



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB2541**

Introduced 2/19/2021, by Rep. Denyse Stoneback

#### SYNOPSIS AS INTRODUCED:

750 ILCS 60/214

from Ch. 40, par. 2312-14

Amends the Domestic Violence Act of 1986. In cases in which a petitioner seeks a prohibition on firearm possession, removes requirement that the respondent receive actual notice of and an opportunity to participate in a hearing. Provides that an order of protection shall include a remedy that prohibits a respondent from possessing any firearms for a minimum of 2 years (instead of for the duration of the order of protection). Provides that any Firearm Owner's Identification Card in the possession of the respondent shall be suspended and turned over to a law enforcement agency of the court's choosing (rather than a local law enforcement agency). Makes other changes.

LRB102 11879 LNS 17215 b

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 Sections 214 and 214.5 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,  
11 neglected, or exploited, as defined in this Act, an order of  
12 protection prohibiting the abuse, neglect, or exploitation  
13 shall issue; provided that petitioner must also satisfy the  
14 requirements of one of the following Sections, as appropriate:  
15 Section 217 on emergency orders, Section 218 on interim  
16 orders, or Section 219 on plenary orders. Petitioner shall not  
17 be denied an order of protection because petitioner or  
18 respondent is a minor. The court, when determining whether or  
19 not to issue an order of protection, shall not require  
20 physical manifestations of abuse on the person of the victim.  
21 Modification and extension of prior orders of protection shall  
22 be in accordance with this 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  
3 appropriate: Section 217 on emergency orders, Section 218 on  
4 interim orders, and Section 219 on plenary orders. The  
5 remedies listed in this subsection shall be in addition to  
6 other civil or criminal 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)  
12 the 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  
12           person 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  
26           and 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  
3 occasion 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  
9 order of protection and providing relief shall  
10 consider the severity of the act, any continuing  
11 physical danger or emotional distress to the  
12 petitioner, the educational rights guaranteed to the  
13 petitioner and respondent under federal and State law,  
14 the availability of a transfer of the respondent to  
15 another school, a change of placement or a change of  
16 program of the respondent, the expense, difficulty,  
17 and educational disruption that would be caused by a  
18 transfer of the respondent to another school, and any  
19 other relevant facts of the case. The court may order  
20 that the respondent not attend the public, private, or  
21 non-public elementary, middle, or high school attended  
22 by the petitioner, order that the respondent accept a  
23 change of placement or change of program, as  
24 determined by the school district or private or  
25 non-public school, or place restrictions on the  
26 respondent's movements within the school attended by

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

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

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

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



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

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

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

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

1 responsibility to respondent would not be in the child's  
2 best interest.

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

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

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

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

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

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

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

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

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

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

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

14          (11) Protection of property. Forbid the respondent  
15          from taking, transferring, encumbering, concealing,  
16          damaging or otherwise disposing of any real or personal  
17          property, except as explicitly authorized by the court,  
18          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  
24          property is that it is marital property, the court may  
25          grant 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  
22 Act, which shall govern, among other matters, the amount  
23 of support, payment through the clerk and withholding of  
24 income to secure payment. An order for child support may  
25 be 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  
10 well-being 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 or 2 years, whichever  
15 is greater, if the order:

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

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

25 (3) (i) includes a finding that such person  
26 represents a credible threat to the physical

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

6 Any Firearm Owner's Identification Card in the  
7 possession of the respondent, except as provided in  
8 subsection (b), shall be suspended and ordered by the  
9 court to be turned over to a ~~the local~~ law enforcement  
10 agency of the court's choosing. The ~~local~~ law  
11 enforcement agency shall immediately mail the card to  
12 the Department of State Police Firearm Owner's  
13 Identification Card Office for safekeeping. The court  
14 shall issue a warrant for seizure of any firearm in the  
15 possession of the respondent, to be kept by the ~~local~~  
16 law enforcement agency for safekeeping, except as  
17 provided in subsection (b). The period of safekeeping  
18 shall be for the duration of the order of protection or  
19 2 years, whichever is greater. The firearm or firearms  
20 and Firearm Owner's Identification Card, if unexpired,  
21 shall at the respondent's request, be returned to the  
22 respondent at the end of the order of protection. It is  
23 the respondent's responsibility to notify the  
24 Department of State Police Firearm Owner's  
25 Identification Card Office.

26 (b) If the respondent is a peace officer as



1 defined in Section 2-13 of the Criminal Code of 2012,  
2 the court shall order that any firearms used by the  
3 respondent in the performance of his or her duties as a  
4 peace officer be surrendered to the chief law  
5 enforcement executive of the agency in which the  
6 respondent is employed, who shall retain the firearms  
7 for safekeeping for the duration of the order of  
8 protection or 2 years, whichever is greater.

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

23 (15) Prohibition of access to records. If an order of  
24 protection prohibits respondent from having contact with  
25 the minor child, or if petitioner's address is omitted  
26 under subsection (b) of Section 203, or if necessary to

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

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

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

22 (18) Telephone services.

23 (A) Unless a condition described in subparagraph  
24 (B) of this paragraph exists, the court may, upon  
25 request by the petitioner, order a wireless telephone  
26 service provider to transfer to the petitioner the

1 right to continue to use a telephone number or numbers  
2 indicated by the petitioner and the financial  
3 responsibility associated with the number or numbers,  
4 as set forth in subparagraph (C) of this paragraph.  
5 For purposes of this paragraph (18), the term  
6 "wireless telephone service provider" means a provider  
7 of commercial mobile service as defined in 47 U.S.C.  
8 332. The petitioner may request the transfer of each  
9 telephone number that the petitioner, or a minor child  
10 in his or her custody, uses. The clerk of the court  
11 shall serve the order on the wireless telephone  
12 service provider's agent for service of process  
13 provided to the Illinois Commerce Commission. The  
14 order shall contain all of the following:

15 (i) The name and billing telephone number of  
16 the account holder including the name of the  
17 wireless telephone service provider that serves  
18 the account.

19 (ii) Each telephone number that will be  
20 transferred.

21 (iii) A statement that the provider transfers  
22 to the petitioner all financial responsibility for  
23 and right to the use of any telephone number  
24 transferred under this paragraph.

25 (B) A wireless telephone service provider shall  
26 terminate the respondent's use of, and shall transfer

1 to the petitioner use of, the telephone number or  
2 numbers indicated in subparagraph (A) of this  
3 paragraph unless it notifies the petitioner, within 72  
4 hours after it receives the order, that one of the  
5 following applies:

6 (i) The account holder named in the order has  
7 terminated the account.

8 (ii) A difference in network technology would  
9 prevent or impair the functionality of a device on  
10 a network if the transfer occurs.

11 (iii) The transfer would cause a geographic or  
12 other limitation on network or service provision  
13 to the petitioner.

14 (iv) Another technological or operational  
15 issue would prevent or impair the use of the  
16 telephone number if the transfer occurs.

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

23 (D) A wireless telephone service provider may  
24 apply to the petitioner its routine and customary  
25 requirements for establishing an account or  
26 transferring a number, including requiring the

1 petitioner to provide proof of identification,  
2 financial information, and customer preferences.

3 (E) Except for willful or wanton misconduct, a  
4 wireless telephone service provider is immune from  
5 civil liability for its actions taken in compliance  
6 with a court order issued under this paragraph.

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

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

21 (c) Relevant factors; findings.

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

26 (i) the nature, frequency, severity, pattern and

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

9 (ii) the danger that any minor child will be  
10 abused or neglected or improperly relocated from the  
11 jurisdiction, improperly concealed within the State or  
12 improperly separated from the child's primary  
13 caretaker.

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

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

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

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

26 (3) Subject to the exceptions set forth in paragraph

1 (4) of this subsection, the court shall make its findings  
2 in an official record or in writing, and shall at a minimum  
3 set forth the following:

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

7 (ii) Whether the conduct or actions of respondent,  
8 unless prohibited, will likely cause irreparable harm  
9 or continued abuse.

10 (iii) Whether it is necessary to grant the  
11 requested relief in order to protect petitioner or  
12 other alleged abused persons.

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

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

1 order of protection.

2 (5) Never married parties. No rights or  
3 responsibilities for a minor child born outside of  
4 marriage attach to a putative father until a father and  
5 child relationship has been established under the Illinois  
6 Parentage Act of 1984, the Illinois Parentage Act of 2015,  
7 the Illinois Public Aid Code, Section 12 of the Vital  
8 Records Act, the Juvenile Court Act of 1987, the Probate  
9 Act of 1975, the Revised Uniform Reciprocal Enforcement of  
10 Support Act, the Uniform Interstate Family Support Act,  
11 the Expedited Child Support Act of 1990, any judicial,  
12 administrative, or other act of another state or  
13 territory, any other Illinois statute, or by any foreign  
14 nation establishing the father and child relationship, any  
15 other proceeding substantially in conformity with the  
16 Personal Responsibility and Work Opportunity  
17 Reconciliation Act of 1996 (Pub. L. 104-193), or where  
18 both parties appeared in open court or at an  
19 administrative hearing acknowledging under oath or  
20 admitting by affirmation the existence of a father and  
21 child relationship. Absent such an adjudication, finding,  
22 or acknowledgment, no putative father shall be granted  
23 temporary allocation of parental responsibilities,  
24 including parenting time with the minor child, or physical  
25 care and possession of the minor child, nor shall an order  
26 of payment for support of the minor child be entered.



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

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

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

15 (2) Respondent was voluntarily intoxicated;

16 (3) Petitioner acted in self-defense or defense of  
17 another, provided that, if petitioner utilized force, such  
18 force was justifiable under Article 7 of the Criminal Code  
19 of 2012;

20 (4) Petitioner did not act in self-defense or defense  
21 of another;

22 (5) Petitioner left the residence or household to  
23 avoid further abuse, neglect, or exploitation by  
24 respondent;

25 (6) Petitioner did not leave the residence or  
26 household to avoid further abuse, neglect, or exploitation

1 by respondent;

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

7 (Source: P.A. 99-85, eff. 1-1-16; 99-90, eff. 1-1-16; 99-642,  
8 eff. 7-28-16; 100-388, eff. 1-1-18; 100-863, eff. 8-14-18;  
9 100-923, eff. 1-1-19.)