

1 AN ACT in relation to courts.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 10-10 as follows:

6 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

7 Sec. 10-10. Court enforcement; applicability also to
8 persons who are not applicants or recipients. Except where
9 the Illinois Department, by agreement, acts for the local
10 governmental unit, as provided in Section 10-3.1, local
11 governmental units shall refer to the State's Attorney or to
12 the proper legal representative of the governmental unit, for
13 judicial enforcement as herein provided, instances of
14 non-support or insufficient support when the dependents are
15 applicants or recipients under Article VI. The Child and
16 Spouse Support Unit established by Section 10-3.1 may
17 institute in behalf of the Illinois Department any actions
18 under this Section for judicial enforcement of the support
19 liability when the dependents are (a) applicants or
20 recipients under Articles III, IV, V or VII; (b) applicants
21 or recipients in a local governmental unit when the Illinois
22 Department, by agreement, acts for the unit; or (c)
23 non-applicants or non-recipients who are receiving child
24 support enforcement services under this Article X, as
25 provided in Section 10-1. Where the Child and Spouse Support
26 Unit has exercised its option and discretion not to apply the
27 provisions of Sections 10-3 through 10-8, the failure by the
28 Unit to apply such provisions shall not be a bar to bringing
29 an action under this Section.

30 Action shall be brought in the circuit court to obtain
31 support, or for the recovery of aid granted during the period

1 such support was not provided, or both for the obtainment of
2 support and the recovery of the aid provided. Actions for
3 the recovery of aid may be taken separately or they may be
4 consolidated with actions to obtain support. Such actions
5 may be brought in the name of the person or persons requiring
6 support, or may be brought in the name of the Illinois
7 Department or the local governmental unit, as the case
8 requires, in behalf of such persons.

9 In accordance with the Code of Civil Procedure, in an
10 action to obtain support or for the recovery of aid, the
11 responsible relative, a person requiring support, the
12 Department of Human Services, or the local governmental unit
13 may demand a trial by jury as to the issues of fact raised in
14 the action.

15 The court may enter such orders for the payment of moneys
16 for the support of the person as may be just and equitable
17 and may direct payment thereof for such period or periods of
18 time as the circumstances require, including support for a
19 period before the date the order for support is entered. The
20 order may be entered against any or all of the defendant
21 responsible relatives and may be based upon the proportionate
22 ability of each to contribute to the person's support.

23 The Court shall determine the amount of child support
24 (including child support for a period before the date the
25 order for child support is entered) by using the guidelines
26 and standards set forth in subsection (a) of Section 505 and
27 in Section 505.2 of the Illinois Marriage and Dissolution of
28 Marriage Act. For purposes of determining the amount of child
29 support to be paid for a period before the date the order for
30 child support is entered, there is a rebuttable presumption
31 that the responsible relative's net income for that period
32 was the same as his or her net income at the time the order
33 is entered.

34 If (i) the responsible relative was properly served with

1 a request for discovery of financial information relating to
2 the responsible relative's ability to provide child support,
3 (ii) the responsible relative failed to comply with the
4 request, despite having been ordered to do so by the court,
5 and (iii) the responsible relative is not present at the
6 hearing to determine support despite having received proper
7 notice, then any relevant financial information concerning
8 the responsible relative's ability to provide child support
9 that was obtained pursuant to subpoena and proper notice
10 shall be admitted into evidence without the need to establish
11 any further foundation for its admission.

12 An order entered under this Section shall include a
13 provision requiring the obligor to report to the obligee and
14 to the clerk of court within 10 days each time the obligor
15 obtains new employment, and each time the obligor's
16 employment is terminated for any reason. The report shall be
17 in writing and shall, in the case of new employment, include
18 the name and address of the new employer. Failure to report
19 new employment or the termination of current employment, if
20 coupled with nonpayment of support for a period in excess of
21 60 days, is indirect criminal contempt. For any obligor
22 arrested for failure to report new employment bond shall be
23 set in the amount of the child support that should have been
24 paid during the period of unreported employment. An order
25 entered under this Section shall also include a provision
26 requiring the obligor and obligee parents to advise each
27 other of a change in residence within 5 days of the change
28 except when the court finds that the physical, mental, or
29 emotional health of a party or that of a minor child, or
30 both, would be seriously endangered by disclosure of the
31 party's address.

32 The Court shall determine the amount of maintenance using
33 the standards set forth in Section 504 of the Illinois
34 Marriage and Dissolution of Marriage Act.

1 Any new or existing support order entered by the court
2 under this Section shall be deemed to be a series of
3 judgments against the person obligated to pay support
4 thereunder, each such judgment to be in the amount of each
5 payment or installment of support and each such judgment to
6 be deemed entered as of the date the corresponding payment or
7 installment becomes due under the terms of the support order.
8 Each such judgment shall have the full force, effect and
9 attributes of any other judgment of this State, including the
10 ability to be enforced. Any such judgment is subject to
11 modification or termination only in accordance with Section
12 510 of the Illinois Marriage and Dissolution of Marriage Act.
13 A lien arises by operation of law against the real and
14 personal property of the noncustodial parent for each
15 installment of overdue support owed by the noncustodial
16 parent.

17 In an action to obtain support or for the recovery of
18 aid, the court at any time may order the responsible relative
19 or a person requiring support to undergo counseling as the
20 court deems appropriate, based on the evidence, for the
21 purpose of ensuring the payment of any required support or
22 recovered aid.

23 When an order is entered for the support of a minor, the
24 court may provide therein for reasonable visitation of the
25 minor by the person or persons who provided support pursuant
26 to the order. Whoever willfully refuses to comply with such
27 visitation order or willfully interferes with its enforcement
28 may be declared in contempt of court and punished therefor.

29 Except where the local governmental unit has entered into
30 an agreement with the Illinois Department for the Child and
31 Spouse Support Unit to act for it, as provided in Section
32 10-3.1, support orders entered by the court in cases
33 involving applicants or recipients under Article VI shall
34 provide that payments thereunder be made directly to the

1 local governmental unit. Orders for the support of all other
2 applicants or recipients shall provide that payments
3 thereunder be made directly to the Illinois Department. In
4 accordance with federal law and regulations, the Illinois
5 Department may continue to collect current maintenance
6 payments or child support payments, or both, after those
7 persons cease to receive public assistance and until
8 termination of services under Article X. The Illinois
9 Department shall pay the net amount collected to those
10 persons after deducting any costs incurred in making the
11 collection or any collection fee from the amount of any
12 recovery made. In both cases the order shall permit the
13 local governmental unit or the Illinois Department, as the
14 case may be, to direct the responsible relative or relatives
15 to make support payments directly to the needy person, or to
16 some person or agency in his behalf, upon removal of the
17 person from the public aid rolls or upon termination of
18 services under Article X.

19 If the notice of support due issued pursuant to Section
20 10-7 directs that support payments be made directly to the
21 needy person, or to some person or agency in his behalf, and
22 the recipient is removed from the public aid rolls, court
23 action may be taken against the responsible relative
24 hereunder if he fails to furnish support in accordance with
25 the terms of such notice.

26 Actions may also be brought under this Section in behalf
27 of any person who is in need of support from responsible
28 relatives, as defined in Section 2-11 of Article II who is
29 not an applicant for or recipient of financial aid under this
30 Code. In such instances, the State's Attorney of the county
31 in which such person resides shall bring action against the
32 responsible relatives hereunder. If the Illinois Department,
33 as authorized by Section 10-1, extends the child support
34 enforcement services provided by this Article to spouses and

1 dependent children who are not applicants or recipients under
2 this Code, the Child and Spouse Support Unit established by
3 Section 10-3.1 shall bring action against the responsible
4 relatives hereunder and any support orders entered by the
5 court in such cases shall provide that payments thereunder be
6 made directly to the Illinois Department.

7 Whenever it is determined in a proceeding to establish or
8 enforce a child support or maintenance obligation that the
9 person owing a duty of support is unemployed, the court may
10 order the person to seek employment and report periodically
11 to the court with a diary, listing or other memorandum of his
12 or her efforts in accordance with such order. Additionally,
13 the court may order the unemployed person to report to the
14 Department of Employment Security for job search services or
15 to make application with the local Job Training Partnership
16 Act provider for participation in job search, training or
17 work programs and where the duty of support is owed to a
18 child receiving child support enforcement services under this
19 Article X, the court may order the unemployed person to
20 report to the Illinois Department for participation in job
21 search, training or work programs established under Section
22 9-6 and Article IXA of this Code.

23 Whenever it is determined that a person owes past-due
24 support for a child receiving assistance under this Code, the
25 court shall order at the request of the Illinois Department:

26 (1) that the person pay the past-due support in
27 accordance with a plan approved by the court; or

28 (2) if the person owing past-due support is
29 unemployed, is subject to such a plan, and is not
30 incapacitated, that the person participate in such job
31 search, training, or work programs established under
32 Section 9-6 and Article IXA of this Code as the court
33 deems appropriate.

34 A determination under this Section shall not be

1 administratively reviewable by the procedures specified in
2 Sections 10-12, and 10-13 to 10-13.10. Any determination
3 under these Sections, if made the basis of court action under
4 this Section, shall not affect the de novo judicial
5 determination required under this Section.

6 A one-time charge of 20% is imposable upon the amount of
7 past-due child support owed on July 1, 1988 which has accrued
8 under a support order entered by the court. The charge shall
9 be imposed in accordance with the provisions of Section 10-21
10 of this Code and shall be enforced by the court upon
11 petition.

12 All orders for support, when entered or modified, shall
13 include a provision requiring the non-custodial parent to
14 notify the court and, in cases in which a party is receiving
15 child support enforcement services under this Article X, the
16 Illinois Department, within 7 days, (i) of the name, address,
17 and telephone number of any new employer of the non-custodial
18 parent, (ii) whether the non-custodial parent has access to
19 health insurance coverage through the employer or other group
20 coverage and, if so, the policy name and number and the names
21 of persons covered under the policy, and (iii) of any new
22 residential or mailing address or telephone number of the
23 non-custodial parent. In any subsequent action to enforce a
24 support order, upon a sufficient showing that a diligent
25 effort has been made to ascertain the location of the
26 non-custodial parent, service of process or provision of
27 notice necessary in the case may be made at the last known
28 address of the non-custodial parent in any manner expressly
29 provided by the Code of Civil Procedure or this Code, which
30 service shall be sufficient for purposes of due process.

31 An order for support shall include a date on which the
32 current support obligation terminates. The termination date
33 shall be no earlier than the date on which the child covered
34 by the order will attain the age of 18. However, if the

1 child will not graduate from high school until after
2 attaining the age of 18, then the termination date shall be
3 no earlier than the earlier of the date on which the child's
4 high school graduation will occur or the date on which the
5 child will attain the age of 19. The order for support shall
6 state that the termination date does not apply to any
7 arrearage that may remain unpaid on that date. Nothing in
8 this paragraph shall be construed to prevent the court from
9 modifying the order or terminating the order in the event the
10 child is otherwise emancipated.

11 Upon notification in writing or by electronic
12 transmission from the Illinois Department to the clerk of the
13 court that a person who is receiving support payments under
14 this Section is receiving services under the Child Support
15 Enforcement Program established by Title IV-D of the Social
16 Security Act, any support payments subsequently received by
17 the clerk of the court shall be transmitted in accordance
18 with the instructions of the Illinois Department until the
19 Illinois Department gives notice to the clerk of the court to
20 cease the transmittal. After providing the notification
21 authorized under this paragraph, the Illinois Department
22 shall be entitled as a party to notice of any further
23 proceedings in the case. The clerk of the court shall file a
24 copy of the Illinois Department's notification in the court
25 file. The clerk's failure to file a copy of the notification
26 in the court file shall not, however, affect the Illinois
27 Department's right to receive notice of further proceedings.

28 Payments under this Section to the Illinois Department
29 pursuant to the Child Support Enforcement Program established
30 by Title IV-D of the Social Security Act shall be paid into
31 the Child Support Enforcement Trust Fund. All payments under
32 this Section to the Illinois Department of Human Services
33 shall be deposited in the DHS Recoveries Trust Fund.
34 Disbursements from these funds shall be as provided in

1 Sections 12-9.1 and 12-10.2 of this Code. Payments received
2 by a local governmental unit shall be deposited in that
3 unit's General Assistance Fund.

4 To the extent the provisions of this Section are
5 inconsistent with the requirements pertaining to the State
6 Disbursement Unit under Sections 10-10.4 and 10-26 of this
7 Code, the requirements pertaining to the State Disbursement
8 Unit shall apply.

9 (Source: P.A. 92-16, eff. 6-28-01; 92-590, eff. 7-1-02;
10 92-876, eff. 6-1-03; revised 9-27-03.)

11 Section 10. The Circuit Courts Act is amended by adding
12 Section 4.4 as follows:

13 (705 ILCS 35/4.4 new)

14 Sec. 4.4. Family Division.

15 (a) In this Section, "family case" means an action in
16 which the court exercises its jurisdiction under any of the
17 following:

18 (1) Article X of the Illinois Public Aid Code.

19 (2) Article II, III, or IV of the Juvenile Court
20 Act of 1987.

21 (3) Article 112A of the Code of Criminal Procedure
22 of 1963.

23 (4) The Illinois Marriage and Dissolution of
24 Marriage Act.

25 (5) The Illinois Uniform Premarital Agreement Act.

26 (6) The Uniform Interstate Family Support Act.

27 (7) The Income Withholding for Support Act.

28 (8) The Emancipation of Minors Act.

29 (9) The Uniform Child-Custody Jurisdiction and
30 Enforcement Act.

31 (10) The Illinois Parentage Act.

32 (11) The Illinois Parentage Act of 1984.

1 (12) The Adoption Act.

2 (13) The Illinois Domestic Violence Act of 1986.

3 (14) The Rights of Married Persons Act.

4 (b) The chief judge of each circuit shall establish a
5 separate family division for the circuit. In each circuit,
6 every hearing or other proceeding in a family case shall be
7 assigned to the family division.

8 (c) The chief judge of each circuit shall designate an
9 appropriate number of circuit judges or associate judges, or
10 both, to serve in the family division.

11 (d) This Section applies to all family cases pending on
12 the effective date of this amendatory Act of the 93rd General
13 Assembly or commenced on or after that date.

14 Section 15. The Juvenile Court Act of 1987 is amended by
15 changing Sections 1-5, 2-20, 2-23, 3-21, 3-24, 4-18, and 4-21
16 as follows:

17 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

18 Sec. 1-5. Rights of parties to proceedings.

19 (1) Except as provided in this Section and paragraph (2)
20 of Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who
21 is the subject of the proceeding and his parents, guardian,
22 legal custodian or responsible relative who are parties
23 respondent have the right to be present, to be heard, to
24 present evidence material to the proceedings, to
25 cross-examine witnesses, to examine pertinent court files and
26 records and also, although proceedings under this Act are not
27 intended to be adversary in character, the right to be
28 represented by counsel. At the request of any party
29 financially unable to employ counsel, with the exception of a
30 foster parent permitted to intervene under this Section, the
31 court shall appoint the Public Defender or such other counsel
32 as the case may require. Counsel appointed for the minor and

1 any indigent party shall appear at all stages of the trial
2 court proceeding, and such appointment shall continue through
3 the permanency hearings and termination of parental rights
4 proceedings subject to withdrawal or substitution pursuant to
5 Supreme Court Rules or the Code of Civil Procedure. Following
6 the dispositional hearing, the court may require appointed
7 counsel, other than counsel for the minor or counsel for the
8 guardian ad litem, to withdraw his or her appearance upon
9 failure of the party for whom counsel was appointed under
10 this Section to attend any subsequent proceedings.

11 No hearing on any petition or motion filed under this Act
12 may be commenced unless the minor who is the subject of the
13 proceeding is represented by counsel. Notwithstanding the
14 preceding sentence, if a guardian ad litem has been appointed
15 for the minor under Section 2-17 of this Act and the guardian
16 ad litem is a licensed attorney at law of this State, or in
17 the event that a court appointed special advocate has been
18 appointed as guardian ad litem and counsel has been appointed
19 to represent the court appointed special advocate, the court
20 may not require the appointment of counsel to represent the
21 minor unless the court finds that the minor's interests are
22 in conflict with what the guardian ad litem determines to be
23 in the best interest of the minor. Each adult respondent
24 shall be furnished a written "Notice of Rights" at or before
25 the first hearing at which he or she appears.

26 (1.5) The Department shall maintain a system of response
27 to inquiry made by parents or putative parents as to whether
28 their child is under the custody or guardianship of the
29 Department; and if so, the Department shall direct the
30 parents or putative parents to the appropriate court of
31 jurisdiction, including where inquiry may be made of the
32 clerk of the court regarding the case number and the next
33 scheduled court date of the minor's case. Effective notice
34 and the means of accessing information shall be given to the

1 public on a continuing basis by the Department.

2 (2) (a) Though not appointed guardian or legal custodian
3 or otherwise made a party to the proceeding, any current or
4 previously appointed foster parent or relative caregiver, or
5 representative of an agency or association interested in the
6 minor has the right to be heard by the court, but does not
7 thereby become a party to the proceeding.

8 In addition to the foregoing right to be heard by the
9 court, any current foster parent or relative caregiver of a
10 minor and the agency designated by the court or the
11 Department of Children and Family Services as custodian of
12 the minor who is alleged to be or has been adjudicated an
13 abused or neglected minor under Section 2-3 or a dependent
14 minor under Section 2-4 of this Act has the right to and
15 shall be given adequate notice at all stages of any hearing
16 or proceeding under this Act.

17 Any foster parent or relative caregiver who is denied his
18 or her right to be heard under this Section may bring a
19 mandamus action under Article XIV of the Code of Civil
20 Procedure against the court or any public agency to enforce
21 that right. The mandamus action may be brought immediately
22 upon the denial of those rights but in no event later than 30
23 days after the foster parent has been denied the right to be
24 heard.

25 (b) If after an adjudication that a minor is abused or
26 neglected as provided under Section 2-21 of this Act and a
27 motion has been made to restore the minor to any parent,
28 guardian, or legal custodian found by the court to have
29 caused the neglect or to have inflicted the abuse on the
30 minor, a foster parent may file a motion to intervene in the
31 proceeding for the sole purpose of requesting that the minor
32 be placed with the foster parent, provided that the foster
33 parent (i) is the current foster parent of the minor or (ii)
34 has previously been a foster parent for the minor for one

1 year or more, has a foster care license or is eligible for a
2 license, and is not the subject of any findings of abuse or
3 neglect of any child. The juvenile court may only enter
4 orders placing a minor with a specific foster parent under
5 this subsection (2)(b) and nothing in this Section shall be
6 construed to confer any jurisdiction or authority on the
7 juvenile court to issue any other orders requiring the
8 appointed guardian or custodian of a minor to place the minor
9 in a designated foster home or facility. This Section is not
10 intended to encompass any matters that are within the scope
11 or determinable under the administrative and appeal process
12 established by rules of the Department of Children and Family
13 Services under Section 5(o) of the Children and Family
14 Services Act. Nothing in this Section shall relieve the
15 court of its responsibility, under Section 2-14(a) of this
16 Act to act in a just and speedy manner to reunify families
17 where it is the best interests of the minor and the child can
18 be cared for at home without endangering the child's health
19 or safety and, if reunification is not in the best interests
20 of the minor, to find another permanent home for the minor.
21 Nothing in this Section, or in any order issued by the court
22 with respect to the placement of a minor with a foster
23 parent, shall impair the ability of the Department of
24 Children and Family Services, or anyone else authorized under
25 Section 5 of the Abused and Neglected Child Reporting Act, to
26 remove a minor from the home of a foster parent if the
27 Department of Children and Family Services or the person
28 removing the minor has reason to believe that the
29 circumstances or conditions of the minor are such that
30 continuing in the residence or care of the foster parent will
31 jeopardize the child's health and safety or present an
32 imminent risk of harm to that minor's life.

33 (c) If a foster parent has had the minor who is the
34 subject of the proceeding under Article II in his or her home

1 for more than one year on or after July 3, 1994 and if the
2 minor's placement is being terminated from that foster
3 parent's home, that foster parent shall have standing and
4 intervenor status except in those circumstances where the
5 Department of Children and Family Services or anyone else
6 authorized under Section 5 of the Abused and Neglected Child
7 Reporting Act has removed the minor from the foster parent
8 because of a reasonable belief that the circumstances or
9 conditions of the minor are such that continuing in the
10 residence or care of the foster parent will jeopardize the
11 child's health or safety or presents an imminent risk of harm
12 to the minor's life.

13 (d) The court may grant standing to any foster parent if
14 the court finds that it is in the best interest of the child
15 for the foster parent to have standing and intervenor status.

16 (3) Parties respondent are entitled to notice in
17 compliance with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14
18 and 4-15 or 5-525 and 5-530, as appropriate. At the first
19 appearance before the court by the minor, his parents,
20 guardian, custodian or responsible relative, the court shall
21 explain the nature of the proceedings and inform the parties
22 of their rights under the first 2 paragraphs of this Section.

23 If the child is alleged to be abused, neglected or
24 dependent, the court shall admonish the parents that if the
25 court declares the child to be a ward of the court and awards
26 custody or guardianship to the Department of Children and
27 Family Services, the parents must cooperate with the
28 Department of Children and Family Services, comply with the
29 terms of the service plans, and correct the conditions that
30 require the child to be in care, or risk termination of their
31 parental rights.

32 Upon an adjudication of wardship of the court under
33 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform
34 the parties of their right to appeal therefrom as well as

1 from any other final judgment of the court.

2 When the court finds that a child is an abused,
3 neglected, or dependent minor under Section 2-21, the court
4 shall admonish the parents that the parents must cooperate
5 with the Department of Children and Family Services, comply
6 with the terms of the service plans, and correct the
7 conditions that require the child to be in care, or risk
8 termination of their parental rights.

9 When the court declares a child to be a ward of the court
10 and awards guardianship to the Department of Children and
11 Family Services under Section 2-22, the court shall admonish
12 the parents, guardian, custodian, or responsible relative
13 that the parents must cooperate with the Department of
14 Children and Family Services, comply with the terms of the
15 service plans, and correct the conditions that require the
16 child to be in care, or risk termination of their parental
17 rights.

18 (4) No sanction may be applied against the minor who is
19 the subject of the proceedings by reason of his refusal or
20 failure to testify in the course of any hearing held prior to
21 final adjudication under Section 2-22, 3-23, 4-20 or 5-705.

22 (5) In the discretion of the court, the minor may be
23 excluded from any part or parts of a dispositional hearing
24 and, with the consent of the parent or parents, guardian,
25 counsel or a guardian ad litem, from any part or parts of an
26 adjudicatory hearing.

27 (6) The general public except for the news media and the
28 victim shall be excluded from any hearing and, except for the
29 persons specified in this Section only persons, including
30 representatives of agencies and associations, who in the
31 opinion of the court have a direct interest in the case or in
32 the work of the court shall be admitted to the hearing.
33 However, the court may, for the minor's safety and protection
34 and for good cause shown, prohibit any person or agency

1 present in court from further disclosing the minor's
2 identity. Nothing in this subsection (6) prevents the court
3 from allowing other juveniles to be present or to participate
4 in a court session being held under the Juvenile Drug Court
5 Treatment Act.

6 (7) A party shall not be entitled to exercise the right
7 to a substitution of a judge without cause under subdivision
8 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a
9 proceeding under this Act if the judge is currently assigned
10 to a proceeding involving the alleged abuse, neglect, or
11 dependency of the minor's sibling or half sibling and that
12 judge has made a substantive ruling in the proceeding
13 involving the minor's sibling or half sibling.

14 (8) In accordance with the Code of Civil Procedure, a
15 party may demand a trial by jury as to the issues of fact
16 raised in any of the following proceedings:

17 (a) An adjudicatory hearing under Section 2-21,
18 3-22, or 4-19.

19 (b) A dispositional hearing under Section 2-22,
20 3-23, or 4-20.

21 (c) A proceeding for termination of parental rights
22 under Section 2-29, 3-30, or 4-27.

23 (Source: P.A. 92-559, eff. 1-1-03; 93-539, eff. 8-18-03.)

24 (705 ILCS 405/2-20) (from Ch. 37, par. 802-20)

25 Sec. 2-20. Continuance under supervision.

26 (1) The court may enter an order of continuance under
27 supervision (a) upon an admission or stipulation by the
28 appropriate respondent or minor respondent of the facts
29 supporting the petition and before proceeding to findings and
30 adjudication, or after hearing the evidence at the
31 adjudicatory hearing but before noting in the minutes of
32 proceeding a finding of whether or not the minor is abused,
33 neglected or dependent; and (b) in the absence of objection

1 made in open court by the minor, his parent, guardian,
2 custodian, responsible relative, defense attorney or the
3 State's Attorney.

4 (2) If the minor, his parent, guardian, custodian,
5 responsible relative, defense attorney or the State's
6 Attorney, objects in open court to any such continuance and
7 insists upon proceeding to findings and adjudication, the
8 court shall so proceed.

9 (3) Nothing in this Section limits the power of the
10 court to order a continuance of the hearing for the
11 production of additional evidence or for any other proper
12 reason.

13 (4) When a hearing where a minor is alleged to be
14 abused, neglected or dependent is continued pursuant to this
15 Section, the court may permit the minor to remain in his home
16 if the court determines and makes written factual findings
17 that the minor can be cared for at home when consistent with
18 the minor's health, safety, and best interests, subject to
19 such conditions concerning his conduct and supervision as the
20 court may require by order.

21 (4.5) As a condition of supervision under this Section,
22 the court may order the minor or the minor's parent,
23 guardian, custodian, or other responsible relative to undergo
24 counseling as the court deems appropriate, based on the
25 evidence, in order to achieve the purposes of this Act.

26 (5) If a petition is filed charging a violation of a
27 condition of the continuance under supervision, the court
28 shall conduct a hearing. If the court finds that such
29 condition of supervision has not been fulfilled the court may
30 proceed to findings and adjudication and disposition. The
31 filing of a petition for violation of a condition of the
32 continuance under supervision shall toll the period of
33 continuance under supervision until the final determination
34 of the charge, and the term of the continuance under

1 supervision shall not run until the hearing and disposition
2 of the petition for violation; provided where the petition
3 alleges conduct that does not constitute a criminal offense,
4 the hearing must be held within 15 days of the filing of the
5 petition unless a delay in such hearing has been occasioned
6 by the minor, in which case the delay shall continue the
7 tolling of the period of continuance under supervision for
8 the period of such delay.

9 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98.)

10 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

11 Sec. 2-23. Kinds of dispositional orders.

12 (1) The following kinds of orders of disposition may be
13 made in respect of wards of the court:

14 (a) A minor under 18 years of age found to be
15 neglected or abused under Section 2-3 or dependent under
16 Section 2-4 may be (1) continued in the custody of his or
17 her parents, guardian or legal custodian; (2) placed in
18 accordance with Section 2-27; (3) restored to the custody
19 of the parent, parents, guardian, or legal custodian,
20 provided the court shall order the parent, parents,
21 guardian, or legal custodian to cooperate with the
22 Department of Children and Family Services and comply
23 with the terms of an after-care plan or risk the loss of
24 custody of the child and the possible termination of
25 their parental rights; or (4) ordered partially or
26 completely emancipated in accordance with the provisions
27 of the Emancipation of Mature Minors Act.

28 However, in any case in which a minor is found by
29 the court to be neglected or abused under Section 2-3 of
30 this Act, custody of the minor shall not be restored to
31 any parent, guardian or legal custodian whose acts or
32 omissions or both have been identified, pursuant to
33 subsection (1) of Section 2-21, as forming the basis for

1 the court's finding of abuse or neglect, until such time
2 as a hearing is held on the issue of the best interests
3 of the minor and the fitness of such parent, guardian or
4 legal custodian to care for the minor without endangering
5 the minor's health or safety, and the court enters an
6 order that such parent, guardian or legal custodian is
7 fit to care for the minor.

8 (b) A minor under 18 years of age found to be
9 dependent under Section 2-4 may be (1) placed in
10 accordance with Section 2-27 or (2) ordered partially or
11 completely emancipated in accordance with the provisions
12 of the Emancipation of Mature Minors Act.

13 However, in any case in which a minor is found by
14 the court to be dependent under Section 2-4 of this Act,
15 custody of the minor shall not be restored to any parent,
16 guardian or legal custodian whose acts or omissions or
17 both have been identified, pursuant to subsection (1) of
18 Section 2-21, as forming the basis for the court's
19 finding of dependency, until such time as a hearing is
20 held on the issue of the fitness of such parent, guardian
21 or legal custodian to care for the minor without
22 endangering the minor's health or safety, and the court
23 enters an order that such parent, guardian or legal
24 custodian is fit to care for the minor.

25 (c) When the court awards guardianship to the
26 Department of Children and Family Services, the court
27 shall order the parents to cooperate with the Department
28 of Children and Family Services, comply with the terms of
29 the service plans, and correct the conditions that
30 require the child to be in care, or risk termination of
31 their parental rights.

32 (2) Any order of disposition may provide for protective
33 supervision under Section 2-24 and may include an order of
34 protection under Section 2-25.

1 Unless the order of disposition expressly so provides, it
2 does not operate to close proceedings on the pending
3 petition, but is subject to modification, not inconsistent
4 with Section 2-28, until final closing and discharge of the
5 proceedings under Section 2-31.

6 (3) The court also shall enter any other orders
7 necessary to fulfill the service plan, including, but not
8 limited to, (i) orders requiring parties to cooperate with
9 services, (ii) restraining orders controlling the conduct of
10 any party likely to frustrate the achievement of the goal,
11 and (iii) visiting orders. Unless otherwise specifically
12 authorized by law, the court is not empowered under this
13 subsection (3) to order specific placements, specific
14 services, or specific service providers to be included in the
15 plan. If the court concludes that the Department of Children
16 and Family Services has abused its discretion in setting the
17 current service plan or permanency goal for the minor, the
18 court shall enter specific findings in writing based on the
19 evidence and shall enter an order for the Department to
20 develop and implement a new permanency goal and service plan
21 consistent with the court's findings. The new service plan
22 shall be filed with the court and served on all parties. The
23 court shall continue the matter until the new service plan is
24 filed.

25 (3.5) In addition to any other order of disposition, the
26 court may order the minor or the minor's parent, guardian,
27 custodian, or other responsible relative to undergo
28 counseling as the court deems appropriate, based on the
29 evidence, in order to achieve the purposes of this Act.

30 (4) In addition to any other order of disposition, the
31 court may order any minor adjudicated neglected with respect
32 to his or her own injurious behavior to make restitution, in
33 monetary or non-monetary form, under the terms and conditions
34 of Section 5-5-6 of the Unified Code of Corrections, except

1 that the "presentence hearing" referred to therein shall be
2 the dispositional hearing for purposes of this Section. The
3 parent, guardian or legal custodian of the minor may pay some
4 or all of such restitution on the minor's behalf.

5 (5) Any order for disposition where the minor is
6 committed or placed in accordance with Section 2-27 shall
7 provide for the parents or guardian of the estate of such
8 minor to pay to the legal custodian or guardian of the person
9 of the minor such sums as are determined by the custodian or
10 guardian of the person of the minor as necessary for the
11 minor's needs. Such payments may not exceed the maximum
12 amounts provided for by Section 9.1 of the Children and
13 Family Services Act.

14 (6) Whenever the order of disposition requires the minor
15 to attend school or participate in a program of training, the
16 truant officer or designated school official shall regularly
17 report to the court if the minor is a chronic or habitual
18 truant under Section 26-2a of the School Code.

19 (7) The court may terminate the parental rights of a
20 parent at the initial dispositional hearing if all of the
21 conditions in subsection (5) of Section 2-21 are met.

22 (Source: P.A. 89-17, eff. 5-31-95; 89-235, eff. 8-4-95;
23 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98;
24 90-655, eff. 7-30-98; revised 10-9-03.)

25 (705 ILCS 405/3-21) (from Ch. 37, par. 803-21)

26 Sec. 3-21. Continuance under supervision.

27 (1) The court may enter an order of continuance under
28 supervision (a) upon an admission or stipulation by the
29 appropriate respondent or minor respondent of the facts
30 supporting the petition and before proceeding to findings and
31 adjudication, or after hearing the evidence at the
32 adjudicatory hearing but before noting in the minutes of
33 proceedings a finding of whether or not the minor is a person

1 requiring authoritative intervention; and (b) in the absence
2 of objection made in open court by the minor, his parent,
3 guardian, custodian, responsible relative, defense attorney
4 or the State's Attorney.

5 (2) If the minor, his parent, guardian, custodian,
6 responsible relative, defense attorney or State's Attorney,
7 objects in open court to any such continuance and insists
8 upon proceeding to findings and adjudication, the court shall
9 so proceed.

10 (3) Nothing in this Section limits the power of the
11 court to order a continuance of the hearing for the
12 production of additional evidence or for any other proper
13 reason.

14 (4) When a hearing where a minor is alleged to be a
15 minor requiring authoritative intervention is continued
16 pursuant to this Section, the court may permit the minor to
17 remain in his home subject to such conditions concerning his
18 conduct and supervision as the court may require by order.

19 (4.5) As a condition of supervision under this Section,
20 the court may order the minor or the minor's parent,
21 guardian, custodian, or other responsible relative to undergo
22 counseling as the court deems appropriate, based on the
23 evidence, in order to achieve the purposes of this Act.

24 (5) If a petition is filed charging a violation of a
25 condition of the continuance under supervision, the court
26 shall conduct a hearing. If the court finds that such
27 condition of supervision has not been fulfilled the court may
28 proceed to findings and adjudication and disposition. The
29 filing of a petition for violation of a condition of the
30 continuance under supervision shall toll the period of
31 continuance under supervision until the final determination
32 of the charge, and the term of the continuance under
33 supervision shall not run until the hearing and disposition
34 of the petition for violation; provided where the petition

1 alleges conduct that does not constitute a criminal offense,
2 the hearing must be held within 15 days of the filing of the
3 petition unless a delay in such hearing has been occasioned
4 by the minor, in which case the delay shall continue the
5 tolling of the period of continuance under supervision for
6 the period of such delay.

7 (6) The court must impose upon a minor under an order of
8 continuance under supervision or an order of disposition
9 under this Article III, as a condition of the order, a fee of
10 \$25 for each month or partial month of supervision with a
11 probation officer. If the court determines the inability of
12 the minor, or the parent, guardian, or legal custodian of the
13 minor to pay the fee, the court may impose a lesser fee. The
14 court may not impose the fee on a minor who is made a ward of
15 the State under this Act. The fee may be imposed only upon a
16 minor who is actively supervised by the probation and court
17 services department. The fee must be collected by the clerk
18 of the circuit court. The clerk of the circuit court must
19 pay all monies collected from this fee to the county
20 treasurer for deposit into the probation and court services
21 fund under Section 15.1 of the Probation and Probation
22 Officers Act.

23 (Source: P.A. 92-329, eff. 8-9-01.)

24 (705 ILCS 405/3-24) (from Ch. 37, par. 803-24)

25 Sec. 3-24. Kinds of dispositional orders.

26 (1) The following kinds of orders of disposition may be
27 made in respect to wards of the court: A minor found to be
28 requiring authoritative intervention under Section 3-3 may be
29 (a) committed to the Department of Children and Family
30 Services, subject to Section 5 of the Children and Family
31 Services Act; (b) placed under supervision and released to
32 his or her parents, guardian or legal custodian; (c) placed
33 in accordance with Section 3-28 with or without also being

1 placed under supervision. Conditions of supervision may be
2 modified or terminated by the court if it deems that the best
3 interests of the minor and the public will be served thereby;
4 (d) ordered partially or completely emancipated in accordance
5 with the provisions of the Emancipation of Mature Minors Act;
6 or (e) subject to having his or her driver's license or
7 driving privilege suspended for such time as determined by
8 the Court but only until he or she attains 18 years of age.

9 (2) Any order of disposition may provide for protective
10 supervision under Section 3-25 and may include an order of
11 protection under Section 3-26.

12 (3) Unless the order of disposition expressly so
13 provides, it does not operate to close proceedings on the
14 pending petition, but is subject to modification until final
15 closing and discharge of the proceedings under Section 3-32.

16 (3.5) In addition to any other order of disposition, the
17 court may order the minor or the minor's parent, guardian,
18 custodian, or other responsible relative to undergo
19 counseling as the court deems appropriate, based on the
20 evidence, in order to achieve the purposes of this Act.

21 (4) In addition to any other order of disposition, the
22 court may order any person found to be a minor requiring
23 authoritative intervention under Section 3-3 to make
24 restitution, in monetary or non-monetary form, under the
25 terms and conditions of Section 5-5-6 of the Unified Code of
26 Corrections, except that the "presentence hearing" referred
27 to therein shall be the dispositional hearing for purposes of
28 this Section. The parent, guardian or legal custodian of
29 the minor may pay some or all of such restitution on the
30 minor's behalf.

31 (5) Any order for disposition where the minor is
32 committed or placed in accordance with Section 3-28 shall
33 provide for the parents or guardian of the estate of such
34 minor to pay to the legal custodian or guardian of the person

1 of the minor such sums as are determined by the custodian or
2 guardian of the person of the minor as necessary for the
3 minor's needs. Such payments may not exceed the maximum
4 amounts provided for by Section 9.1 of the Children and
5 Family Services Act.

6 (6) Whenever the order of disposition requires the minor
7 to attend school or participate in a program of training, the
8 truant officer or designated school official shall regularly
9 report to the court if the minor is a chronic or habitual
10 truant under Section 26-2a of the School Code.

11 (7) The court must impose upon a minor under an order of
12 continuance under supervision or an order of disposition
13 under this Article III, as a condition of the order, a fee of
14 \$25 for each month or partial month of supervision with a
15 probation officer. If the court determines the inability of
16 the minor, or the parent, guardian, or legal custodian of the
17 minor to pay the fee, the court may impose a lesser fee. The
18 court may not impose the fee on a minor who is made a ward of
19 the State under this Act. The fee may be imposed only upon a
20 minor who is actively supervised by the probation and court
21 services department. The fee must be collected by the clerk
22 of the circuit court. The clerk of the circuit court must
23 pay all monies collected from this fee to the county
24 treasurer for deposit into the probation and court services
25 fund under Section 15.1 of the Probation and Probation
26 Officers Act.

27 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

28 (705 ILCS 405/4-18) (from Ch. 37, par. 804-18)

29 Sec. 4-18. Continuance under supervision.

30 (1) The court may enter an order of continuance under
31 supervision (a) upon an admission or stipulation by the
32 appropriate respondent or minor respondent of the facts
33 supporting the petition and before proceeding to findings and

1 adjudication, or after hearing the evidence at the
2 adjudicatory hearing but before noting in the minutes of the
3 proceeding a finding of whether or not the minor is an
4 addict, and (b) in the absence of objection made in open
5 court by the minor, his parent, guardian, custodian,
6 responsible relative, defense attorney or the State's
7 Attorney.

8 (2) If the minor, his parent, guardian, custodian,
9 responsible relative, defense attorney or State's Attorney,
10 objects in open court to any such continuance and insists
11 upon proceeding to findings and adjudication, the court shall
12 so proceed.

13 (3) Nothing in this Section limits the power of the
14 court to order a continuance of the hearing for the
15 production of additional evidence or for any other proper
16 reason.

17 (4) When a hearing is continued pursuant to this
18 Section, the court may permit the minor to remain in his home
19 subject to such conditions concerning his conduct and
20 supervision as the court may require by order.

21 (4.5) As a condition of supervision under this Section,
22 the court may order the minor or the minor's parent,
23 guardian, custodian, or other responsible relative to undergo
24 counseling as the court deems appropriate, based on the
25 evidence, in order to achieve the purposes of this Act.

26 (5) If a petition is filed charging a violation of a
27 condition of the continuance under supervision, the court
28 shall conduct a hearing. If the court finds that such
29 condition of supervision has not been fulfilled the court may
30 proceed to findings and adjudication and disposition. The
31 filing of a petition for violation of a condition of the
32 continuance under supervision shall toll the period of
33 continuance under supervision until the final determination
34 of the charge, and the term of the continuance under

1 supervision shall not run until the hearing and disposition
2 of the petition for violation; provided where the petition
3 alleges conduct that does not constitute a criminal offense,
4 the hearing must be held within 15 days of the filing of the
5 petition unless a delay in such hearing has been occasioned
6 by the minor, in which case the delay shall continue the
7 tolling of the period of continuance under supervision for
8 the period of such delay.

9 (6) The court must impose upon a minor under an order of
10 continuance under supervision or an order of disposition
11 under this Article IV, as a condition of the order, a fee of
12 \$25 for each month or partial month of supervision with a
13 probation officer. If the court determines the inability of
14 the minor, or the parent, guardian, or legal custodian of the
15 minor to pay the fee, the court may impose a lesser fee. The
16 court may not impose the fee on a minor who is made a ward of
17 the State under this Act. The fee may be imposed only upon a
18 minor who is actively supervised by the probation and court
19 services department. The fee must be collected by the clerk
20 of the circuit court. The clerk of the circuit court must
21 pay all monies collected from this fee to the county
22 treasurer for deposit into the probation and court services
23 fund under Section 15.1 of the Probation and Probation
24 Officers Act.

25 (Source: P.A. 92-329, eff. 8-9-01.)

26 (705 ILCS 405/4-21) (from Ch. 37, par. 804-21)

27 Sec. 4-21. Kinds of dispositional orders.

28 (1) A minor found to be addicted under Section 4-3 may
29 be (a) committed to the Department of Children and Family
30 Services, subject to Section 5 of the Children and Family
31 Services Act; (b) placed under supervision and released to
32 his or her parents, guardian or legal custodian; (c) placed
33 in accordance with Section 4-25 with or without also being

1 placed under supervision. Conditions of supervision may be
2 modified or terminated by the court if it deems that the best
3 interests of the minor and the public will be served thereby;
4 (d) required to attend an approved alcohol or drug abuse
5 treatment or counseling program on an inpatient or outpatient
6 basis instead of or in addition to the disposition otherwise
7 provided for in this paragraph; (e) ordered partially or
8 completely emancipated in accordance with the provisions of
9 the Emancipation of Mature Minors Act; or (f) subject to
10 having his or her driver's license or driving privilege
11 suspended for such time as determined by the Court but only
12 until he or she attains 18 years of age. No disposition
13 under this subsection shall provide for the minor's placement
14 in a secure facility.

15 (2) Any order of disposition may provide for protective
16 supervision under Section 4-22 and may include an order of
17 protection under Section 4-23.

18 (3) Unless the order of disposition expressly so
19 provides, it does not operate to close proceedings on the
20 pending petition, but is subject to modification until final
21 closing and discharge of the proceedings under Section 4-29.

22 (3.5) In addition to any other order of disposition, the
23 court may order the minor or the minor's parent, guardian,
24 custodian, or other responsible relative to undergo
25 counseling as the court deems appropriate, based on the
26 evidence, in order to achieve the purposes of this Act.

27 (4) In addition to any other order of disposition, the
28 court may order any minor found to be addicted under this
29 Article as neglected with respect to his or her own injurious
30 behavior, to make restitution, in monetary or non-monetary
31 form, under the terms and conditions of Section 5-5-6 of the
32 Unified Code of Corrections, except that the "presentence
33 hearing" referred to therein shall be the dispositional
34 hearing for purposes of this Section. The parent, guardian

1 or legal custodian of the minor may pay some or all of such
2 restitution on the minor's behalf.

3 (5) Any order for disposition where the minor is placed
4 in accordance with Section 4-25 shall provide for the parents
5 or guardian of the estate of such minor to pay to the legal
6 custodian or guardian of the person of the minor such sums as
7 are determined by the custodian or guardian of the person of
8 the minor as necessary for the minor's needs. Such payments
9 may not exceed the maximum amounts provided for by Section
10 9.1 of the Children and Family Services Act.

11 (6) Whenever the order of disposition requires the minor
12 to attend school or participate in a program of training, the
13 truant officer or designated school official shall regularly
14 report to the court if the minor is a chronic or habitual
15 truant under Section 26-2a of the School Code.

16 (7) The court must impose upon a minor under an order of
17 continuance under supervision or an order of disposition
18 under this Article IV, as a condition of the order, a fee of
19 \$25 for each month or partial month of supervision with a
20 probation officer. If the court determines the inability of
21 the minor, or the parent, guardian, or legal custodian of the
22 minor to pay the fee, the court may impose a lesser fee. The
23 court may not impose the fee on a minor who is made a ward of
24 the State under this Act. The fee may be imposed only upon a
25 minor who is actively supervised by the probation and court
26 services department. The fee must be collected by the clerk
27 of the circuit court. The clerk of the circuit court must pay
28 all monies collected from this fee to the county treasurer
29 for deposit into the probation and court services fund under
30 Section 15.1 of the Probation and Probation Officers Act.

31 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

32 Section 20. The Code of Criminal Procedure of 1963 is
33 amended by changing Sections 112A-7 and 112A-14 as follows:

1 (725 ILCS 5/112A-7) (from Ch. 38, par. 112A-7)

2 Sec. 112A-7. Trial by jury. In accordance with the Code
3 of Civil Procedure, the petitioner or the respondent may
4 demand a ~~There--shall--be--no--right--to~~ trial by jury of the
5 issues of fact in any proceeding to obtain, modify, vacate or
6 extend an any order of protection under this Article.
7 ~~However,~~ Nothing in this Section shall deny any existing
8 right to trial by jury in a criminal proceeding.

9 (Source: P.A. 87-895; 87-1186; 88-45.)

10 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

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

26 (b) Remedies and standards. The remedies to be included
27 in an order of protection shall be determined in accordance
28 with this Section and one of the following Sections, as
29 appropriate: Section 112A-17 on emergency orders, Section
30 112A-18 on interim orders, and Section 112A-19 on plenary
31 orders. The remedies listed in this subsection shall be in
32 addition to other civil or criminal remedies available to
33 petitioner.

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

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

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

26 (B) Presumption of hardships. If petitioner
27 and respondent each has the right to occupancy of a
28 residence or household, the court shall balance (i)
29 the hardships to respondent and any minor child or
30 dependent adult in respondent's care resulting from
31 entry of this remedy with (ii) the hardships to
32 petitioner and any minor child or dependent adult in
33 petitioner's care resulting from continued exposure
34 to the risk of abuse (should petitioner remain at

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

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

20 (3) Stay away order and additional prohibitions.
21 Order respondent to stay away from petitioner or any
22 other person protected by the order of protection, or
23 prohibit respondent from entering or remaining present at
24 petitioner's school, place of employment, or other
25 specified places at times when petitioner is present, or
26 both, if reasonable, given the balance of hardships.
27 Hardships need not be balanced for the court to enter a
28 stay away order or prohibit entry if respondent has no
29 right to enter the premises.

30 If an order of protection grants petitioner
31 exclusive possession of the residence, or prohibits
32 respondent from entering the residence, or orders
33 respondent to stay away from petitioner or other
34 protected persons, then the court may allow respondent

1 access to the residence to remove items of clothing and
2 personal adornment used exclusively by respondent,
3 medications, and other items as the court directs. The
4 right to access shall be exercised on only one occasion
5 as the court directs and in the presence of an
6 agreed-upon adult third party or law enforcement officer.

7 (4) Counseling. Require or recommend the
8 respondent to undergo counseling for a specified duration
9 with a social worker, psychologist, clinical
10 psychologist, psychiatrist, family service agency,
11 alcohol or substance abuse program, mental health center
12 guidance counselor, agency providing services to elders,
13 program designed for domestic violence abusers or any
14 other guidance service the court deems appropriate. The
15 court may also require or recommend that the petitioner
16 undergo counseling as the court deems appropriate, based
17 on the evidence.

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

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

33 (6) Temporary legal custody. Award temporary legal
34 custody to petitioner in accordance with this Section,

1 the Illinois Marriage and Dissolution of Marriage Act,
2 the Illinois Parentage Act of 1984, and this State's
3 Uniform Child-Custody Jurisdiction and Enforcement Act.

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

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

28 Petitioner may deny respondent access to the minor
29 child if, when respondent arrives for visitation,
30 respondent is under the influence of drugs or alcohol and
31 constitutes a threat to the safety and well-being of
32 petitioner or petitioner's minor children or is behaving
33 in a violent or abusive manner.

34 If necessary to protect any member of petitioner's

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

9 (8) Removal or concealment of minor child.
10 Prohibit respondent from removing a minor child from the
11 State or concealing the child within the State.

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

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

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

25 (ii) the parties own the property jointly;
26 sharing it would risk abuse of petitioner by
27 respondent or is impracticable; and the balance of
28 hardships favors temporary possession by petitioner.

29 If petitioner's sole claim to ownership of the
30 property is that it is marital property, the court may
31 award petitioner temporary possession thereof under the
32 standards of subparagraph (ii) of this paragraph only if
33 a proper proceeding has been filed under the Illinois
34 Marriage and Dissolution of Marriage Act, as now or

1 hereafter amended.

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

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

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

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

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

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

24 (12) Order for payment of support. Order
25 respondent to pay temporary support for the petitioner or
26 any child in the petitioner's care or custody, when the
27 respondent has a legal obligation to support that person,
28 in accordance with the Illinois Marriage and Dissolution
29 of Marriage Act, which shall govern, among other matters,
30 the amount of support, payment through the clerk and
31 withholding of income to secure payment. An order for
32 child support may be granted to a petitioner with lawful
33 physical care or custody of a child, or an order or
34 agreement for physical care or custody, prior to entry of

1 an order for legal custody. Such a support order shall
2 expire upon entry of a valid order granting legal custody
3 to another, unless otherwise provided in the custody
4 order.

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

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

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

29 (14) Prohibition of entry. Prohibit the respondent
30 from entering or remaining in the residence or household
31 while the respondent is under the influence of alcohol or
32 drugs and constitutes a threat to the safety and
33 well-being of the petitioner or the petitioner's
34 children.

1 (14.5) Prohibition of firearm possession. (a) When
2 a complaint is made under a request for an order of
3 protection, that the respondent has threatened or is
4 likely to use firearms illegally against the petitioner,
5 and the respondent is present in court, or has failed to
6 appear after receiving actual notice, the court shall
7 examine on oath the petitioner, and any witnesses who may
8 be produced. If the court is satisfied that there is any
9 danger of the illegal use of firearms, it shall include
10 in the order of protection the requirement that any
11 firearms in the possession of the respondent, except as
12 provided in subsection (b), be turned over to the local
13 law enforcement agency for safekeeping. If the
14 respondent fails to appear, or refuses or fails to
15 surrender his or her firearms, the court shall issue a
16 warrant for seizure of any firearm in the possession of
17 the respondent. The period of safekeeping shall be for a
18 stated period of time not to exceed 2 years. The firearm
19 or firearms shall be returned to the respondent at the
20 end of the stated period or at expiration of the order of
21 protection, whichever is sooner. (b) If the respondent is
22 a peace officer as defined in Section 2-13 of the
23 Criminal Code of 1961, the court shall order that any
24 firearms used by the respondent in the performance of his
25 or her duties as a peace officer be surrendered to the
26 chief law enforcement executive of the agency in which
27 the respondent is employed, who shall retain the firearms
28 for safekeeping for the stated period not to exceed 2
29 years as set forth in the court order.

30 (15) Prohibition of access to records. If an order
31 of protection prohibits respondent from having contact
32 with the minor child, or if petitioner's address is
33 omitted under subsection (b) of Section 112A-5, or if
34 necessary to prevent abuse or wrongful removal or

1 concealment of a minor child, the order shall deny
2 respondent access to, and prohibit respondent from
3 inspecting, obtaining, or attempting to inspect or
4 obtain, school or any other records of the minor child
5 who is in the care of petitioner.

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

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

20 (c) Relevant factors; findings.

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

25 (i) the nature, frequency, severity, pattern
26 and consequences of the respondent's past abuse of
27 the petitioner or any family or household member,
28 including the concealment of his or her location in
29 order to evade service of process or notice, and the
30 likelihood of danger of future abuse to petitioner
31 or any member of petitioner's or respondent's family
32 or household; and

33 (ii) the danger that any minor child will be
34 abused or neglected or improperly removed from the

1 jurisdiction, improperly concealed within the State
2 or improperly separated from the child's primary
3 caretaker.

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

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

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

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

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

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

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

27 (iii) Whether it is necessary to grant the
28 requested relief in order to protect petitioner or
29 other alleged abused persons.

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

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

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

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

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

33 (1) Respondent has cause for any use of force,
34 unless that cause satisfies the standards for justifiable

1 use of force provided by Article VII of the Criminal Code
2 of 1961;

3 (2) Respondent was voluntarily intoxicated;

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

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

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

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

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

18 (Source: P.A. 93-108, eff. 1-1-04.)

19 Section 25. The Illinois Marriage and Dissolution of
20 Marriage Act is amended by adding Sections 307, 404.05,
21 411.5, and 452.5 and by changing Sections 510 and 606 as
22 follows:

23 (750 ILCS 5/307 new)

24 Sec. 307. Trial by jury. In accordance with the Code of
25 Civil Procedure, a party to an action for a declaration of
26 invalidity of marriage may demand a trial by jury as to the
27 issues of fact raised in the action.

28 (750 ILCS 5/404.05 new)

29 Sec. 404.05. Counseling. Whether or not the court
30 concludes that there is a prospect of reconciliation, the
31 court may order the petitioner, the respondent, or a child of

1 the parties to undergo counseling as the court deems
2 appropriate, based on the evidence.

3 (750 ILCS 5/411.5 new)

4 Sec. 411.5. Trial by jury. In accordance with the Code of
5 Civil Procedure, a party to an action for dissolution of
6 marriage or for legal separation may demand a trial by jury
7 as to the issues of fact raised in the action. This Section
8 does not apply, however, to an action in which the parties
9 have filed a petition for simplified dissolution under Part
10 IV-A.

11 (750 ILCS 5/452.5 new)

12 Sec. 452.5. No trial by jury. There is no right to a
13 trial by jury in an action in which the parties have filed a
14 petition for simplified dissolution under this Part IV-A.

15 (750 ILCS 5/510) (from Ch. 40, par. 510)

16 Sec. 510. Modification and termination of provisions for
17 maintenance, support, educational expenses, and property
18 disposition.

19 (a) Except as otherwise provided in paragraph (f) of
20 Section 502 and in subsection (b), clause (3) of Section
21 505.2, the provisions of any judgment respecting maintenance
22 or support may be modified only as to installments accruing
23 subsequent to due notice by the moving party of the filing of
24 the motion for modification. An order for child support may
25 be modified as follows:

26 (1) upon a showing of a substantial change in
27 circumstances; and

28 (2) without the necessity of showing a substantial
29 change in circumstances, as follows:

30 (A) upon a showing of an inconsistency of at
31 least 20%, but no less than \$10 per month, between

1 the amount of the existing order and the amount of
2 child support that results from application of the
3 guidelines specified in Section 505 of this Act
4 unless the inconsistency is due to the fact that the
5 amount of the existing order resulted from a
6 deviation from the guideline amount and there has
7 not been a change in the circumstances that resulted
8 in that deviation; or

9 (B) Upon a showing of a need to provide for
10 the health care needs of the child under the order
11 through health insurance or other means. In no
12 event shall the eligibility for or receipt of
13 medical assistance be considered to meet the need to
14 provide for the child's health care needs.

15 The provisions of subparagraph (a)(2)(A) shall apply only
16 in cases in which a party is receiving child support
17 enforcement services from the Illinois Department of Public
18 Aid under Article X of the Illinois Public Aid Code, and only
19 when at least 36 months have elapsed since the order for
20 child support was entered or last modified.

21 (a-5) An order for maintenance may be modified or
22 terminated only upon a showing of a substantial change in
23 circumstances. In all such proceedings, as well as in
24 proceedings in which maintenance is being reviewed, the court
25 shall consider the applicable factors set forth in subsection
26 (a) of Section 504 and the following factors:

27 (1) any change in the employment status of either
28 party and whether the change has been made in good faith;

29 (2) the efforts, if any, made by the party
30 receiving maintenance to become self-supporting, and the
31 reasonableness of the efforts where they are appropriate;

32 (3) any impairment of the present and future
33 earning capacity of either party;

34 (4) the tax consequences of the maintenance

1 payments upon the respective economic circumstances of
2 the parties;

3 (5) the duration of the maintenance payments
4 previously paid (and remaining to be paid) relative to
5 the length of the marriage;

6 (6) the property, including retirement benefits,
7 awarded to each party under the judgment of dissolution
8 of marriage, judgment of legal separation, or judgment of
9 declaration of invalidity of marriage and the present
10 status of the property;

11 (7) the increase or decrease in each party's income
12 since the prior judgment or order from which a review,
13 modification, or termination is being sought;

14 (8) the property acquired and currently owned by
15 each party after the entry of the judgment of dissolution
16 of marriage, judgment of legal separation, or judgment of
17 declaration of invalidity of marriage; and

18 (9) any other factor that the court expressly finds
19 to be just and equitable.

20 (b) The provisions as to property disposition may not be
21 revoked or modified, unless the court finds the existence of
22 conditions that justify the reopening of a judgment under the
23 laws of this State.

24 (c) Unless otherwise agreed by the parties in a written
25 agreement set forth in the judgment or otherwise approved by
26 the court, the obligation to pay future maintenance is
27 terminated upon the death of either party, or the remarriage
28 of the party receiving maintenance, or if the party receiving
29 maintenance cohabits with another person on a resident,
30 continuing conjugal basis.

31 (d) Unless otherwise provided in this Act, or as agreed
32 in writing or expressly provided in the judgment, provisions
33 for the support of a child are terminated by emancipation of
34 the child, or if the child has attained the age of 18 and is

1 still attending high school, provisions for the support of
2 the child are terminated upon the date that the child
3 graduates from high school or the date the child attains the
4 age of 19, whichever is earlier, but not by the death of a
5 parent obligated to support or educate the child. An existing
6 obligation to pay for support or educational expenses, or
7 both, is not terminated by the death of a parent. When a
8 parent obligated to pay support or educational expenses, or
9 both, dies, the amount of support or educational expenses, or
10 both, may be enforced, modified, revoked or commuted to a
11 lump sum payment, as equity may require, and that
12 determination may be provided for at the time of the
13 dissolution of the marriage or thereafter.

14 (e) The right to petition for support or educational
15 expenses, or both, under Sections 505 and 513 is not
16 extinguished by the death of a parent. Upon a petition filed
17 before or after a parent's death, the court may award sums of
18 money out of the decedent's estate for the child's support or
19 educational expenses, or both, as equity may require. The
20 time within which a claim may be filed against the estate of
21 a decedent under Sections 505 and 513 and subsection (d) and
22 this subsection shall be governed by the provisions of the
23 Probate Act of 1975, as a barrable, noncontingent claim.

24 (f) A petition to modify or terminate child support,
25 custody, or visitation shall not delay any child support
26 enforcement litigation or supplementary proceeding on behalf
27 of the obligee, including, but not limited to, a petition for
28 a rule to show cause, for non-wage garnishment, or for a
29 restraining order.

30 (g) In accordance with the Code of Civil Procedure, a
31 party to an action to modify or terminate maintenance or
32 support, including educational expenses, may demand a trial
33 by jury as to the issues of fact raised in the action.

34 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02;

1 92-651, eff. 7-11-02; 92-876, eff. 6-1-03; 93-353, eff.
2 1-1-04.)

3 (750 ILCS 5/606) (from Ch. 40, par. 606)

4 Sec. 606. Hearings.

5 (a) Custody proceedings shall receive priority in being
6 set for hearing.

7 (b) The court may tax as costs the payment of necessary
8 travel and other expenses incurred by any person whose
9 presence at the hearing the court deems necessary to
10 determine the best interest of the child.

11 (c) The court, ~~without a jury~~, shall determine questions
12 of law and fact, except that in accordance with the Code of
13 Civil Procedure, a party to a custody proceeding may demand a
14 trial by jury as to the issues of fact raised in the
15 proceeding. If the court ~~it~~ finds that a public hearing may
16 be detrimental to the child's best interest, the court may
17 exclude the public from a custody hearing, but may admit any
18 person who has a direct and legitimate interest in the
19 particular case or a legitimate educational or research
20 interest in the work of the court.

21 (d) If the court finds it necessary, in order to protect
22 the child's welfare, that the record of any interview,
23 report, investigation, or testimony in a custody proceeding
24 be kept secret, the court may make an appropriate order
25 sealing the record.

26 (e) Previous statements made by the child relating to
27 any allegations that the child is an abused or neglected
28 child within the meaning of the Abused and Neglected Child
29 Reporting Act, or an abused or neglected minor within the
30 meaning of the Juvenile Court Act of 1987, shall be
31 admissible in evidence in a hearing concerning custody of or
32 visitation with the child. No such statement, however, if
33 uncorroborated and not subject to cross-examination, shall be

1 sufficient in itself to support a finding of abuse or
2 neglect.

3 (Source: P.A. 87-1081.)

4 (750 ILCS 5/103 rep.)

5 Section 26. The Illinois Marriage and Dissolution of
6 Marriage Act is amended by repealing Section 103.

7 Section 30. The Illinois Uniform Premarital Agreement Act
8 is amended by adding Sections 8.5 and 8.10 as follows:

9 (750 ILCS 10/8.5 new)

10 Sec. 8.5. Trial by jury. In accordance with the Code of
11 Civil Procedure, a party to an action asserting a claim for
12 relief under a premarital agreement may demand a trial by
13 jury as to the issues of fact raised in the action.

14 (750 ILCS 10/8.10 new)

15 Sec. 8.10. Counseling. In an action asserting a claim for
16 relief under a premarital agreement, the court may order one
17 or both of the parties to undergo counseling as the court
18 deems appropriate, based on the evidence.

19 Section 35. The Uniform Interstate Family Support Act is
20 amended by changing Section 301 as follows:

21 (750 ILCS 22/301)

22 (Text of Section before amendment by P.A. 93-479)

23 Sec. 301. Proceedings under Act.

24 (a) Except as otherwise provided in this Act, this
25 Article applies to all proceedings under this Act.

26 (b) This Act provides for the following proceedings:

27 (1) establishment of an order for spousal support
28 or child support pursuant to Article 4;

1 (2) enforcement of a support order and
2 income-withholding order of another state without
3 registration pursuant to Article 5;

4 (3) registration of an order for spousal support or
5 child support of another state for enforcement pursuant
6 to Article 6;

7 (4) modification of an order for child support or
8 spousal support issued by a tribunal of this State
9 pursuant to Article 2, Part 2;

10 (5) registration of an order for child support of
11 another state for modification pursuant to Article 6;

12 (6) determination of parentage pursuant to Article
13 7; and

14 (7) assertion of jurisdiction over nonresidents
15 pursuant to Article 2, Part 1.

16 (c) An individual obligee or a support enforcement
17 agency may commence a proceeding authorized under this Act by
18 filing a petition in an initiating tribunal for forwarding to
19 a responding tribunal or by filing a petition or a comparable
20 pleading directly in a tribunal of another state which has or
21 can obtain personal jurisdiction over the obligor.

22 (d) In accordance with the Code of Civil Procedure, a
23 party to a proceeding described in subsection (b) may demand
24 a trial by jury as to the issues of fact raised in the
25 proceeding.

26 (Source: P.A. 90-240, eff. 7-28-97.)

27 (Text of Section after amendment by P.A. 93-479; for
28 operative date see Section 99 of P.A. 93-479)

29 Sec. 301. Proceedings under Act.

30 (a) Except as otherwise provided in this Act, this
31 Article applies to all proceedings under this Act.

32 (b) An individual obligee or a support enforcement
33 agency may initiate a proceeding authorized under this Act by
34 filing a petition in an initiating tribunal for forwarding to

1 a responding tribunal or by filing a petition or a comparable
2 pleading directly in a tribunal of another state which has or
3 can obtain personal jurisdiction over the obligor.

4 (c) In accordance with the Code of Civil Procedure, a
5 party to a proceeding initiated under this Act may demand a
6 trial by jury as to the issues of fact raised in the
7 proceeding.

8 (Source: P.A. 93-479, eff. 1-1-04; for operative date see
9 Section 99 of P.A. 93-479.)

10 Section 40. The Income Withholding for Support Act is
11 amended by changing Section 40 as follows:

12 (750 ILCS 28/40)

13 Sec. 40. Petitions to contest withholding or to modify,
14 suspend, terminate, or correct income withholding notices.

15 (a) When an obligor files a petition to contest
16 withholding, the court, after due notice to all parties,
17 shall hear the matter as soon as practicable and shall enter
18 an order granting or denying relief, ordering service of an
19 amended income withholding notice, where applicable, or
20 otherwise resolving the matter. In accordance with the Code
21 of Civil Procedure, a party to a proceeding to contest
22 withholding under this subsection may demand a trial by jury
23 as to the issues of fact raised in the proceeding.

24 The court shall deny the obligor's petition if the court
25 finds that when the income withholding notice was mailed,
26 sent by facsimile transmission or other electronic means, or
27 placed for personal delivery to or service on the payor:

28 (1) a delinquency existed; or

29 (2) the parties' written agreement providing an
30 alternative arrangement to immediate withholding under
31 subsection (a) of Section 20 no longer ensured payment of
32 support.

1 (b) At any time, an obligor, obligee, public office or
2 Clerk of the Circuit Court may petition the court to:

3 (1) modify, suspend or terminate the income
4 withholding notice because of a modification, suspension
5 or termination of the underlying order for support; or

6 (2) modify the amount of income to be withheld to
7 reflect payment in full or in part of the delinquency or
8 arrearage by income withholding or otherwise; or

9 (3) suspend the income withholding notice because
10 of inability to deliver income withheld to the obligee
11 due to the obligee's failure to provide a mailing address
12 or other means of delivery.

13 (c) At any time an obligor may petition the court to
14 correct a term contained in an income withholding notice to
15 conform to that stated in the underlying order for support
16 for:

17 (1) the amount of current support;

18 (2) the amount of the arrearage;

19 (3) the periodic amount for payment of the
20 arrearage; or

21 (4) the periodic amount for payment of the
22 delinquency.

23 (d) The obligor, obligee or public office shall serve on
24 the payor, in the manner provided for service of income
25 withholding notices in subsection (g) of Section 20, a copy
26 of any order entered pursuant to this Section that affects
27 the duties of the payor.

28 (e) At any time, a public office or Clerk of the Circuit
29 Court may serve a notice on the payor to:

30 (1) cease withholding of income for payment of
31 current support for a child when the support obligation
32 for that child has automatically ceased under the order
33 for support through emancipation or otherwise; or

34 (2) cease withholding of income for payment of

1 delinquency or arrearage when the delinquency or
2 arrearage has been paid in full.

3 (f) The notice provided for under subsection (e) of this
4 Section shall be served on the payor in the manner provided
5 for service of income withholding notices in subsection (g)
6 of Section 20, and a copy shall be provided to the obligor
7 and the obligee.

8 (g) The income withholding notice shall continue to be
9 binding upon the payor until service of an amended income
10 withholding notice or any order of the court or notice
11 entered or provided for under this Section.

12 (Source: P.A. 90-673, eff. 1-1-99.)

13 Section 45. The Emancipation of Minors Act is amended by
14 adding Section 7.5 and changing Section 9 as follows:

15 (750 ILCS 30/7.5 new)

16 Sec. 7.5. Trial by jury. In accordance with the Code of
17 Civil Procedure, a party to a proceeding for emancipation
18 under this Act may demand a trial by jury as to the issues of
19 fact raised in the proceeding.

20 (750 ILCS 30/9) (from Ch. 40, par. 2209)

21 Sec. 9. Hearing on petition.

22 (a) Mature minor. Before proceeding to a hearing on the
23 petition for emancipation of a mature minor the court shall
24 advise all persons present of the nature of the proceedings,
25 and their rights and responsibilities if an order of
26 emancipation should be entered.

27 If, after the hearing, the court determines that the
28 minor is a mature minor who is of sound mind and has the
29 capacity and maturity to manage his own affairs including his
30 finances, and that the best interests of the minor and his
31 family will be promoted by declaring the minor an emancipated

1 minor, the court shall enter a finding that the minor is an
2 emancipated minor within the meaning of this Act, or that the
3 mature minor is partially emancipated with such limitations
4 as the court by order deems appropriate. The court may also
5 order that the emancipated or partially emancipated minor or
6 the minor's parent or parents or guardian undergo counseling
7 as the court deems appropriate, based on the evidence. No
8 order of complete or partial emancipation may be entered
9 under this Act if there is any objection by the minor, his
10 parents or guardian.

11 (b) Homeless minor. Upon the verified petition of a
12 homeless minor, the court shall immediately grant partial
13 emancipation for the sole purpose of allowing the homeless
14 minor to consent to the receipt of services and shelter or
15 housing provided by the youth transitional housing program
16 named in the petition and to other services that the youth
17 transitional housing program may arrange by referral. The
18 court may require that a youth transitional housing program
19 employee appear before the court at the time of the filing of
20 the petition and may inquire into the facts asserted in the
21 petition. No other hearing shall be scheduled in the case of
22 a petition affecting a homeless minor, unless, after notice,
23 a parent or guardian requests such a hearing. If such a
24 hearing is requested, then the homeless minor must be present
25 at the hearing. After the granting of partial emancipation
26 to a homeless youth, if the youth transitional housing
27 program determines that its facility and services are no
28 longer appropriate for the minor or that another program is
29 more appropriate for the minor, the program shall notify the
30 court and the court, after a hearing, may modify its order.
31 At any hearing under this subsection (b), the court may also
32 order that the minor or the minor's parent or parents or
33 guardian undergo counseling as the court deems appropriate,
34 based on the evidence.

1 (Source: P.A. 93-105, eff. 7-8-03.)

2 Section 50. The Illinois Parentage Act of 1984 is
3 amended by changing Sections 13 and 14 as follows:

4 (750 ILCS 45/13) (from Ch. 40, par. 2513)

5 Sec. 13. Civil Action.

6 (a) An action under this Act is a civil action governed
7 by the provisions of the "Code of Civil Procedure", approved
8 August 19, 1981, as amended, and the Supreme Court rules
9 applicable thereto, except where otherwise specified in this
10 Act.

11 (b) In accordance with the Code of Civil Procedure, a
12 party to an action under this Act may demand a trial by jury
13 as to the issues of fact raised in the action. ~~Trial-by--jury~~
14 ~~is-not-available-under-this-Act.~~

15 (c) Certified copies of the bills for costs incurred for
16 pregnancy and childbirth shall be admitted into evidence at
17 judicial or administrative proceedings without foundation
18 testimony or other proof of authenticity or accuracy.

19 (Source: P.A. 90-18, eff. 7-1-97.)

20 (750 ILCS 45/14) (from Ch. 40, par. 2514)

21 Sec. 14. Judgment.

22 (a) (1) The judgment shall contain or explicitly reserve
23 provisions concerning any duty and amount of child support
24 and may contain provisions concerning the custody and
25 guardianship of the child, visitation privileges with the
26 child, the furnishing of bond or other security for the
27 payment of the judgment, which the court shall determine in
28 accordance with the relevant factors set forth in the
29 Illinois Marriage and Dissolution of Marriage Act and any
30 other applicable law of Illinois, to guide the court in a
31 finding in the best interests of the child. In determining

1 custody, joint custody, removal, or visitation, the court
2 shall apply the relevant standards of the Illinois Marriage
3 and Dissolution of Marriage Act, including Section 609.
4 Specifically, in determining the amount of any child support
5 award, the court shall use the guidelines and standards set
6 forth in subsection (a) of Section 505 and in Section 505.2
7 of the Illinois Marriage and Dissolution of Marriage Act.
8 For purposes of Section 505 of the Illinois Marriage and
9 Dissolution of Marriage Act, "net income" of the
10 non-custodial parent shall include any benefits available to
11 that person under the Illinois Public Aid Code or from other
12 federal, State or local government-funded programs. The
13 court shall, in any event and regardless of the amount of the
14 non-custodial parent's net income, in its judgment order the
15 non-custodial parent to pay child support to the custodial
16 parent in a minimum amount of not less than \$10 per month. In
17 an action brought within 2 years after a child's birth, the
18 judgment or order may direct either parent to pay the
19 reasonable expenses incurred by either parent related to the
20 mother's pregnancy and the delivery of the child. The
21 judgment or order shall contain the father's social security
22 number, which the father shall disclose to the court;
23 however, failure to include the father's social security
24 number on the judgment or order does not invalidate the
25 judgment or order.

26 (2) If a judgment of parentage contains no explicit
27 award of custody, the establishment of a support obligation
28 or of visitation rights in one parent shall be considered a
29 judgment granting custody to the other parent. If the
30 parentage judgment contains no such provisions, custody shall
31 be presumed to be with the mother; however, the presumption
32 shall not apply if the father has had physical custody for at
33 least 6 months prior to the date that the mother seeks to
34 enforce custodial rights.

1 (3) The court may also order that the child or the
2 child's parent or parents undergo counseling as the court
3 deems appropriate, based on the evidence.

4 (b) The court shall order all child support payments,
5 determined in accordance with such guidelines, to commence
6 with the date summons is served. The level of current
7 periodic support payments shall not be reduced because of
8 payments set for the period prior to the date of entry of the
9 support order. The Court may order any child support
10 payments to be made for a period prior to the commencement of
11 the action. In determining whether and the extent to which
12 the payments shall be made for any prior period, the court
13 shall consider all relevant facts, including the factors for
14 determining the amount of support specified in the Illinois
15 Marriage and Dissolution of Marriage Act and other equitable
16 factors including but not limited to:

17 (1) The father's prior knowledge of the fact and
18 circumstances of the child's birth.

19 (2) The father's prior willingness or refusal to
20 help raise or support the child.

21 (3) The extent to which the mother or the public
22 agency bringing the action previously informed the father
23 of the child's needs or attempted to seek or require his
24 help in raising or supporting the child.

25 (4) The reasons the mother or the public agency did
26 not file the action earlier.

27 (5) The extent to which the father would be
28 prejudiced by the delay in bringing the action.

29 For purposes of determining the amount of child support
30 to be paid for any period before the date the order for
31 current child support is entered, there is a rebuttable
32 presumption that the father's net income for the prior period
33 was the same as his net income at the time the order for
34 current child support is entered.

1 If (i) the non-custodial parent was properly served with
2 a request for discovery of financial information relating to
3 the non-custodial parent's ability to provide child support,
4 (ii) the non-custodial parent failed to comply with the
5 request, despite having been ordered to do so by the court,
6 and (iii) the non-custodial parent is not present at the
7 hearing to determine support despite having received proper
8 notice, then any relevant financial information concerning
9 the non-custodial parent's ability to provide child support
10 that was obtained pursuant to subpoena and proper notice
11 shall be admitted into evidence without the need to establish
12 any further foundation for its admission.

13 (c) Any new or existing support order entered by the
14 court under this Section shall be deemed to be a series of
15 judgments against the person obligated to pay support
16 thereunder, each judgment to be in the amount of each payment
17 or installment of support and each such judgment to be deemed
18 entered as of the date the corresponding payment or
19 installment becomes due under the terms of the support order.
20 Each judgment shall have the full force, effect and
21 attributes of any other judgment of this State, including the
22 ability to be enforced. A lien arises by operation of law
23 against the real and personal property of the noncustodial
24 parent for each installment of overdue support owed by the
25 noncustodial parent.

26 (d) If the judgment or order of the court is at variance
27 with the child's birth certificate, the court shall order
28 that a new birth certificate be issued under the Vital
29 Records Act.

30 (e) On request of the mother and the father, the court
31 shall order a change in the child's name. After hearing
32 evidence the court may stay payment of support during the
33 period of the father's minority or period of disability.

34 (f) If, upon a showing of proper service, the father

1 fails to appear in court, or otherwise appear as provided by
2 law, the court may proceed to hear the cause upon testimony
3 of the mother or other parties taken in open court and shall
4 enter a judgment by default. The court may reserve any order
5 as to the amount of child support until the father has
6 received notice, by regular mail, of a hearing on the matter.

7 (g) A one-time charge of 20% is imposable upon the
8 amount of past-due child support owed on July 1, 1988 which
9 has accrued under a support order entered by the court. The
10 charge shall be imposed in accordance with the provisions of
11 Section 10-21 of the Illinois Public Aid Code and shall be
12 enforced by the court upon petition.

13 (h) All orders for support, when entered or modified,
14 shall include a provision requiring the non-custodial parent
15 to notify the court and, in cases in which party is receiving
16 child support enforcement services under Article X of the
17 Illinois Public Aid Code, the Illinois Department of Public
18 Aid, within 7 days, (i) of the name and address of any new
19 employer of the non-custodial parent, (ii) whether the
20 non-custodial parent has access to health insurance coverage
21 through the employer or other group coverage and, if so, the
22 policy name and number and the names of persons covered under
23 the policy, and (iii) of any new residential or mailing
24 address or telephone number of the non-custodial parent. In
25 any subsequent action to enforce a support order, upon a
26 sufficient showing that a diligent effort has been made to
27 ascertain the location of the non-custodial parent, service
28 of process or provision of notice necessary in the case may
29 be made at the last known address of the non-custodial parent
30 in any manner expressly provided by the Code of Civil
31 Procedure or this Act, which service shall be sufficient for
32 purposes of due process.

33 (i) An order for support shall include a date on which
34 the current support obligation terminates. The termination

1 date shall be no earlier than the date on which the child
2 covered by the order will attain the age of 18. However, if
3 the child will not graduate from high school until after
4 attaining the age of 18, then the termination date shall be
5 no earlier than the earlier of the date on which the child's
6 high school graduation will occur or the date on which the
7 child will attain the age of 19. The order for support shall
8 state that the termination date does not apply to any
9 arrearage that may remain unpaid on that date. Nothing in
10 this subsection shall be construed to prevent the court from
11 modifying the order or terminating the order in the event the
12 child is otherwise emancipated.

13 (j) An order entered under this Section shall include a
14 provision requiring the obligor to report to the obligee and
15 to the clerk of court within 10 days each time the obligor
16 obtains new employment, and each time the obligor's
17 employment is terminated for any reason. The report shall be
18 in writing and shall, in the case of new employment, include
19 the name and address of the new employer. Failure to report
20 new employment or the termination of current employment, if
21 coupled with nonpayment of support for a period in excess of
22 60 days, is indirect criminal contempt. For any obligor
23 arrested for failure to report new employment bond shall be
24 set in the amount of the child support that should have been
25 paid during the period of unreported employment. An order
26 entered under this Section shall also include a provision
27 requiring the obligor and obligee parents to advise each
28 other of a change in residence within 5 days of the change
29 except when the court finds that the physical, mental, or
30 emotional health of a party or that of a minor child, or
31 both, would be seriously endangered by disclosure of the
32 party's address.

33 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03;
34 93-139, eff. 7-10-03; revised 9-15-03.)

1 Section 55. The Adoption Act is amended by adding Section
2 5.5 as follows:

3 (750 ILCS 50/5.5 new)

4 Sec. 5.5. Trial by jury. In accordance with the Code of
5 Civil Procedure, a party to a proceeding for adoption under
6 this Act may demand a trial by jury as to the issues of fact
7 raised in the proceeding.

8 Section 60. The Illinois Domestic Violence Act of 1986 is
9 amended by changing Sections 206 and 214 as follows:

10 (750 ILCS 60/206) (from Ch. 40, par. 2312-6)

11 Sec. 206. Trial by jury. In accordance with the Code of
12 Civil Procedure, the petitioner or the respondent may demand
13 a ~~There--shall-be-no-right-to~~ trial by jury of the issues of
14 fact in any proceeding to obtain, modify, vacate or extend an
15 any order of protection under this Act. ~~However,~~ Nothing in
16 this Section shall deny any existing right to trial by jury
17 in a criminal proceeding.

18 (Source: P.A. 87-1186.)

19 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

20 Sec. 214. Order of protection; remedies.

21 (a) Issuance of order. If the court finds that
22 petitioner has been abused by a family or household member or
23 that petitioner is a high-risk adult who has been abused,
24 neglected, or exploited, as defined in this Act, an order of
25 protection prohibiting the abuse, neglect, or exploitation
26 shall issue; provided that petitioner must also satisfy the
27 requirements of one of the following Sections, as
28 appropriate: Section 217 on emergency orders, Section 218 on
29 interim orders, or Section 219 on plenary orders. Petitioner
30 shall not be denied an order of protection because petitioner

1 or respondent is a minor. The court, when determining whether
2 or not to issue an order of protection, shall not require
3 physical manifestations of abuse on the person of the victim.
4 Modification and extension of prior orders of protection
5 shall be in accordance with this Act.

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

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

22 (2) Grant of exclusive possession of residence.
23 Prohibit respondent from entering or remaining in any
24 residence or household of the petitioner, including one
25 owned or leased by respondent, if petitioner has a right
26 to occupancy thereof. The grant of exclusive possession
27 of the residence shall not affect title to real property,
28 nor shall the court be limited by the standard set forth
29 in Section 701 of the Illinois Marriage and Dissolution
30 of Marriage Act.

31 (A) Right to occupancy. A party has a right
32 to occupancy of a residence or household if it is
33 solely or jointly owned or leased by that party,
34 that party's spouse, a person with a legal duty to

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

7 (B) Presumption of hardships. If petitioner
8 and respondent each has the right to occupancy of a
9 residence or household, the court shall balance (i)
10 the 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
15 to the risk of abuse (should petitioner remain at
16 the residence or household) or from loss of
17 possession of the residence or household (should
18 petitioner leave to avoid the risk of abuse). When
19 determining the balance of hardships, the court
20 shall also take into account the accessibility of
21 the residence or household. Hardships need not be
22 balanced if respondent does not have a right to
23 occupancy.

24 The balance of hardships is presumed to favor
25 possession by petitioner unless the presumption is
26 rebutted by a preponderance of the evidence, showing
27 that the hardships to respondent substantially
28 outweigh the hardships to petitioner and any minor
29 child or dependent adult in petitioner's care. The
30 court, on the request of petitioner or on its own
31 motion, may order respondent to provide suitable,
32 accessible, alternate housing for petitioner instead
33 of excluding respondent from a mutual residence or
34 household.

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

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

22 (4) Counseling. Require or recommend the
23 respondent to undergo counseling for a specified duration
24 with a social worker, psychologist, clinical
25 psychologist, psychiatrist, family service agency,
26 alcohol or substance abuse program, mental health center
27 guidance counselor, agency providing services to elders,
28 program designed for domestic violence abusers or any
29 other guidance service the court deems appropriate. The
30 court may also require or recommend that the petitioner
31 undergo counseling as the court deems appropriate, based
32 on the evidence.

33 (5) Physical care and possession of the minor
34 child. In order to protect the minor child from abuse,

1 neglect, or unwarranted separation from the person who
2 has been the minor child's primary caretaker, or to
3 otherwise protect the well-being of the minor child, the
4 court may do either or both of the following: (i) grant
5 petitioner physical care or possession of the minor
6 child, or both, or (ii) order respondent to return a
7 minor child to, or not remove a minor child from, the
8 physical care of a parent or person in loco parentis.

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

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

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

24 (7) Visitation. Determine the visitation rights,
25 if any, of respondent in any case in which the court
26 awards physical care or temporary legal custody of a
27 minor child to petitioner. The court shall restrict or
28 deny respondent's visitation with a minor child if the
29 court finds that respondent has done or is likely to do
30 any of the following: (i) abuse or endanger the minor
31 child during visitation; (ii) use the visitation as an
32 opportunity to abuse or harass petitioner or petitioner's
33 family or household members; (iii) improperly conceal or
34 detain the minor child; or (iv) otherwise act in a manner

1 that is not in the best interests of the minor child.
2 The court shall not be limited by the standards set forth
3 in Section 607.1 of the Illinois Marriage and Dissolution
4 of Marriage Act. If the court grants visitation, the
5 order shall specify dates and times for the visitation to
6 take place or other specific parameters or conditions
7 that are appropriate. No order for visitation shall
8 refer merely to the term "reasonable visitation".

9 Petitioner may deny respondent access to the minor
10 child if, when respondent arrives for visitation,
11 respondent is under the influence of drugs or alcohol and
12 constitutes a threat to the safety and well-being of
13 petitioner or petitioner's minor children or is behaving
14 in a violent or abusive manner.

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

24 (8) Removal or concealment of minor child. Prohibit
25 respondent from removing a minor child from the State or
26 concealing the child within the State.

27 (9) Order to appear. Order the respondent to
28 appear in court, alone or with a minor child, to prevent
29 abuse, neglect, removal or concealment of the child, to
30 return the child to the custody or care of the petitioner
31 or to permit any court-ordered interview or examination
32 of the child or the respondent.

33 (10) Possession of personal property. Grant
34 petitioner exclusive possession of personal property and,

1 if respondent has possession or control, direct
2 respondent to promptly make it available to petitioner,
3 if:

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

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

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

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

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

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

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

29 If petitioner's sole claim to ownership of the
30 property is that it is marital property, the court may
31 grant petitioner relief under subparagraph (ii) of this
32 paragraph only if a proper proceeding has been filed
33 under the Illinois Marriage and Dissolution of Marriage
34 Act, as now or hereafter amended.

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

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

20 (13) Order for payment of losses. Order respondent
21 to pay petitioner for losses suffered as a direct result
22 of the abuse, neglect, or exploitation. Such losses
23 shall include, but not be limited to, medical expenses,
24 lost 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,
27 including additional reasonable expenses for temporary
28 shelter and restaurant meals.

29 (i) Losses affecting family needs. If a party
30 is entitled to seek maintenance, child support or
31 property distribution from the other party under the
32 Illinois Marriage and Dissolution of Marriage Act,
33 as now or hereafter amended, the court may order
34 respondent to reimburse petitioner's actual losses,

1 to the extent that such reimbursement would be
2 "appropriate temporary relief", as authorized by
3 subsection (a)(3) of Section 501 of that Act.

4 (ii) Recovery of expenses. In the case of an
5 improper concealment or removal of a minor child,
6 the court may order respondent to pay the reasonable
7 expenses incurred or to be incurred in the search
8 for and recovery of the minor child, including but
9 not limited to legal fees, court costs, private
10 investigator fees, and travel costs.

11 (14) Prohibition of entry. Prohibit the respondent
12 from entering or remaining in the residence or household
13 while the respondent is under the influence of alcohol or
14 drugs and constitutes a threat to the safety and
15 well-being of the petitioner or the petitioner's
16 children.

17 (14.5) Prohibition of firearm possession.

18 (a) When a complaint is made under a request
19 for an order of protection, that the respondent has
20 threatened or is likely to use firearms illegally
21 against the petitioner, and the respondent is
22 present in court, or has failed to appear after
23 receiving actual notice, the court shall examine on
24 oath the petitioner, and any witnesses who may be
25 produced. If the court is satisfied that there is
26 any danger of the illegal use of firearms, it shall
27 issue an order that any firearms in the possession
28 of the respondent, except as provided in subsection
29 (b), be turned over to the local law enforcement
30 agency for safekeeping. If the respondent has
31 failed to appear, the court shall issue a warrant
32 for seizure of any firearm in the possession of the
33 respondent. The period of safekeeping shall be for a
34 stated period of time not to exceed 2 years. The

1 firearm or firearms shall be returned to the
2 respondent at the end of the stated period or at
3 expiration of the order of protection, whichever is
4 sooner.

5 (b) If the respondent is a peace officer as
6 defined in Section 2-13 of the Criminal Code of
7 1961, the court shall order that any firearms used
8 by the respondent in the performance of his or her
9 duties as a peace officer be surrendered to the
10 chief law enforcement executive of the agency in
11 which the respondent is employed, who shall retain
12 the firearms for safekeeping for the stated period
13 not to exceed 2 years as set forth in the court
14 order.

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

25 (16) Order for payment of shelter services. Order
26 respondent to reimburse a shelter providing temporary
27 housing and counseling services to the petitioner for the
28 cost of the services, as certified by the shelter and
29 deemed reasonable by the court.

30 (17) Order for injunctive relief. Enter injunctive
31 relief necessary or appropriate to prevent further abuse
32 of a family or household member or further abuse,
33 neglect, or exploitation of a high-risk adult with
34 disabilities or to effectuate one of the granted

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

7 (c) Relevant factors; findings.

8 (1) In determining whether to grant a specific
9 remedy, other than payment of support, the court shall
10 consider relevant factors, including but not limited to
11 the following:

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

21 (ii) the danger that any minor child will be
22 abused or neglected or improperly removed from the
23 jurisdiction, improperly concealed within the State
24 or improperly separated from the child's primary
25 caretaker.

26 (2) In comparing relative hardships resulting to
27 the parties from loss of possession of the family home,
28 the court shall consider relevant factors, including but
29 not limited to the following:

30 (i) availability, accessibility, cost, safety,
31 adequacy, location and other characteristics of
32 alternate housing for each party and any minor child
33 or dependent adult in the party's care;

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of
24 protection in accordance with the requirements of
25 Sections 203 and 217 is presented to the court, the court
26 shall examine petitioner on oath or affirmation. An
27 emergency order of protection shall be issued by the
28 court if it appears from the contents of the petition and
29 the examination of petitioner that the averments are
30 sufficient to indicate abuse by respondent and to support
31 the granting of relief under the issuance of the
32 emergency order of protection.

33 (5) Never married parties. No rights or
34 responsibilities for a minor child born outside of

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

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

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

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

5 (2) Respondent was voluntarily intoxicated;

6 (3) Petitioner acted in self-defense or defense of
7 another, provided that, if petitioner utilized force,
8 such force was justifiable under Article VII of the
9 Criminal Code of 1961;

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

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

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

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

23 (Source: P.A. 93-108, eff. 1-1-04.)

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- 705 ILCS 35/4.4 new
- 705 ILCS 405/1-5 from Ch. 37, par. 801-5
- 705 ILCS 405/2-20 from Ch. 37, par. 802-20
- 705 ILCS 405/2-23 from Ch. 37, par. 802-23
- 705 ILCS 405/3-21 from Ch. 37, par. 803-21
- 705 ILCS 405/3-24 from Ch. 37, par. 803-24
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- 705 ILCS 405/4-21 from Ch. 37, par. 804-21
- 725 ILCS 5/112A-7 from Ch. 38, par. 112A-7
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- 750 ILCS 5/307 new
- 750 ILCS 5/404.05 new
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- 750 ILCS 5/452.5 new
- 750 ILCS 5/510 from Ch. 40, par. 510
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