



Rep. Roger L. Eddy

Filed: 3/15/2011

09700HB0192ham002

LRB097 03001 AJ0 53047 a

1 AMENDMENT TO HOUSE BILL 192

2 AMENDMENT NO. _____. Amend House Bill 192 by replacing
3 everything after the enacting clause with the following:

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

1 prior stalking no contact orders shall be in accordance with
2 this Act.

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

5 (1) prohibit the respondent from threatening to commit
6 or committing stalking;

7 (2) order the respondent not to have any contact with
8 the petitioner or a third person specifically named by the
9 court;

10 (3) prohibit the respondent from knowingly coming
11 within, or knowingly remaining within a specified distance
12 of the petitioner or the petitioner's residence, school,
13 daycare, or place of employment, or any specified place
14 frequented by the petitioner; however, the court may order
15 the respondent to stay away from the respondent's own
16 residence, school, or place of employment only if the
17 respondent has been provided actual notice of the
18 opportunity to appear and be heard on the petition;

19 (4) prohibit the respondent from possessing a Firearm
20 Owners Identification Card, or possessing or buying
21 firearms; and

22 (5) order other injunctive relief the court determines
23 to be necessary to protect the petitioner or third party
24 specifically named by the court.

25 (b-5) When the petitioner and the respondent attend the
26 same public or private elementary, middle, or high school, the

1 court when issuing a stalking no contact order and providing
2 relief shall consider the severity of the act, any continuing
3 physical danger or emotional distress to the petitioner, the
4 educational rights guaranteed to the petitioner and respondent
5 under federal and State laws, the availability of a transfer to
6 another school, change of placement or change of program of the
7 respondent, the expense, difficulty, and educational
8 disruption that would be caused by a transfer of the respondent
9 to another school, and any other relevant facts of the case.
10 The court may order that the respondent not attend the public
11 or private elementary, middle, or high school attended by the
12 petitioner, order that the respondent accept a change of
13 placement or program, as determined by the school district, or
14 place restrictions on the respondent's movements within the
15 school attended by the petitioner. The respondent bears the
16 burden of proving by a preponderance of the evidence that a
17 transfer, change of placement or change of program of the
18 respondent is not available. The respondent also bears the
19 burden of production with respect to the expense, difficulty,
20 and educational disruption that would be caused by a transfer
21 of the respondent to another school. A transfer, change of
22 placement or change of program is not unavailable solely on the
23 ground that the respondent does not agree with the school
24 district's transfer or change of placement or program or the
25 respondent fails or refuses to consent or otherwise take
26 actions required to effectuate a transfer, change of placement

1 or change of program. When a court orders a respondent to stay
2 away from the public school attended by the petitioner and the
3 respondent requests a transfer to another attendance center
4 within the respondent's school district, the school district
5 shall have sole discretion to determine the attendance center
6 to which the respondent is transferred. In the event the court
7 order results in a transfer of the minor respondent to another
8 attendance center, a change in the respondent's placement or
9 change of the respondent's program, the parents, guardian or
10 legal custodian of the respondent is responsible for
11 transportation and other costs associated with the transfer or
12 change.

13 (b-6) The court may order the parents, guardian or legal
14 custodian of a minor respondent to take certain actions or to
15 refrain from certain actions to ensure that the respondent
16 complies with the order. In the event the court orders a
17 transfer of the respondent to another school, the parents or
18 legal guardians of the respondent are responsible for
19 transportation and other costs associated with the change of
20 school by the respondent.

21 (b-7) The court shall not hold a school district or any of
22 its employees in civil or criminal contempt unless the school
23 district has been allowed to intervene.

24 (b-8) The court may hold the parents, guardian or legal
25 custodian of a minor respondent in civil or criminal contempt
26 for a violation of any provision of any order entered under

1 this Act for conduct of the minor respondent in violation of
2 this Act if the parents, guardian or legal custodian directed,
3 encouraged, or assisted the respondent minor in such conduct.

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

6 (d) Monetary damages are not recoverable as a remedy.
7 (Source: P.A. 96-246, eff. 1-1-10.)

8 Section 10. The Civil No Contact Order Act is amended by
9 changing Sections 213 and 220 as follows:

10 (740 ILCS 22/213)

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

12 (a) If the court finds that the petitioner has been a
13 victim of non-consensual sexual conduct or non-consensual
14 sexual penetration, a civil no contact order shall issue;
15 provided that the petitioner must also satisfy the requirements
16 of Section 214 on emergency orders or Section 215 on plenary
17 orders. The petitioner shall not be denied a civil no contact
18 order because the petitioner or the respondent is a minor. The
19 court, when determining whether or not to issue a civil no
20 contact order, may not require physical injury on the person of
21 the victim. Modification and extension of prior civil no
22 contact orders shall be in accordance with this Act.

23 (b) (Blank).

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

1 (1) prohibit the respondent from knowingly coming
2 within, or knowingly remaining within, a specified
3 distance from the petitioner;

4 (2) restrain the respondent from having any contact,
5 including nonphysical contact, with the petitioner
6 directly, indirectly, or through third parties, regardless
7 of whether those third parties know of the order;

8 (3) prohibit the respondent from knowingly coming
9 within, or knowingly remaining within, a specified
10 distance from the petitioner's residence, school, day care
11 or other specified location;

12 (4) order the respondent to stay away from any property
13 or animal owned, possessed, leased, kept, or held by the
14 petitioner and forbid the respondent from taking,
15 transferring, encumbering, concealing, harming, or
16 otherwise disposing of the property or animal; and

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

19 (b-6) When the petitioner and the respondent attend the
20 same public or private elementary, middle, or high school, the
21 court when issuing a civil no contact order and providing
22 relief shall consider, ~~among the other facts of the case,~~ the
23 severity of the act, any continuing physical danger or
24 emotional distress to the petitioner, the educational rights
25 guaranteed to the petitioner and respondent under federal and
26 State laws, the availability of a transfer to another school,

1 change of placement or change of program of the respondent, the
2 expense, difficulty, and educational disruption that would be
3 caused by a transfer of the respondent to another school, and
4 any other relevant facts of the case and ~~the expense,~~
5 ~~difficulty, and educational disruption that would be caused by~~
6 ~~a transfer of the respondent to another school.~~ The court may
7 order that the respondent not attend the public or private
8 elementary, middle, or high school attended by the petitioner,
9 order that the respondent accept a change of placement or
10 program, as determined by the school district, or place
11 restrictions on the respondent's movements within the school
12 attended by the petitioner. The respondent bears the burden of
13 proving by a preponderance of the evidence that a transfer,
14 change of placement or change of program of the respondent is
15 not available. The respondent also bears the burden of
16 production with respect to the expense, difficulty, and
17 educational disruption that would be caused by a transfer of
18 the respondent to another school. A transfer, change of
19 placement or change of program is not unavailable solely on the
20 ground that the respondent does not agree with the school
21 district's transfer or change of placement or program or the
22 respondent fails or refuses to consent or otherwise take
23 actions required to effectuate a transfer, change of placement
24 or change of program. When a court orders a respondent to stay
25 away from the public school attended by the petitioner and the
26 respondent requests a transfer to another attendance center

1 within the respondent's school district, the school district
2 shall have sole discretion to determine the attendance center
3 to which the respondent is transferred. In the event the court
4 order results in a transfer of the minor respondent to another
5 attendance center, a change in the respondent's placement or
6 change of the respondent's program, the parents, guardian or
7 legal custodian of the respondent is responsible for
8 transportation and other costs associated with the transfer or
9 change.

10 (b-7) The court may order the parents, guardian or legal
11 custodian of a minor respondent to take certain actions or to
12 refrain from certain actions to ensure that the respondent
13 complies with the order. In the event the court orders a
14 transfer of the respondent to another school, the parents or
15 legal guardians of the respondent are responsible for
16 transportation and other costs associated with the change of
17 school by the respondent.

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

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

24 (2) the respondent was voluntarily intoxicated;

25 (3) the petitioner acted in self-defense or defense of
26 another, provided that, if the petitioner utilized force,

1 such force was justifiable under Article VII of the
2 Criminal Code of 1961;

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

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

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

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

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

13 (740 ILCS 22/220)

14 Sec. 220. Enforcement of a civil no contact order.

15 (a) Nothing in this Act shall preclude any Illinois court
16 from enforcing a valid protective order issued in another
17 state.

18 (b) Illinois courts may enforce civil no contact orders
19 through both criminal proceedings and civil contempt
20 proceedings, unless the action which is second in time is
21 barred by collateral estoppel or the constitutional
22 prohibition against double jeopardy.

23 (b-1) The court shall not hold a school district or any of
24 its employees in civil or criminal contempt unless the school
25 district has been allowed to intervene.

1 (b-2) The court may hold the parents, guardian or legal
2 custodian of a minor respondent in civil or criminal contempt
3 for a violation of any provision of any order entered under
4 this Act for conduct of the minor respondent in violation of
5 this Act if the parents, guardian or legal custodian directed,
6 encouraged, or assisted the respondent minor in such conduct.

7 (c) Criminal prosecution. A violation of any civil no
8 contact order, whether issued in a civil or criminal
9 proceeding, shall be enforced by a criminal court when the
10 respondent commits the crime of violation of a civil no contact
11 order pursuant to Section 219 by having knowingly violated:

12 (1) remedies described in Section 213 and included in a
13 civil no contact order; or

14 (2) a provision of an order, which is substantially
15 similar to provisions of Section 213, in a valid civil no
16 contact order which is authorized under the laws of another
17 state, tribe, or United States territory.

18 Prosecution for a violation of a civil no contact order
19 shall not bar a concurrent prosecution for any other crime,
20 including any crime that may have been committed at the time of
21 the violation of the civil no contact order.

22 (d) Contempt of court. A violation of any valid Illinois
23 civil no contact order, whether issued in a civil or criminal
24 proceeding, may be enforced through civil or criminal contempt
25 procedures, as appropriate, by any court with jurisdiction,
26 regardless of where the act or acts which violated the civil no

1 contact order were committed, to the extent consistent with the
2 venue provisions of this Act.

3 (1) In a contempt proceeding where the petition for a
4 rule to show cause or petition for adjudication of criminal
5 contempt sets forth facts evidencing an immediate danger
6 that the respondent will flee the jurisdiction or inflict
7 physical abuse on the petitioner or minor children or on
8 dependent adults in the petitioner's care, the court may
9 order the attachment of the respondent without prior
10 service of the petition for a rule to show cause, the rule
11 to show cause, the petition for adjudication of criminal
12 contempt or the adjudication of criminal contempt. Bond
13 shall be set unless specifically denied in writing.

14 (2) A petition for a rule to show cause or a petition
15 for adjudication of criminal contempt for violation of a
16 civil no contact order shall be treated as an expedited
17 proceeding.

18 (e) Actual knowledge. A civil no contact order may be
19 enforced pursuant to this Section if the respondent violates
20 the order after the respondent has actual knowledge of its
21 contents as shown through one of the following means:

22 (1) by service, delivery, or notice under Section 208;

23 (2) by notice under Section 218;

24 (3) by service of a civil no contact order under
25 Section 218; or

26 (4) by other means demonstrating actual knowledge of

1 the contents of the order.

2 (f) The enforcement of a civil no contact order in civil or
3 criminal court shall not be affected by either of the
4 following:

5 (1) the existence of a separate, correlative order,
6 entered under Section 202; or

7 (2) any finding or order entered in a conjoined
8 criminal proceeding.

9 (g) Circumstances. The court, when determining whether or
10 not a violation of a civil no contact order has occurred, shall
11 not require physical manifestations of abuse on the person of
12 the victim.

13 (h) Penalties.

14 (1) Except as provided in paragraph (3) of this
15 subsection, where the court finds the commission of a crime
16 or contempt of court under subsection (a) or (b) of this
17 Section, the penalty shall be the penalty that generally
18 applies in such criminal or contempt proceedings, and may
19 include one or more of the following: incarceration,
20 payment of restitution, a fine, payment of attorneys' fees
21 and costs, or community service.

22 (2) The court shall hear and take into account evidence
23 of any factors in aggravation or mitigation before deciding
24 an appropriate penalty under paragraph (1) of this
25 subsection.

26 (3) To the extent permitted by law, the court is

1 encouraged to:

2 (i) increase the penalty for the knowing violation
3 of any civil no contact order over any penalty
4 previously imposed by any court for respondent's
5 violation of any civil no contact order or penal
6 statute involving petitioner as victim and respondent
7 as defendant;

8 (ii) impose a minimum penalty of 24 hours
9 imprisonment for respondent's first violation of any
10 civil no contact order; and

11 (iii) impose a minimum penalty of 48 hours
12 imprisonment for respondent's second or subsequent
13 violation of a civil no contact order unless the court
14 explicitly finds that an increased penalty or that
15 period of imprisonment would be manifestly unjust.

16 (4) In addition to any other penalties imposed for a
17 violation of a civil no contact order, a criminal court may
18 consider evidence of any previous violations of a civil no
19 contact order:

20 (i) to increase, revoke or modify the bail bond on
21 an underlying criminal charge pursuant to Section
22 110-6 of the Code of Criminal Procedure of 1963;

23 (ii) to revoke or modify an order of probation,
24 conditional discharge or supervision, pursuant to
25 Section 5-6-4 of the Unified Code of Corrections; or

26 (iii) to revoke or modify a sentence of periodic

1 imprisonment, pursuant to Section 5-7-2 of the Unified
2 Code of Corrections.

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

4 Section 15. The Illinois Domestic Violence Act of 1986 is
5 amended by changing Sections 214 and 223 as follows:

6 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

7 Sec. 214. 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 or that
10 petitioner is a high-risk adult who has been abused, neglected,
11 or exploited, as defined in this Act, an order of protection
12 prohibiting the abuse, neglect, or exploitation shall issue;
13 provided that petitioner must also satisfy the requirements of
14 one of the following Sections, as appropriate: Section 217 on
15 emergency orders, Section 218 on interim orders, or Section 219
16 on plenary orders. Petitioner shall not be denied an order of
17 protection because petitioner or respondent is a minor. The
18 court, when determining whether or not to issue an order of
19 protection, shall not require physical manifestations of abuse
20 on the person of the victim. Modification and extension of
21 prior orders of protection shall be in accordance with this
22 Act.

23 (b) Remedies and standards. The remedies to be included in
24 an order of protection shall be determined in accordance with

1 this Section and one of the following Sections, as appropriate:
2 Section 217 on emergency orders, Section 218 on interim orders,
3 and Section 219 on plenary orders. The remedies listed in this
4 subsection shall be in addition to other civil or criminal
5 remedies available to petitioner.

6 (1) Prohibition of abuse, neglect, or exploitation.
7 Prohibit respondent's harassment, interference with
8 personal liberty, intimidation of a dependent, physical
9 abuse, or willful deprivation, neglect or exploitation, as
10 defined in this Act, or stalking of the petitioner, as
11 defined in Section 12-7.3 of the Criminal Code of 1961, if
12 such abuse, neglect, exploitation, or stalking has
13 occurred or otherwise appears likely to occur if not
14 prohibited.

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

24 (A) Right to occupancy. A party has a right to
25 occupancy of a residence or household if it is solely
26 or jointly owned or leased by that party, that party's

1 spouse, a person with a legal duty to support that
2 party or a minor child in that party's care, or by any
3 person or entity other than the opposing party that
4 authorizes that party's occupancy (e.g., a domestic
5 violence shelter). Standards set forth in subparagraph
6 (B) shall not preclude equitable relief.

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

23 The balance of hardships is presumed to favor
24 possession by petitioner unless the presumption is
25 rebutted by a preponderance of the evidence, showing
26 that the hardships to respondent substantially

1 outweigh the hardships to petitioner and any minor
2 child or dependent adult in petitioner's care. The
3 court, on the request of petitioner or on its own
4 motion, may order respondent to provide suitable,
5 accessible, alternate housing for petitioner instead
6 of excluding respondent from a mutual residence or
7 household.

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

18 (A) If an order of protection grants petitioner
19 exclusive possession of the residence, or prohibits
20 respondent from entering the residence, or orders
21 respondent to stay away from petitioner or other
22 protected persons, then the court may allow respondent
23 access to the residence to remove items of clothing and
24 personal adornment used exclusively by respondent,
25 medications, and other items as the court directs. The
26 right to access shall be exercised on only one occasion

1 as the court directs and in the presence of an
2 agreed-upon adult third party or law enforcement
3 officer.

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

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

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

1 that the respondent complies with the order. The court
2 may order the parents, guardian or legal custodian of a
3 minor respondent to take certain actions or to refrain
4 from certain actions to ensure that the respondent
5 complies with the order. In the event the court orders
6 a transfer of the respondent to another school, the
7 parents or legal guardians of the respondent are
8 responsible for transportation and other costs
9 associated with the change of school by the respondent.

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

22 (5) Physical care and possession of the minor child. In
23 order to protect the minor child from abuse, neglect, or
24 unwarranted separation from the person who has been the
25 minor child's primary caretaker, or to otherwise protect
26 the well-being of the minor child, the court may do either

1 or both of the following: (i) grant petitioner physical
2 care or possession of the minor child, or both, or (ii)
3 order respondent to return a minor child to, or not remove
4 a minor child from, the physical care of a parent or person
5 in loco parentis.

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

11 (6) Temporary legal custody. Award temporary legal
12 custody to petitioner in accordance with this Section, the
13 Illinois Marriage and Dissolution of Marriage Act, the
14 Illinois Parentage Act of 1984, and this State's Uniform
15 Child-Custody Jurisdiction and Enforcement Act.

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

21 (7) Visitation. Determine the visitation rights, if
22 any, of respondent in any case in which the court awards
23 physical care or temporary legal custody of a minor child
24 to petitioner. The court shall restrict or deny
25 respondent's visitation with a minor child if the court
26 finds that respondent has done or is likely to do any of

1 the following: (i) abuse or endanger the minor child during
2 visitation; (ii) use the visitation as an opportunity to
3 abuse or harass petitioner or petitioner's family or
4 household members; (iii) improperly conceal or detain the
5 minor child; or (iv) otherwise act in a manner that is not
6 in the best interests of the minor child. The court shall
7 not be limited by the standards set forth in Section 607.1
8 of the Illinois Marriage and Dissolution of Marriage Act.
9 If the court grants visitation, the order shall specify
10 dates and times for the visitation to take place or other
11 specific parameters or conditions that are appropriate. No
12 order for visitation shall refer merely to the term
13 "reasonable visitation".

14 Petitioner may deny respondent access to the minor
15 child if, when respondent arrives for visitation,
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 visitation, and the parties shall
24 submit to the court their recommendations for reasonable
25 alternative arrangements for visitation. A person may be
26 approved to supervise visitation only after filing an

1 affidavit accepting that responsibility and acknowledging
2 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 custody, when the respondent has a
9 legal obligation to support that person, in accordance with
10 the Illinois Marriage and Dissolution of Marriage Act,
11 which shall govern, among other matters, the amount of
12 support, payment through the clerk and withholding of
13 income to secure payment. An order for child support may be
14 granted to a petitioner with lawful physical care or
15 custody of a child, or an order or agreement for physical
16 care or custody, prior to entry of an order for legal
17 custody. Such a support order shall expire upon entry of a
18 valid order granting legal custody to another, unless
19 otherwise provided in the custody order.

20 (13) Order for payment of losses. Order respondent to
21 pay petitioner for losses suffered as a direct result of
22 the abuse, neglect, or exploitation. Such losses shall
23 include, but not be limited to, medical expenses, lost
24 earnings or other support, repair or replacement of
25 property damaged or taken, reasonable attorney's fees,
26 court costs and moving or other travel expenses, including

1 additional reasonable expenses for temporary shelter and
2 restaurant meals.

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

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

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

24 (14.5) Prohibition of firearm possession.

25 (a) When a complaint is made under a request for an
26 order of protection, that the respondent has

1 threatened or is likely to use firearms illegally
2 against the petitioner, the court shall examine on oath
3 the petitioner, and any witnesses who may be produced.
4 If the court is satisfied that there is any danger of
5 the illegal use of firearms, and the respondent is
6 present in court, it shall issue an order that any
7 firearms and any Firearm Owner's Identification Card
8 in the possession of the respondent, except as provided
9 in subsection (b), be turned over to the local law
10 enforcement agency for safekeeping. If the court is
11 satisfied that there is any danger of the illegal use
12 of firearms, and if the respondent is not present in
13 court, the court shall issue a warrant for seizure of
14 any firearm and Firearm Owner's Identification Card in
15 the possession of the respondent, to be kept by the
16 local law enforcement agency for safekeeping, except
17 as provided in subsection (b). The period of
18 safekeeping shall be for a stated period of time not to
19 exceed 2 years. The firearm or firearms and Firearm
20 Owner's Identification Card shall be returned to the
21 respondent at the end of the stated period or at
22 expiration of the order of protection, whichever is
23 sooner.

24 (b) If the respondent is a peace officer as defined
25 in Section 2-13 of the Criminal Code of 1961, the court
26 shall order that any firearms used by the respondent in

1 the performance of his or her duties as a peace officer
2 be surrendered to the chief law enforcement executive
3 of the agency in which the respondent is employed, who
4 shall retain the firearms for safekeeping for the
5 stated period not to exceed 2 years as set forth in the
6 court order.

7 (c) Upon expiration of the period of safekeeping,
8 if the firearms or Firearm Owner's Identification Card
9 cannot be returned to respondent because respondent
10 cannot be located, fails to respond to requests to
11 retrieve the firearms, or is not lawfully eligible to
12 possess a firearm, upon petition from the local law
13 enforcement agency, the court may order the local law
14 enforcement agency to destroy the firearms, use the
15 firearms for training purposes, or for any other
16 application as deemed appropriate by the local law
17 enforcement agency; or that the firearms be turned over
18 to a third party who is lawfully eligible to possess
19 firearms, and who does not reside with respondent.

20 (15) Prohibition of access to records. If an order of
21 protection prohibits respondent from having contact with
22 the minor child, or if petitioner's address is omitted
23 under subsection (b) of Section 203, or if necessary to
24 prevent abuse or wrongful removal or concealment of a minor
25 child, the order shall deny respondent access to, and
26 prohibit respondent from inspecting, obtaining, or

1 attempting to inspect or obtain, school or any other
2 records of the minor child who is in the care of
3 petitioner.

4 (16) Order for payment of shelter services. Order
5 respondent to reimburse a shelter providing temporary
6 housing and counseling services to the petitioner for the
7 cost of the services, as certified by the shelter and
8 deemed reasonable by the court.

9 (17) Order for injunctive relief. Enter injunctive
10 relief necessary or appropriate to prevent further abuse of
11 a family or household member or further abuse, neglect, or
12 exploitation of a high-risk adult with disabilities or to
13 effectuate one of the granted remedies, if supported by the
14 balance of hardships. If the harm to be prevented by the
15 injunction is abuse or any other harm that one of the
16 remedies listed in paragraphs (1) through (16) of this
17 subsection is designed to prevent, no further evidence is
18 necessary that the harm is an irreparable injury.

19 (c) Relevant factors; findings.

20 (1) In determining whether to grant a specific remedy,
21 other than payment of support, the court shall consider
22 relevant factors, including but not limited to the
23 following:

24 (i) the nature, frequency, severity, pattern and
25 consequences of the respondent's past abuse, neglect
26 or exploitation of the petitioner or any family or

1 household member, including the concealment of his or
2 her location in order to evade service of process or
3 notice, and the likelihood of danger of future abuse,
4 neglect, or exploitation to petitioner or any member of
5 petitioner's or respondent's family or household; and

6 (ii) the danger that any minor child will be abused
7 or neglected or improperly removed from the
8 jurisdiction, improperly concealed within the State or
9 improperly separated from the child's primary
10 caretaker.

11 (2) In comparing relative hardships resulting to the
12 parties from loss of possession of the family home, the
13 court shall consider relevant factors, including but not
14 limited to the following:

15 (i) availability, accessibility, cost, safety,
16 adequacy, location and other characteristics of
17 alternate housing for each party and any minor child or
18 dependent adult in the party's care;

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

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

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

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

4 (ii) Whether the conduct or actions of respondent,
5 unless prohibited, will likely cause irreparable harm
6 or continued abuse.

7 (iii) Whether it is necessary to grant the
8 requested relief in order to protect petitioner or
9 other alleged abused persons.

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

15 When a verified petition for an emergency order of
16 protection in accordance with the requirements of Sections
17 203 and 217 is presented to the court, the court shall
18 examine petitioner on oath or affirmation. An emergency
19 order of protection shall be issued by the court if it
20 appears from the contents of the petition and the
21 examination of petitioner that the averments are
22 sufficient to indicate abuse by respondent and to support
23 the granting of relief under the issuance of the emergency
24 order of protection.

25 (5) Never married parties. No rights or
26 responsibilities for a minor child born outside of marriage

1 attach to a putative father until a father and child
2 relationship has been established under the Illinois
3 Parentage Act of 1984, the Illinois Public Aid Code,
4 Section 12 of the Vital Records Act, the Juvenile Court Act
5 of 1987, the Probate Act of 1985, the Revised Uniform
6 Reciprocal Enforcement of Support Act, the Uniform
7 Interstate Family Support Act, the Expedited Child Support
8 Act of 1990, any judicial, administrative, or other act of
9 another state or territory, any other Illinois statute, or
10 by any foreign nation establishing the father and child
11 relationship, any other proceeding substantially in
12 conformity with the Personal Responsibility and Work
13 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
14 or where both parties appeared in open court or at an
15 administrative hearing acknowledging under oath or
16 admitting by affirmation the existence of a father and
17 child relationship. Absent such an adjudication, finding,
18 or acknowledgement, no putative father shall be granted
19 temporary custody of the minor child, visitation with the
20 minor child, or physical care and possession of the minor
21 child, nor shall an order of payment for support of the
22 minor child be entered.

23 (d) Balance of hardships; findings. If the court finds that
24 the balance of hardships does not support the granting of a
25 remedy governed by paragraph (2), (3), (10), (11), or (16) of
26 subsection (b) of this Section, which may require such

1 balancing, the court's findings shall so indicate and shall
2 include a finding as to whether granting the remedy will result
3 in hardship to respondent that would substantially outweigh the
4 hardship to petitioner from denial of the remedy. The findings
5 shall be an official record or in writing.

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

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

11 (2) Respondent was voluntarily intoxicated;

12 (3) Petitioner acted in self-defense or defense of
13 another, provided that, if petitioner utilized force, such
14 force was justifiable under Article VII of the Criminal
15 Code of 1961;

16 (4) Petitioner did not act in self-defense or defense
17 of another;

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

20 (6) Petitioner did not leave the residence or household
21 to avoid further abuse, neglect, or exploitation by
22 respondent;

23 (7) Conduct by any family or household member excused
24 the abuse, neglect, or exploitation by respondent, unless
25 that same conduct would have excused such abuse, neglect,
26 or exploitation if the parties had not been family or

1 household members.

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

4 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)

5 Sec. 223. Enforcement of orders of protection.

6 (a) When violation is crime. A violation of any order of
7 protection, whether issued in a civil or criminal proceeding,
8 shall be enforced by a criminal court when:

9 (1) The respondent commits the crime of violation of an
10 order of protection pursuant to Section 12-30 of the
11 Criminal Code of 1961, by having knowingly violated:

12 (i) remedies described in paragraphs (1), (2),
13 (3), (14), or (14.5) of subsection (b) of Section 214
14 of this Act; or

15 (ii) a remedy, which is substantially similar to
16 the remedies authorized under paragraphs (1), (2),
17 (3), (14), and (14.5) of subsection (b) of Section 214
18 of this Act, in a valid order of protection which is
19 authorized under the laws of another state, tribe, or
20 United States territory; or

21 (iii) any other remedy when the act constitutes a
22 crime against the protected parties as defined by the
23 Criminal Code of 1961.

24 Prosecution for a violation of an order of protection
25 shall not bar concurrent prosecution for any other crime,

1 including any crime that may have been committed at the
2 time of the violation of the order of protection; or

3 (2) The respondent commits the crime of child abduction
4 pursuant to Section 10-5 of the Criminal Code of 1961, by
5 having knowingly violated:

6 (i) remedies described in paragraphs (5), (6) or
7 (8) of subsection (b) of Section 214 of this Act; or

8 (ii) a remedy, which is substantially similar to
9 the remedies authorized under paragraphs (5), (6), or
10 (8) of subsection (b) of Section 214 of this Act, in a
11 valid order of protection which is authorized under the
12 laws of another state, tribe, or United States
13 territory.

14 (b) When violation is contempt of court. A violation of any
15 valid Illinois order of protection, whether issued in a civil
16 or criminal proceeding, may be enforced through civil or
17 criminal contempt procedures, as appropriate, by any court with
18 jurisdiction, regardless where the act or acts which violated
19 the order of protection were committed, to the extent
20 consistent with the venue provisions of this Act. Nothing in
21 this Act shall preclude any Illinois court from enforcing any
22 valid order of protection issued in another state. Illinois
23 courts may enforce orders of protection through both criminal
24 prosecution and contempt proceedings, unless the action which
25 is second in time is barred by collateral estoppel or the
26 constitutional prohibition against double jeopardy.

1 (1) In a contempt proceeding where the petition for a
2 rule to show cause sets forth facts evidencing an immediate
3 danger that the respondent will flee the jurisdiction,
4 conceal a child, or inflict physical abuse on the
5 petitioner or minor children or on dependent adults in
6 petitioner's care, the court may order the attachment of
7 the respondent without prior service of the rule to show
8 cause or the petition for a rule to show cause. Bond shall
9 be set unless specifically denied in writing.

10 (2) A petition for a rule to show cause for violation
11 of an order of protection shall be treated as an expedited
12 proceeding.

13 (b-1) The court shall not hold a school district or any of
14 its employees in civil or criminal contempt unless the school
15 district has been allowed to intervene.

16 (b-2) The court may hold the parents, guardian or legal
17 custodian of a minor respondent in civil or criminal contempt
18 for a violation of any provision of any order entered under
19 this Act for conduct of the minor respondent in violation of
20 this Act if the parents, guardian or legal custodian directed,
21 encouraged, or assisted the respondent minor in such conduct.

22 (c) Violation of custody or support orders. A violation of
23 remedies described in paragraphs (5), (6), (8), or (9) of
24 subsection (b) of Section 214 of this Act may be enforced by
25 any remedy provided by Section 611 of the Illinois Marriage and
26 Dissolution of Marriage Act. The court may enforce any order

1 for support issued under paragraph (12) of subsection (b) of
2 Section 214 in the manner provided for under Parts V and VII of
3 the Illinois Marriage and Dissolution of Marriage Act.

4 (d) Actual knowledge. An order of protection may be
5 enforced pursuant to this Section if the respondent violates
6 the order after the respondent has actual knowledge of its
7 contents as shown through one of the following means:

8 (1) By service, delivery, or notice under Section 210.

9 (2) By notice under Section 210.1 or 211.

10 (3) By service of an order of protection under Section
11 222.

12 (4) By other means demonstrating actual knowledge of
13 the contents of the order.

14 (e) The enforcement of an order of protection in civil or
15 criminal court shall not be affected by either of the
16 following:

17 (1) The existence of a separate, correlative order,
18 entered under Section 215.

19 (2) Any finding or order entered in a conjoined
20 criminal proceeding.

21 (f) Circumstances. The court, when determining whether or
22 not a violation of an order of protection has occurred, shall
23 not require physical manifestations of abuse on the person of
24 the victim.

25 (g) Penalties.

26 (1) Except as provided in paragraph (3) of this

1 subsection, where the court finds the commission of a crime
2 or contempt of court under subsections (a) or (b) of this
3 Section, the penalty shall be the penalty that generally
4 applies in such criminal or contempt proceedings, and may
5 include one or more of the following: incarceration,
6 payment of restitution, a fine, payment of attorneys' fees
7 and costs, or community service.

8 (2) The court shall hear and take into account evidence
9 of any factors in aggravation or mitigation before deciding
10 an appropriate penalty under paragraph (1) of this
11 subsection.

12 (3) To the extent permitted by law, the court is
13 encouraged to:

14 (i) increase the penalty for the knowing violation
15 of any order of protection over any penalty previously
16 imposed by any court for respondent's violation of any
17 order of protection or penal statute involving
18 petitioner as victim and respondent as defendant;

19 (ii) impose a minimum penalty of 24 hours
20 imprisonment for respondent's first violation of any
21 order of protection; and

22 (iii) impose a minimum penalty of 48 hours
23 imprisonment for respondent's second or subsequent
24 violation of an order of protection

25 unless the court explicitly finds that an increased penalty
26 or that period of imprisonment would be manifestly unjust.

1 (4) In addition to any other penalties imposed for a
2 violation of an order of protection, a criminal court may
3 consider evidence of any violations of an order of
4 protection:

5 (i) to increase, revoke or modify the bail bond on
6 an underlying criminal charge pursuant to Section
7 110-6 of the Code of Criminal Procedure of 1963;

8 (ii) to revoke or modify an order of probation,
9 conditional discharge or supervision, pursuant to
10 Section 5-6-4 of the Unified Code of Corrections;

11 (iii) to revoke or modify a sentence of periodic
12 imprisonment, pursuant to Section 5-7-2 of the Unified
13 Code of Corrections.

14 (5) In addition to any other penalties, the court shall
15 impose an additional fine of \$20 as authorized by Section
16 5-9-1.11 of the Unified Code of Corrections upon any person
17 convicted of or placed on supervision for a violation of an
18 order of protection. The additional fine shall be imposed
19 for each violation of this Section.

20 (Source: P.A. 95-331, eff. 8-21-07.)".