or prohibit entry if respondent has no
2 right to enter the premises.

3 (A) If an order of protection grants petitioner
4 exclusive possession of the residence, or prohibits
5 respondent from entering the residence, or orders
6 respondent to stay away from petitioner or other
7 protected persons, then the court may allow respondent
8 access to the residence to remove items of clothing and
9 personal adornment used exclusively by respondent,
10 medications, and other items as the court directs. The
11 right to access shall be exercised on only one occasion
12 as the court directs and in the presence of an
13 agreed-upon adult third party or law enforcement
14 officer.

15 (B) Notwithstanding the other provisions of this
16 Section, under no circumstances shall an order of
17 protection require a school district to prohibit
18 entrance of a respondent student where the respondent
19 student is the recipient of special education services
20 pursuant to an Individualized Education Plan. No order
21 of protection may require a change in placement or a
22 material change in the provision of services for either
23 the petitioner or respondent student under the federal
24 Individuals with Disabilities Education Act and
25 Article 14 of the School Code. The provisions under
26 federal and State law regarding the implementation and

1 provision of special education and related services
2 shall prevail in the event of a conflict with any order
3 entered under this Act.

4 (C) Where a respondent student subject to an order
5 under this Act requests transfer to another attendance
6 center, if one exists, within his or her school
7 district, then the district may, in its sole discretion
8 after consideration of the feasibility and ability of
9 effecting such transfer, transfer the student to
10 another attendance center in the district. The choice
11 of attendance center to which a respondent student is
12 transferred is at the sole discretion of the school
13 district.

14 (D) No school district shall be in violation of an
15 order under this Act for permitting a respondent
16 student to attend an attendance center in the school
17 district where the student is a properly enrolled
18 student of the district.

19 (4) Counseling. Require or recommend the respondent to
20 undergo counseling for a specified duration with a social
21 worker, psychologist, clinical psychologist, psychiatrist,
22 family service agency, alcohol or substance abuse program,
23 mental health center guidance counselor, agency providing
24 services to elders, program designed for domestic violence
25 abusers or any other guidance service the court deems
26 appropriate. The Court may order the respondent in any

1 intimate partner relationship to report to an Illinois
2 Department of Human Services protocol approved partner
3 abuse intervention program for an assessment and to follow
4 all recommended treatment.

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

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

20 (6) Temporary legal custody. Award temporary legal
21 custody to petitioner in accordance with this Section, the
22 Illinois Marriage and Dissolution of Marriage Act, the
23 Illinois Parentage Act of 1984, and this State's Uniform
24 Child-Custody Jurisdiction and Enforcement Act.

25 If a court finds, after a hearing, that respondent has
26 committed abuse (as defined in Section 103) of a minor

1 child, there shall be a rebuttable presumption that
2 awarding temporary legal custody to respondent would not be
3 in the child's best interest.

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

23 Petitioner may deny respondent access to the minor
24 child if, when respondent arrives for visitation,
25 respondent is under the influence of drugs or alcohol and
26 constitutes a threat to the safety and well-being of

1 petitioner or petitioner's minor children or is behaving in
2 a violent or abusive manner.

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

12 (8) Removal or concealment of minor child. Prohibit
13 respondent from removing a minor child from the State or
14 concealing the child within the State.

15 (9) Order to appear. Order the respondent to appear in
16 court, alone or with a minor child, to prevent abuse,
17 neglect, removal or concealment of the child, to return the
18 child to the custody or care of the petitioner or to permit
19 any court-ordered interview or examination of the child or
20 the respondent.

21 (10) Possession of personal property. Grant petitioner
22 exclusive possession of personal property and, if
23 respondent has possession or control, direct respondent to
24 promptly make it available to petitioner, if:

25 (i) petitioner, but not respondent, owns the
26 property; or

1 (ii) the parties own the property jointly; sharing
2 it would risk abuse of petitioner by respondent or is
3 impracticable; and the balance of hardships favors
4 temporary possession by petitioner.

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

12 No order under this provision shall affect title to
13 property.

14 (11) Protection of property. Forbid the respondent
15 from taking, transferring, encumbering, concealing,
16 damaging or otherwise disposing of any real or personal
17 property, except as explicitly authorized by the court, if:

18 (i) petitioner, but not respondent, owns the
19 property; or

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

22 If petitioner's sole claim to ownership of the property
23 is that it is marital property, the court may grant
24 petitioner relief under subparagraph (ii) of this
25 paragraph only if a proper proceeding has been filed under
26 the Illinois Marriage and Dissolution of Marriage Act, as

1 now or hereafter amended.

2 The court may further prohibit respondent from
3 improperly using the financial or other resources of an
4 aged member of the family or household for the profit or
5 advantage of respondent or of any other person.

6 (11.5) Protection of animals. Grant the petitioner the
7 exclusive care, custody, or control of any animal owned,
8 possessed, leased, kept, or held by either the petitioner
9 or the respondent or a minor child residing in the
10 residence or household of either the petitioner or the
11 respondent and order the respondent to stay away from the
12 animal and forbid the respondent from taking,
13 transferring, encumbering, concealing, harming, or
14 otherwise disposing of the animal.

15 (12) Order for payment of support. Order respondent to
16 pay temporary support for the petitioner or any child in
17 the petitioner's care or custody, when the respondent has a
18 legal obligation to support that person, in accordance with
19 the Illinois Marriage and Dissolution of Marriage Act,
20 which shall govern, among other matters, the amount of
21 support, payment through the clerk and withholding of
22 income to secure payment. An order for child support may be
23 granted to a petitioner with lawful physical care or
24 custody of a child, or an order or agreement for physical
25 care or custody, prior to entry of an order for legal
26 custody. Such a support order shall expire upon entry of a

1 valid order granting legal custody to another, unless
2 otherwise provided in the custody order.

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

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

21 (ii) Recovery of expenses. In the case of an
22 improper concealment or removal of a minor child, the
23 court may order respondent to pay the reasonable
24 expenses incurred or to be incurred in the search for
25 and recovery of the minor child, including but not
26 limited to legal fees, court costs, private

1 investigator fees, and travel costs.

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

7 (14.5) Prohibition of firearm possession.

8 (a) When a complaint is made under a request for an
9 order of protection, that the respondent has
10 threatened or is likely to use firearms illegally
11 against the petitioner, the court shall examine on oath
12 the petitioner, and any witnesses who may be produced.
13 If the court is satisfied that there is any danger of
14 the illegal use of firearms, and the respondent is
15 present in court, it shall issue an order that any
16 firearms and any Firearm Owner's Identification Card
17 in the possession of the respondent, except as provided
18 in subsection (b), be turned over to the local law
19 enforcement agency for safekeeping. If the court is
20 satisfied that there is any danger of the illegal use
21 of firearms, and if the respondent is not present in
22 court, the court shall issue a warrant for seizure of
23 any firearm and Firearm Owner's Identification Card in
24 the possession of the respondent, to be kept by the
25 local law enforcement agency for safekeeping, except
26 as provided in subsection (b). The period of

1 safekeeping shall be for a stated period of time not to
2 exceed 2 years. The firearm or firearms and Firearm
3 Owner's Identification Card shall be returned to the
4 respondent at the end of the stated period or at
5 expiration of the order of protection, whichever is
6 sooner.

7 (b) If the respondent is a peace officer as defined
8 in Section 2-13 of the Criminal Code of 1961, 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 stated period not to exceed 2 years as set forth in the
15 court order.

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

1 to a third party who is lawfully eligible to possess
2 firearms, and who does not reside with respondent.

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

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

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

1 necessary that the harm is an irreparable injury.

2 (c) Relevant factors; findings.

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

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

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

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

24 (i) availability, accessibility, cost, safety,
25 adequacy, location and other characteristics of
26 alternate housing for each party and any minor child or

1 dependent adult in the party's care;

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

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

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

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

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

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

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

24 When a verified petition for an emergency order of
25 protection in accordance with the requirements of Sections
26 203 and 217 is presented to the court, the court shall

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

8 (5) Never married parties. No rights or
9 responsibilities for a minor child born outside of marriage
10 attach to a putative father until a father and child
11 relationship has been established under the Illinois
12 Parentage Act of 1984, the Illinois Public Aid Code,
13 Section 12 of the Vital Records Act, the Juvenile Court Act
14 of 1987, the Probate Act of 1985, the Revised Uniform
15 Reciprocal Enforcement of Support Act, the Uniform
16 Interstate Family Support Act, the Expedited Child Support
17 Act of 1990, any judicial, administrative, or other act of
18 another state or territory, any other Illinois statute, or
19 by any foreign nation establishing the father and child
20 relationship, any other proceeding substantially in
21 conformity with the Personal Responsibility and Work
22 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
23 or where both parties appeared in open court or at an
24 administrative hearing acknowledging under oath or
25 admitting by affirmation the existence of a father and
26 child relationship. Absent such an adjudication, finding,

1 or acknowledgement, no putative father shall be granted
2 temporary custody of the minor child, visitation with the
3 minor child, or physical care and possession of the minor
4 child, nor shall an order of payment for support of the
5 minor child be entered.

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

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

17 (1) Respondent has cause for any use of force, unless
18 that cause satisfies the standards for justifiable use of
19 force provided by Article VII of the Criminal Code of 1961;

20 (2) Respondent was voluntarily intoxicated;

21 (3) Petitioner acted in self-defense or defense of
22 another, provided that, if petitioner utilized force, such
23 force was justifiable under Article VII of the Criminal
24 Code of 1961;

25 (4) Petitioner did not act in self-defense or defense
26 of another;

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

3 (6) Petitioner did not leave the residence or household
4 to avoid further abuse, neglect, or exploitation by
5 respondent;

6 (7) Conduct by any family or household member excused
7 the abuse, neglect, or exploitation by respondent, unless
8 that same conduct would have excused such abuse, neglect,
9 or exploitation if the parties had not been family or
10 household members.

11 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09; 96-701,
12 eff. 1-1-10; 96-1239, eff. 1-1-11.)