



Sen. Don Harmon

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LRB103 04272 RLC 74133 a

1 AMENDMENT TO HOUSE BILL 681

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 681, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment  
4 No. 2, on page 53, immediately below line 3, by inserting the  
5 following:

6 "Section 20. The Illinois Domestic Violence Act of 1986 is  
7 amended by changing Section 214 as follows:

8 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

9 Sec. 214. Order of protection; remedies.

10 (a) Issuance of order. If the court finds that petitioner  
11 has been abused by a family or household member or that  
12 petitioner is a high-risk adult who has been abused,  
13 neglected, or exploited, as defined in this Act, an order of  
14 protection prohibiting the abuse, neglect, or exploitation  
15 shall issue; provided that petitioner must also satisfy the  
16 requirements of one of the following Sections, as appropriate:

1 Section 217 on emergency orders, Section 218 on interim  
2 orders, or Section 219 on plenary orders. Petitioner shall not  
3 be denied an order of protection because petitioner or  
4 respondent is a minor. The court, when determining whether or  
5 not to issue an order of protection, shall not require  
6 physical manifestations of abuse on the person of the victim.  
7 Modification and extension of prior orders of protection shall  
8 be in accordance with this Act.

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

16 (1) Prohibition of abuse, neglect, or exploitation.  
17 Prohibit respondent's harassment, interference with  
18 personal liberty, intimidation of a dependent, physical  
19 abuse, or willful deprivation, neglect or exploitation, as  
20 defined in this Act, or stalking of the petitioner, as  
21 defined in Section 12-7.3 of the Criminal Code of 2012, if  
22 such abuse, neglect, exploitation, or stalking has  
23 occurred or otherwise appears likely to occur if not  
24 prohibited.

25 (2) Grant of exclusive possession of residence.  
26 Prohibit respondent from entering or remaining in any

1 residence, household, or premises of the petitioner,  
2 including one owned or leased by respondent, if petitioner  
3 has a right to occupancy thereof. The grant of exclusive  
4 possession of the residence, household, or premises shall  
5 not affect title to real property, nor shall the court be  
6 limited by the standard set forth in subsection (c-2) of  
7 Section 501 of the Illinois Marriage and Dissolution of  
8 Marriage Act.

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

18 (B) Presumption of hardships. If petitioner and  
19 respondent each has the right to occupancy of a  
20 residence or household, the court shall balance (i)  
21 the hardships to respondent and any minor child or  
22 dependent adult in respondent's care resulting from  
23 entry of this remedy with (ii) the hardships to  
24 petitioner and any minor child or dependent adult in  
25 petitioner's care resulting from continued exposure to  
26 the risk of abuse (should petitioner remain at the

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

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

19 (3) Stay away order and additional prohibitions. Order  
20 respondent to stay away from petitioner or any other  
21 person protected by the order of protection, or prohibit  
22 respondent from entering or remaining present at  
23 petitioner's school, place of employment, or other  
24 specified places at times when petitioner is present, or  
25 both, if reasonable, given the balance of hardships.  
26 Hardships need not be balanced for the court to enter a

1 stay away order or prohibit entry if respondent has no  
2 right to enter the premises.

3 (A) If an order of protection grants petitioner  
4 exclusive possession of the residence, or prohibits  
5 respondent from entering the residence, or orders  
6 respondent to stay away from petitioner or other  
7 protected persons, then the court may allow respondent  
8 access to the residence to remove items of clothing  
9 and personal adornment used exclusively by respondent,  
10 medications, and other items as the court directs. The  
11 right to access shall be exercised on only one  
12 occasion as the court directs and in the presence of an  
13 agreed-upon adult third party or law enforcement  
14 officer.

15 (B) When the petitioner and the respondent attend  
16 the same public, private, or non-public elementary,  
17 middle, or high school, the court when issuing an  
18 order of protection and providing relief shall  
19 consider the severity of the act, any continuing  
20 physical danger or emotional distress to the  
21 petitioner, the educational rights guaranteed to the  
22 petitioner and respondent under federal and State law,  
23 the availability of a transfer of the respondent to  
24 another school, a change of placement or a change of  
25 program of the respondent, the expense, difficulty,  
26 and educational disruption that would be caused by a

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

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

15 (C) The court may order the parents, guardian, or  
16 legal custodian of a minor respondent to take certain  
17 actions or to refrain from taking certain actions to  
18 ensure that the respondent complies with the order. In  
19 the event the court orders a transfer of the  
20 respondent to another school, the parents, guardian,  
21 or legal custodian of the respondent is responsible  
22 for transportation and other costs associated with the  
23 change of school by the respondent.

24 (4) Counseling. Require or recommend the respondent to  
25 undergo counseling for a specified duration with a social  
26 worker, psychologist, clinical psychologist,

1       psychiatrist, family service agency, alcohol or substance  
2       abuse program, mental health center guidance counselor,  
3       agency providing services to elders, program designed for  
4       domestic violence abusers or any other guidance service  
5       the court deems appropriate. The Court may order the  
6       respondent in any intimate partner relationship to report  
7       to an Illinois Department of Human Services protocol  
8       approved partner abuse intervention program for an  
9       assessment and to follow all recommended treatment.

10       (5) Physical care and possession of the minor child.  
11       In order to protect the minor child from abuse, neglect,  
12       or unwarranted separation from the person who has been the  
13       minor child's primary caretaker, or to otherwise protect  
14       the well-being of the minor child, the court may do either  
15       or both of the following: (i) grant petitioner physical  
16       care or possession of the minor child, or both, or (ii)  
17       order respondent to return a minor child to, or not remove  
18       a minor child from, the physical care of a parent or person  
19       in loco parentis.

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

25       (6) Temporary allocation of parental responsibilities:  
26       significant       decision-making.       Award       temporary



1 decision-making responsibility to petitioner in accordance  
2 with this Section, the Illinois Marriage and Dissolution  
3 of Marriage Act, the Illinois Parentage Act of 2015, and  
4 this State's Uniform Child-Custody Jurisdiction and  
5 Enforcement Act.

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

12 (7) Parenting time. Determine the parenting time, if  
13 any, of respondent in any case in which the court awards  
14 physical care or allocates temporary significant  
15 decision-making responsibility of a minor child to  
16 petitioner. The court shall restrict or deny respondent's  
17 parenting time with a minor child if the court finds that  
18 respondent has done or is likely to do any of the  
19 following: (i) abuse or endanger the minor child during  
20 parenting time; (ii) use the parenting time as an  
21 opportunity to abuse or harass petitioner or petitioner's  
22 family or household members; (iii) improperly conceal or  
23 detain the minor child; or (iv) otherwise act in a manner  
24 that is not in the best interests of the minor child. The  
25 court shall not be limited by the standards set forth in  
26 Section 603.10 of the Illinois Marriage and Dissolution of

1 Marriage Act. If the court grants parenting time, the  
2 order shall specify dates and times for the parenting time  
3 to take place or other specific parameters or conditions  
4 that are appropriate. No order for parenting time shall  
5 refer merely to the term "reasonable parenting time".

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

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

21 (8) Removal or concealment of minor child. Prohibit  
22 respondent from removing a minor child from the State or  
23 concealing the child within the State.

24 (9) Order to appear. Order the respondent to appear in  
25 court, alone or with a minor child, to prevent abuse,  
26 neglect, removal or concealment of the child, to return

1 the child to the custody or care of the petitioner or to  
2 permit any court-ordered interview or examination of the  
3 child or the respondent.

4 (10) Possession of personal property. Grant petitioner  
5 exclusive possession of personal property and, if  
6 respondent has possession or control, direct respondent to  
7 promptly make it available to petitioner, if:

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

10 (ii) the parties own the property jointly; sharing  
11 it would risk abuse of petitioner by respondent or is  
12 impracticable; and the balance of hardships favors  
13 temporary possession by petitioner.

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

21 No order under this provision shall affect title to  
22 property.

23 (11) Protection of property. Forbid the respondent  
24 from taking, transferring, encumbering, concealing,  
25 damaging or otherwise disposing of any real or personal  
26 property, except as explicitly authorized by the court,

1 if:

2 (i) petitioner, but not respondent, owns the  
3 property; or

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

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

12 The court may further prohibit respondent from  
13 improperly using the financial or other resources of an  
14 aged member of the family or household for the profit or  
15 advantage of respondent or of any other person.

16 (11.5) Protection of animals. Grant the petitioner the  
17 exclusive care, custody, or control of any animal owned,  
18 possessed, leased, kept, or held by either the petitioner  
19 or the respondent or a minor child residing in the  
20 residence or household of either the petitioner or the  
21 respondent and order the respondent to stay away from the  
22 animal and forbid the respondent from taking,  
23 transferring, encumbering, concealing, harming, or  
24 otherwise disposing of the animal.

25 (12) Order for payment of support. Order respondent to  
26 pay temporary support for the petitioner or any child in

1 the petitioner's care or over whom the petitioner has been  
2 allocated parental responsibility, when the respondent has  
3 a legal obligation to support that person, in accordance  
4 with the Illinois Marriage and Dissolution of Marriage  
5 Act, which shall govern, among other matters, the amount  
6 of support, payment through the clerk and withholding of  
7 income to secure payment. An order for child support may  
8 be granted to a petitioner with lawful physical care of a  
9 child, or an order or agreement for physical care of a  
10 child, prior to entry of an order allocating significant  
11 decision-making responsibility. Such a support order shall  
12 expire upon entry of a valid order allocating parental  
13 responsibility differently and vacating the petitioner's  
14 significant decision-making authority, unless otherwise  
15 provided in the order.

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

25 (i) Losses affecting family needs. If a party is  
26 entitled to seek maintenance, child support or

1 property distribution from the other party under the  
2 Illinois Marriage and Dissolution of Marriage Act, as  
3 now or hereafter amended, the court may order  
4 respondent to reimburse petitioner's actual losses, to  
5 the extent that such reimbursement would be  
6 "appropriate temporary relief", as authorized by  
7 subsection (a) (3) of Section 501 of that Act.

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

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

20 (14.5) Prohibition of firearm possession.

21 (a) Prohibit a respondent against whom an order of  
22 protection was issued from possessing any firearms  
23 during the duration of the order if the order:

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

1           (2) restrains such person from harassing,  
2           stalking, or threatening an intimate partner of  
3           such person or child of such intimate partner or  
4           person, or engaging in other conduct that would  
5           place an intimate partner in reasonable fear of  
6           bodily injury to the partner or child; and

7           (3) (i) includes a finding that such person  
8           represents a credible threat to the physical  
9           safety of such intimate partner or child; or (ii)  
10          by its terms explicitly prohibits the use,  
11          attempted use, or threatened use of physical force  
12          against such intimate partner or child that would  
13          reasonably be expected to cause bodily injury.

14          Any Firearm Owner's Identification Card in the  
15          possession of the respondent, except as provided in  
16          subsection (b), shall be ordered by the court to be  
17          turned over to the local law enforcement agency. The  
18          local law enforcement agency shall immediately mail  
19          the card to the Illinois State Police Firearm Owner's  
20          Identification Card Office for safekeeping. The court  
21          shall issue a warrant for seizure of any firearm in the  
22          possession of the respondent, to be kept by the local  
23          law enforcement agency for safekeeping, except as  
24          provided in subsection (b). The period of safekeeping  
25          shall be for the duration of the order of protection.  
26          The firearm or firearms and Firearm Owner's

1 Identification Card, if unexpired, shall at the  
2 respondent's request, be returned to the respondent at  
3 the end of the order of protection. It is the  
4 respondent's responsibility to notify the Illinois  
5 State Police Firearm Owner's Identification Card  
6 Office.

7 (b) If the respondent is a peace officer as  
8 defined in Section 2-13 of the Criminal Code of 2012,  
9 the court shall order that any firearms used by the  
10 respondent in the performance of his or her duties as a  
11 peace officer be surrendered to the chief law  
12 enforcement executive of the agency in which the  
13 respondent is employed, who shall retain the firearms  
14 for safekeeping for the duration of the order of  
15 protection.

16 (c) Upon expiration of the period of safekeeping,  
17 if the firearms or Firearm Owner's Identification Card  
18 cannot be returned to respondent because respondent  
19 cannot be located, fails to respond to requests to  
20 retrieve the firearms, or is not lawfully eligible to  
21 possess a firearm, upon petition from the local law  
22 enforcement agency, the court may order the local law  
23 enforcement agency to destroy the firearms, use the  
24 firearms for training purposes, or for any other  
25 application as deemed appropriate by the local law  
26 enforcement agency; or that the firearms be turned



1           over to a third party who is lawfully eligible to  
2           possess firearms, and who does not reside with  
3           respondent.

4           (15) Prohibition of access to records. If an order of  
5           protection prohibits respondent from having contact with  
6           the minor child, or if petitioner's address is omitted  
7           under subsection (b) of Section 203, or if necessary to  
8           prevent abuse or wrongful removal or concealment of a  
9           minor child, the order shall deny respondent access to,  
10          and prohibit respondent from inspecting, obtaining, or  
11          attempting to inspect or obtain, school or any other  
12          records of the minor child who is in the care of  
13          petitioner.

14          (16) Order for payment of shelter services. Order  
15          respondent to reimburse a shelter providing temporary  
16          housing and counseling services to the petitioner for the  
17          cost of the services, as certified by the shelter and  
18          deemed reasonable by the court.

19          (17) Order for injunctive relief. Enter injunctive  
20          relief necessary or appropriate to prevent further abuse  
21          of a family or household member or further abuse, neglect,  
22          or exploitation of a high-risk adult with disabilities or  
23          to effectuate one of the granted remedies, if supported by  
24          the balance of hardships. If the harm to be prevented by  
25          the injunction is abuse or any other harm that one of the  
26          remedies listed in paragraphs (1) through (16) of this

1 subsection is designed to prevent, no further evidence is  
2 necessary that the harm is an irreparable injury.

3 (18) Telephone services.

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

22 (i) The name and billing telephone number of  
23 the account holder including the name of the  
24 wireless telephone service provider that serves  
25 the account.

26 (ii) Each telephone number that will be

1 transferred.

2 (iii) A statement that the provider transfers  
3 to the petitioner all financial responsibility for  
4 and right to the use of any telephone number  
5 transferred under this paragraph.

6 (B) A wireless telephone service provider shall  
7 terminate the respondent's use of, and shall transfer  
8 to the petitioner use of, the telephone number or  
9 numbers indicated in subparagraph (A) of this  
10 paragraph unless it notifies the petitioner, within 72  
11 hours after it receives the order, that one of the  
12 following applies:

13 (i) The account holder named in the order has  
14 terminated the account.

15 (ii) A difference in network technology would  
16 prevent or impair the functionality of a device on  
17 a network if the transfer occurs.

18 (iii) The transfer would cause a geographic or  
19 other limitation on network or service provision  
20 to the petitioner.

21 (iv) Another technological or operational  
22 issue would prevent or impair the use of the  
23 telephone number if the transfer occurs.

24 (C) The petitioner assumes all financial  
25 responsibility for and right to the use of any  
26 telephone number transferred under this paragraph. In

1           this paragraph, "financial responsibility" includes  
2           monthly service costs and costs associated with any  
3           mobile device associated with the number.

4           (D) A wireless telephone service provider may  
5           apply to the petitioner its routine and customary  
6           requirements for establishing an account or  
7           transferring a number, including requiring the  
8           petitioner to provide proof of identification,  
9           financial information, and customer preferences.

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

14          (F) All wireless service providers that provide  
15          services to residential customers shall provide to the  
16          Illinois Commerce Commission the name and address of  
17          an agent for service of orders entered under this  
18          paragraph (18). Any change in status of the registered  
19          agent must be reported to the Illinois Commerce  
20          Commission within 30 days of such change.

21          (G) The Illinois Commerce Commission shall  
22          maintain the list of registered agents for service for  
23          each wireless telephone service provider on the  
24          Commission's website. The Commission may consult with  
25          wireless telephone service providers and the Circuit  
26          Court Clerks on the manner in which this information

1 is provided and displayed.

2 (c) Relevant factors; findings.

3 (1) In determining whether to grant a specific remedy,  
4 other than payment of support, the court shall consider  
5 relevant factors, including but not limited to the  
6 following:

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

16 (ii) the danger that any minor child will be  
17 abused or neglected or improperly relocated from the  
18 jurisdiction, improperly concealed within the State or  
19 improperly separated from the child's primary  
20 caretaker.

21 (2) In comparing relative hardships resulting to the  
22 parties from loss of possession of the family home, the  
23 court shall consider relevant factors, including but not  
24 limited to the following:

25 (i) availability, accessibility, cost, safety,  
26 adequacy, location and other characteristics of

1           alternate housing for each party and any minor child  
2           or dependent adult in the party's care;

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

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

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

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

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

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

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

25                  When a verified petition for an emergency order of  
26          protection in accordance with the requirements of Sections

1 203 and 217 is presented to the court, the court shall  
2 examine petitioner on oath or affirmation. An emergency  
3 order of protection shall be issued by the court if it  
4 appears from the contents of the petition and the  
5 examination of petitioner that the averments are  
6 sufficient to indicate abuse by respondent and to support  
7 the granting of relief under the issuance of the emergency  
8 order of protection.

9 (5) Never married parties. No rights or  
10 responsibilities for a minor child born outside of  
11 marriage attach to a putative father until a father and  
12 child relationship has been established under the Illinois  
13 Parentage Act of 1984, the Illinois Parentage Act of 2015,  
14 the Illinois Public Aid Code, Section 12 of the Vital  
15 Records Act, the Juvenile Court Act of 1987, the Probate  
16 Act of 1975, the Revised Uniform Reciprocal Enforcement of  
17 Support Act, the Uniform Interstate Family Support Act,  
18 the Expedited Child Support Act of 1990, any judicial,  
19 administrative, or other act of another state or  
20 territory, any other Illinois statute, or by any foreign  
21 nation establishing the father and child relationship, any  
22 other proceeding substantially in conformity with the  
23 Personal Responsibility and Work Opportunity  
24 Reconciliation Act of 1996 (Pub. L. 104-193), or where  
25 both parties appeared in open court or at an  
26 administrative hearing acknowledging under oath or

1 admitting by affirmation the existence of a father and  
2 child relationship. Absent such an adjudication, finding,  
3 or acknowledgment, no putative father shall be granted  
4 temporary allocation of parental responsibilities,  
5 including parenting time with the minor child, or physical  
6 care and possession of the minor child, nor shall an order  
7 of payment for support of the minor child be entered.

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

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

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

22 (2) Respondent was voluntarily intoxicated;

23 (3) Petitioner acted in self-defense or defense of  
24 another, provided that, if petitioner utilized force, such  
25 force was justifiable under Article 7 of the Criminal Code  
26 of 2012;



1           (4) Petitioner did not act in self-defense or defense  
2 of another;

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

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

9           (7) Conduct by any family or household member excused  
10 the abuse, neglect, or exploitation by respondent, unless  
11 that same conduct would have excused such abuse, neglect,  
12 or exploitation if the parties had not been family or  
13 household members.

14           A petition for an order of protection may not be denied  
15 upon the basis that the petitioner or the respondent is  
16 incarcerated in a penal institution at the time of the filing  
17 of the petition.

18           (Source: P.A. 102-538, eff. 8-20-21.)".