

HB5342



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5342

by Rep. Mary Edly-Allen

SYNOPSIS AS INTRODUCED:

750 ILCS 60/214

from Ch. 40, par. 2312-14

Amends the Domestic Violence Act of 1986. Provides that the court shall include, as a remedy in an order of protection, a requirement that the respondent complete an anger management course.

LRB101 18828 LNS 68285 b

A BILL FOR

1 AN ACT concerning domestic violence.

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

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

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

7 Sec. 214. Order of protection; remedies.

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

23 (b) Remedies and standards. The remedies to be included in

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

7 (1) Prohibition of abuse, neglect, or exploitation.
8 Prohibit respondent's harassment, interference with
9 personal liberty, intimidation of a dependent, physical
10 abuse, or willful deprivation, neglect or exploitation, as
11 defined in this Act, or stalking of the petitioner, as
12 defined in Section 12-7.3 of the Criminal Code of 2012, if
13 such abuse, neglect, exploitation, or stalking has
14 occurred or otherwise appears likely to occur if not
15 prohibited.

16 (2) Grant of exclusive possession of residence.
17 Prohibit respondent from entering or remaining in any
18 residence, household, or premises of the petitioner,
19 including one owned or leased by respondent, if petitioner
20 has a right to occupancy thereof. The grant of exclusive
21 possession of the residence, household, or premises shall
22 not affect title to real property, nor shall the court be
23 limited by the standard set forth in subsection (c-2) of
24 Section 501 of the Illinois Marriage and Dissolution of
25 Marriage Act.

26 (A) Right to occupancy. A party has a right to

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

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

25 The balance of hardships is presumed to favor
26 possession by petitioner unless the presumption is

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

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

20 (A) If an order of protection grants petitioner
21 exclusive possession of the residence, or prohibits
22 respondent from entering the residence, or orders
23 respondent to stay away from petitioner or other
24 protected persons, then the court may allow respondent
25 access to the residence to remove items of clothing and
26 personal adornment used exclusively by respondent,

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

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

1 bears the burden of proving by a preponderance of the
2 evidence that a transfer, change of placement, or
3 change of program of the respondent is not available.
4 The respondent also bears the burden of production with
5 respect to the expense, difficulty, and educational
6 disruption that would be caused by a transfer of the
7 respondent to another school. A transfer, change of
8 placement, or change of program is not unavailable to
9 the respondent solely on the ground that the respondent
10 does not agree with the school district's or private or
11 non-public school's transfer, change of placement, or
12 change of program or solely on the ground that the
13 respondent fails or refuses to consent or otherwise
14 does not take an action required to effectuate a
15 transfer, change of placement, or change of program.
16 When a court orders a respondent to stay away from the
17 public, private, or non-public school attended by the
18 petitioner and the respondent requests a transfer to
19 another attendance center within the respondent's
20 school district or private or non-public school, the
21 school district or private or non-public school shall
22 have sole discretion to determine the attendance
23 center to which the respondent is transferred. In the
24 event the court order results in a transfer of the
25 minor respondent to another attendance center, a
26 change in the respondent's placement, or a change of

1 the respondent's program, the parents, guardian, or
2 legal custodian of the respondent is responsible for
3 transportation and other costs associated with the
4 transfer or change.

5 (C) The court may order the parents, guardian, or
6 legal custodian of a minor respondent to take certain
7 actions or to refrain from taking certain actions to
8 ensure that the respondent complies with the order. In
9 the event the court orders a transfer of the respondent
10 to another school, the parents, guardian, or legal
11 custodian of the respondent is responsible for
12 transportation and other costs associated with the
13 change of school by the respondent.

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

26 (4.5) Require the respondent to complete an anger

1 management course.

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

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

17 (6) Temporary allocation of parental responsibilities:
18 significant decision-making. Award temporary
19 decision-making responsibility to petitioner in accordance
20 with this Section, the Illinois Marriage and Dissolution of
21 Marriage Act, the Illinois Parentage Act of 2015, and this
22 State's Uniform Child-Custody Jurisdiction and Enforcement
23 Act.

24 If a court finds, after a hearing, that respondent has
25 committed abuse (as defined in Section 103) of a minor
26 child, there shall be a rebuttable presumption that

1 awarding temporary significant decision-making
2 responsibility to respondent would not be in the child's
3 best interest.

4 (7) Parenting time. Determine the parenting time, if
5 any, of respondent in any case in which the court awards
6 physical care or allocates temporary significant
7 decision-making responsibility of a minor child to
8 petitioner. The court shall restrict or deny respondent's
9 parenting time with a minor child if the court finds that
10 respondent has done or is likely to do any of the
11 following: (i) abuse or endanger the minor child during
12 parenting time; (ii) use the parenting time as an
13 opportunity to abuse or harass petitioner or petitioner's
14 family or household members; (iii) improperly conceal or
15 detain the minor child; or (iv) otherwise act in a manner
16 that is not in the best interests of the minor child. The
17 court shall not be limited by the standards set forth in
18 Section 603.10 of the Illinois Marriage and Dissolution of
19 Marriage Act. If the court grants parenting time, the order
20 shall specify dates and times for the parenting time to
21 take place or other specific parameters or conditions that
22 are appropriate. No order for parenting time shall refer
23 merely to the term "reasonable parenting time".

24 Petitioner may deny respondent access to the minor
25 child if, when respondent arrives for parenting time,
26 respondent is under the influence of drugs or alcohol and

1 constitutes a threat to the safety and well-being of
2 petitioner or petitioner's minor children or is behaving in
3 a violent or abusive manner.

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

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

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

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

26 (i) petitioner, but not respondent, owns the

1 property; or

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

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

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

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

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

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

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

1 the Illinois Marriage and Dissolution of Marriage Act, as
2 now or hereafter amended.

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

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

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

1 child, prior to entry of an order allocating significant
2 decision-making responsibility. Such a support order shall
3 expire upon entry of a valid order allocating parental
4 responsibility differently and vacating the petitioner's
5 significant decision-making authority, unless otherwise
6 provided in the order.

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

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

25 (ii) Recovery of expenses. In the case of an
26 improper concealment or removal of a minor child, the

1 court may order respondent to pay the reasonable
2 expenses incurred or to be incurred in the search for
3 and recovery of the minor child, including but not
4 limited to legal fees, court costs, private
5 investigator fees, and travel costs.

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

11 (14.5) Prohibition of firearm possession.

12 (a) Prohibit a respondent against whom an order of
13 protection was issued from possessing any firearms
14 during the duration of the order if the order:

15 (1) was issued after a hearing of which such
16 person received actual notice, and at which such
17 person had an opportunity to participate;

18 (2) restrains such person from harassing,
19 stalking, or threatening an intimate partner of
20 such person or child of such intimate partner or
21 person, or engaging in other conduct that would
22 place an intimate partner in reasonable fear of
23 bodily injury to the partner or child; and

24 (3) (i) includes a finding that such person
25 represents a credible threat to the physical
26 safety of such intimate partner or child; or (ii)

1 by its terms explicitly prohibits the use,
2 attempted use, or threatened use of physical force
3 against such intimate partner or child that would
4 reasonably be expected to cause bodily injury.

5 Any Firearm Owner's Identification Card in the
6 possession of the respondent, except as provided in
7 subsection (b), shall be ordered by the court to be
8 turned over to the local law enforcement agency. The
9 local law enforcement agency shall immediately mail
10 the card to the Department of State Police Firearm
11 Owner's Identification Card Office for safekeeping.
12 The court shall issue a warrant for seizure of any
13 firearm in the possession of the respondent, to be kept
14 by the local law enforcement agency for safekeeping,
15 except as provided in subsection (b). The period of
16 safekeeping shall be for the duration of the order of
17 protection. The firearm or firearms and Firearm
18 Owner's Identification Card, if unexpired, shall at
19 the respondent's request, be returned to the
20 respondent at the end of the order of protection. It is
21 the respondent's responsibility to notify the
22 Department of State Police Firearm Owner's
23 Identification Card Office.

24 (b) If the respondent is a peace officer as defined
25 in Section 2-13 of the Criminal Code of 2012, the court
26 shall order that any firearms used by the respondent in

1 the performance of his or her duties as a peace officer
2 be surrendered to the chief law enforcement executive
3 of the agency in which the respondent is employed, who
4 shall retain the firearms for safekeeping for the
5 duration of the order of protection.

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

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

1 records of the minor child who is in the care of
2 petitioner.

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

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

18 (18) Telephone services.

19 (A) Unless a condition described in subparagraph
20 (B) of this paragraph exists, the court may, upon
21 request by the petitioner, order a wireless telephone
22 service provider to transfer to the petitioner the
23 right to continue to use a telephone number or numbers
24 indicated by the petitioner and the financial
25 responsibility associated with the number or numbers,
26 as set forth in subparagraph (C) of this paragraph. For

1 purposes of this paragraph (18), the term "wireless
2 telephone service provider" means a provider of
3 commercial mobile service as defined in 47 U.S.C. 332.
4 The petitioner may request the transfer of each
5 telephone number that the petitioner, or a minor child
6 in his or her custody, uses. The clerk of the court
7 shall serve the order on the wireless telephone service
8 provider's agent for service of process provided to the
9 Illinois Commerce Commission. The order shall contain
10 all of the following:

11 (i) The name and billing telephone number of
12 the account holder including the name of the
13 wireless telephone service provider that serves
14 the account.

15 (ii) Each telephone number that will be
16 transferred.

17 (iii) A statement that the provider transfers
18 to the petitioner all financial responsibility for
19 and right to the use of any telephone number
20 transferred under this paragraph.

21 (B) A wireless telephone service provider shall
22 terminate the respondent's use of, and shall transfer
23 to the petitioner use of, the telephone number or
24 numbers indicated in subparagraph (A) of this
25 paragraph unless it notifies the petitioner, within 72
26 hours after it receives the order, that one of the

1 following applies:

2 (i) The account holder named in the order has
3 terminated the account.

4 (ii) A difference in network technology would
5 prevent or impair the functionality of a device on
6 a network if the transfer occurs.

7 (iii) The transfer would cause a geographic or
8 other limitation on network or service provision
9 to the petitioner.

10 (iv) Another technological or operational
11 issue would prevent or impair the use of the
12 telephone number if the transfer occurs.

13 (C) The petitioner assumes all financial
14 responsibility for and right to the use of any
15 telephone number transferred under this paragraph. In
16 this paragraph, "financial responsibility" includes
17 monthly service costs and costs associated with any
18 mobile device associated with the number.

19 (D) A wireless telephone service provider may
20 apply to the petitioner its routine and customary
21 requirements for establishing an account or
22 transferring a number, including requiring the
23 petitioner to provide proof of identification,
24 financial information, and customer preferences.

25 (E) Except for willful or wanton misconduct, a
26 wireless telephone service provider is immune from

1 civil liability for its actions taken in compliance
2 with a court order issued under this paragraph.

3 (F) All wireless service providers that provide
4 services to residential customers shall provide to the
5 Illinois Commerce Commission the name and address of an
6 agent for service of orders entered under this
7 paragraph (18). Any change in status of the registered
8 agent must be reported to the Illinois Commerce
9 Commission within 30 days of such change.

10 (G) The Illinois Commerce Commission shall
11 maintain the list of registered agents for service for
12 each wireless telephone service provider on the
13 Commission's website. The Commission may consult with
14 wireless telephone service providers and the Circuit
15 Court Clerks on the manner in which this information is
16 provided and displayed.

17 (c) Relevant factors; findings.

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

22 (i) the nature, frequency, severity, pattern and
23 consequences of the respondent's past abuse, neglect
24 or exploitation of the petitioner or any family or
25 household member, including the concealment of his or
26 her location in order to evade service of process or

1 notice, and the likelihood of danger of future abuse,
2 neglect, or exploitation to petitioner or any member of
3 petitioner's or respondent's family or household; and

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

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

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

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

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

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

25 (i) That the court has considered the applicable
26 relevant factors described in paragraphs (1) and (2) of

1 this subsection.

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

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

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

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

23 (5) Never married parties. No rights or
24 responsibilities for a minor child born outside of marriage
25 attach to a putative father until a father and child
26 relationship has been established under the Illinois

1 Parentage Act of 1984, the Illinois Parentage Act of 2015,
2 the Illinois Public Aid Code, Section 12 of the Vital
3 Records Act, the Juvenile Court Act of 1987, the Probate
4 Act of 1975, the Revised Uniform Reciprocal Enforcement of
5 Support Act, the Uniform Interstate Family Support Act, the
6 Expedited Child Support Act of 1990, any judicial,
7 administrative, or other act of another state or territory,
8 any other Illinois statute, or by any foreign nation
9 establishing the father and child relationship, any other
10 proceeding substantially in conformity with the Personal
11 Responsibility and Work Opportunity Reconciliation Act of
12 1996 (Pub. L. 104-193), or where both parties appeared in
13 open court or at an administrative hearing acknowledging
14 under oath or admitting by affirmation the existence of a
15 father and child relationship. Absent such an
16 adjudication, finding, or acknowledgment, no putative
17 father shall be granted temporary allocation of parental
18 responsibilities, including parenting time with the minor
19 child, or physical care and possession of the minor child,
20 nor shall an order of payment for support of the minor
21 child be entered.

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

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

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

7 (1) Respondent has cause for any use of force, unless
8 that cause satisfies the standards for justifiable use of
9 force provided by Article 7 of the Criminal Code of 2012;

10 (2) Respondent was voluntarily intoxicated;

11 (3) Petitioner acted in self-defense or defense of
12 another, provided that, if petitioner utilized force, such
13 force was justifiable under Article 7 of the Criminal Code
14 of 2012;

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

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

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

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

1 (Source: P.A. 99-85, eff. 1-1-16; 99-90, eff. 1-1-16; 99-642,
2 eff. 7-28-16; 100-388, eff. 1-1-18; 100-863, eff. 8-14-18;
3 100-923, eff. 1-1-19.)