



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5239

by Rep. Thomas Morrison

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-6.1 new
725 ILCS 5/112A-11.5

Amends the Protective Orders Article of the Code of Criminal Procedure of 1963. Provides that any proceeding to obtain, modify, re-open, or appeal a protective order and service of pleadings and notices shall be governed by the rules of civil procedure. Provides that the standard of proof for a protective order proceeding is proof by a preponderance of the evidence. Provides that the Code of Civil Procedure and Supreme Court and local court rules applicable to civil proceedings shall apply, except as otherwise provided by law. Provides that civil law on venue, discovery, and penalties for untrue statements shall not apply to protective orders proceedings. Provides that criminal law on discovery, venue, and on penalties for untrue statements apply to protective order proceedings. Provides that a respondent may challenge the issuance of a protective order within 30 days or if the protective order was commenced in conjunction with a delinquency petition or a criminal prosecution then within 30 days after a plea of guilty or a finding of guilty is entered. Provides that the respondent shall provide notice to the petitioner and the court. Provides that by agreement of the parties, a protective order issued may be dismissed.

LRB100 19178 SLF 34443 b

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-11.5 and by adding Section
6 112A-6.1 as follows:

7 (725 ILCS 5/112A-6.1 new)

8 Sec. 112A-6.1. Application of rules of civil procedure;
9 criminal law.

10 (a) Any proceeding to obtain, modify, re-open, or appeal a
11 protective order and service of pleadings and notices shall be
12 governed by the rules of civil procedure of this State. The
13 standard of proof in a proceeding under this Article 112A of
14 this Code is proof by a preponderance of the evidence. The Code
15 of Civil Procedure and Supreme Court and local court rules
16 applicable to civil proceedings shall apply, except as
17 otherwise provided by law. Civil law on venue, discovery, and
18 penalties for untrue statements shall not apply to protective
19 order proceedings heard under this Article.

20 (b) Criminal law on discovery, venue, and on penalties for
21 untrue statements apply to protective order proceedings heard
22 under this Article.

1 (725 ILCS 5/112A-11.5)

2 Sec. 112A-11.5. Issuance of protective order.

3 (a) The court shall grant the petition and enter a
4 protective order if the court finds prima facie evidence that a
5 crime involving domestic violence, a sexual offense or a crime
6 involving stalking has been committed. The following shall be
7 considered prima facie evidence of the crime:

8 (1) an information, complaint, indictment or
9 delinquency petition, charging a crime of domestic
10 violence, a sexual offense or stalking or charging an
11 attempt to commit a crime of domestic violence, a sexual
12 offense or stalking; or

13 (2) an adjudication of delinquency, a finding of guilt
14 based upon a plea, or a finding of guilt after a trial for
15 a crime of domestic battery, a sexual crime or stalking or
16 an attempt to commit a crime of domestic violence, a sexual
17 offense or stalking;

18 (3) any dispositional order issued under Section 5-710
19 of the Juvenile Court Act of 1987, the imposition of
20 supervision, conditional discharge, probation, periodic
21 imprisonment, parole, aftercare release or mandatory
22 supervised release for a crime of domestic violence, a
23 sexual offense or stalking or an attempt to commit a crime
24 of domestic violence, a sexual offense, or stalking, or
25 imprisonment in conjunction with a bond forfeiture
26 warrant; or

1 (4) the entry of a protective order in a separate civil
2 case brought by the petitioner against the respondent.

3 (b) The petitioner shall not be denied a protective order
4 because the petitioner or the respondent is a minor.

5 (c) The court, when determining whether or not to issue a
6 protective order, may not require physical injury on the person
7 of the victim.

8 (d) A respondent may challenge the issuance of a protective
9 order issued under this Section within 30 days or if the
10 protective order was commenced in conjunction with a
11 delinquency petition or a criminal prosecution then within 30
12 days after a plea of guilty or a finding of guilty is entered.
13 The respondent shall provide notice to the petitioner and the
14 court. By agreement of the parties, a protective order issued
15 under this Section may be dismissed.

16 (Source: P.A. 100-199, eff. 1-1-18.)