

1 AMENDMENT TO HOUSE BILL 206

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 206 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 112A-23 as follows:

6 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

7 Sec. 112A-23. Enforcement of orders of protection.

8 (a) When violation is crime. A violation of any order of  
9 protection, whether issued in a civil, quasi-criminal  
10 proceeding, shall may be enforced by a criminal court when:

11 (1) The respondent commits the crime of violation  
12 of an order of protection pursuant to Section 12-30 of  
13 the Criminal Code of 1961, by having knowingly violated:

14 (i) remedies described in paragraphs (1), (2),  
15 (3), (14), or (14.5) of subsection (b) of Section  
16 112A-14,

17 (ii) a remedy, which is substantially similar  
18 to the remedies authorized under paragraphs (1),  
19 (2), (3), (14) or (14.5) of subsection (b) of  
20 Section 214 of the Illinois Domestic Violence Act of  
21 1986, in a valid order of protection, which is  
22 authorized under the laws of another state, tribe or

1 United States territory,

2 (iii) or any other remedy when the act  
3 constitutes a crime against the protected parties as  
4 defined by the Criminal Code of 1961.

5 Prosecution for a violation of an order of protection  
6 shall not bar concurrent prosecution for any other crime,  
7 including any crime that may have been committed at the time  
8 of the violation of the order of protection; or

9 (2) The respondent commits the crime of child  
10 abduction pursuant to Section 10-5 of the Criminal Code  
11 of 1961, by having knowingly violated:

12 (i) remedies described in paragraphs (5), (6)  
13 or (8) of subsection (b) of Section 112A-14, or

14 (ii) a remedy, which is substantially similar  
15 to the remedies authorized under paragraphs (1),  
16 (5), (6), or (8) of subsection (b) of Section 214 of  
17 the Illinois Domestic Violence Act of 1986, in a  
18 valid order of protection, which is authorized under  
19 the laws of another state, tribe or United States  
20 territory.

21 (b) When violation is contempt of court. A violation of  
22 any valid order of protection, whether issued in a civil or  
23 criminal proceeding, may be enforced through civil or  
24 criminal contempt procedures, as appropriate, by any court  
25 with jurisdiction, regardless where the act or acts which  
26 violated the order of protection were committed, to the  
27 extent consistent with the venue provisions of this Article.  
28 Nothing in this Article shall preclude any Illinois court  
29 from enforcing any valid order of protection issued in  
30 another state. Illinois courts may enforce orders of  
31 protection through both criminal prosecution and contempt  
32 proceedings, unless the action which is second in time is  
33 barred by collateral estoppel or the constitutional  
34 prohibition against double jeopardy.

1           (1) In a contempt proceeding where the petition for  
2 a rule to show cause sets forth facts evidencing an  
3 immediate danger that the respondent will flee the  
4 jurisdiction, conceal a child, or inflict physical abuse  
5 on the petitioner or minor children or on dependent  
6 adults in petitioner's care, the court may order the  
7 attachment of the respondent without prior service of the  
8 rule to show cause or the petition for a rule to show  
9 cause. Bond shall be set unless specifically denied in  
10 writing.

11           (2) A petition for a rule to show cause for  
12 violation of an order of protection shall be treated as  
13 an expedited proceeding.

14           (c) Violation of custody or support orders. A violation  
15 of remedies described in paragraphs (5), (6), (8), or (9) of  
16 subsection (b) of Section 112A-14 may be enforced by any  
17 remedy provided by Section 611 of the Illinois Marriage and  
18 Dissolution of Marriage Act. The court may enforce any order  
19 for support issued under paragraph (12) of subsection (b) of  
20 Section 112A-14 in the manner provided for under Articles V  
21 and VII of the Illinois Marriage and Dissolution of Marriage  
22 Act.

23           (d) Actual knowledge. An order of protection may be  
24 enforced pursuant to this Section if the respondent violates  
25 the order after respondent has actual knowledge of its  
26 contents as shown through one of the following means:

27           (1) By service, delivery, or notice under Section  
28 112A-10.

29           (2) By notice under Section 112A-11.

30           (3) By service of an order of protection under  
31 Section 112A-22.

32           (4) By other means demonstrating actual knowledge  
33 of the contents of the order.

34           (e) The enforcement of an order of protection in civil

1 or criminal court shall not be affected by either of the  
2 following:

3 (1) The existence of a separate, correlative order  
4 entered under Section 112A-15.

5 (2) Any finding or order entered in a conjoined  
6 criminal proceeding.

7 (f) Circumstances. The court, when determining whether  
8 or not a violation of an order of protection has occurred,  
9 shall not require physical manifestations of abuse on the  
10 person of the victim.

11 (g) Penalties.

12 (1) Except as provided in paragraph (3) of this  
13 subsection, where the court finds the commission of a  
14 crime or contempt of court under subsections (a) or (b)  
15 of this Section, the penalty shall be the penalty that  
16 generally applies in such criminal or contempt  
17 proceedings, and may include one or more of the  
18 following: incarceration, payment of restitution, a fine,  
19 payment of attorneys' fees and costs, or community  
20 service.

21 (2) The court shall hear and take into account  
22 evidence of any factors in aggravation or mitigation  
23 before deciding an appropriate penalty under paragraph  
24 (1) of this subsection.

25 (3) To the extent permitted by law, the court is  
26 encouraged to:

27 (i) increase the penalty for the knowing  
28 violation of any order of protection over any  
29 penalty previously imposed by any court for  
30 respondent's violation of any order of protection or  
31 penal statute involving petitioner as victim and  
32 respondent as defendant;

33 (ii) impose a minimum penalty of 24 hours  
34 imprisonment for respondent's first violation of any

1 order of protection; and  
 2 (iii) impose a minimum penalty of 48 hours  
 3 imprisonment for respondent's second or subsequent  
 4 violation of an order of protection  
 5 unless the court explicitly finds that an increased  
 6 penalty or that period of imprisonment would be  
 7 manifestly unjust.

8 (4) In addition to any other penalties imposed for  
 9 a violation of an order of protection, a criminal court  
 10 may consider evidence of any violations of an order of  
 11 protection:

12 (i) to increase, revoke or modify the bail  
 13 bond on an underlying criminal charge pursuant to  
 14 Section 110-6;

15 (ii) to revoke or modify an order of  
 16 probation, conditional discharge or supervision,  
 17 pursuant to Section 5-6-4 of the Unified Code of  
 18 Corrections;

19 (iii) to revoke or modify a sentence of  
 20 periodic imprisonment, pursuant to Section 5-7-2 of  
 21 the Unified Code of Corrections.

22 (Source: P.A. 90-732, eff. 8-11-98.)

23 Section 10. The Illinois Domestic Violence Act of 1986  
 24 is amended by changing Section 223 as follows:

25 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)

26 Sec. 223. Enforcement of orders of protection.

27 (a) When violation is crime. A violation of any order of  
 28 protection, whether issued in a civil or criminal proceeding,  
 29 shall may be enforced by a criminal court when:

30 (1) The respondent commits the crime of violation  
 31 of an order of protection pursuant to Section 12-30 of  
 32 the Criminal Code of 1961, by having knowingly violated:

1 (i) remedies described in paragraphs (1), (2),  
2 (3), (14), or (14.5) of subsection (b) of Section  
3 214 of this Act; or

4 (ii) a remedy, which is substantially similar  
5 to the remedies authorized under paragraphs (1),  
6 (2), (3), (14), and (14.5) of subsection (b) of  
7 Section 214 of this Act, in a valid order of  
8 protection which is authorized under the laws of  
9 another state, tribe, or United States territory; or

10 (iii) any other remedy when the act  
11 constitutes a crime against the protected parties as  
12 defined by the Criminal Code of 1961.

13 Prosecution for a violation of an order of  
14 protection shall not bar concurrent prosecution for any  
15 other crime, including any crime that may have been  
16 committed at the time of the violation of the order of  
17 protection; or

18 (2) The respondent commits the crime of child  
19 abduction pursuant to Section 10-5 of the Criminal Code  
20 of 1961, by having knowingly violated:

21 (i) remedies described in paragraphs (5), (6)  
22 or (8) of subsection (b) of Section 214 of this Act;  
23 or

24 (ii) a remedy, which is substantially similar  
25 to the remedies authorized under paragraphs (5),  
26 (6), or (8) of subsection (b) of Section 214 of this  
27 Act, in a valid order of protection which is  
28 authorized under the laws of another state, tribe,  
29 or United States territory.

30 (b) When violation is contempt of court. A violation of  
31 any valid Illinois order of protection, whether issued in a  
32 civil or criminal proceeding, may be enforced through civil  
33 or criminal contempt procedures, as appropriate, by any court  
34 with jurisdiction, regardless where the act or acts which

1 violated the order of protection were committed, to the  
2 extent consistent with the venue provisions of this Act.  
3 Nothing in this Act shall preclude any Illinois court from  
4 enforcing any valid order of protection issued in another  
5 state. Illinois courts may enforce orders of protection  
6 through both criminal prosecution and contempt proceedings,  
7 unless the action which is second in time is barred by  
8 collateral estoppel or the constitutional prohibition against  
9 double jeopardy.

10 (1) In a contempt proceeding where the petition for  
11 a rule to show cause sets forth facts evidencing an  
12 immediate danger that the respondent will flee the  
13 jurisdiction, conceal a child, or inflict physical abuse  
14 on the petitioner or minor children or on dependent  
15 adults in petitioner's care, the court may order the  
16 attachment of the respondent without prior service of the  
17 rule to show cause or the petition for a rule to show  
18 cause. Bond shall be set unless specifically denied in  
19 writing.

20 (2) A petition for a rule to show cause for  
21 violation of an order of protection shall be treated as  
22 an expedited proceeding.

23 (c) Violation of custody or support orders. A violation  
24 of remedies described in paragraphs (5), (6), (8), or (9) of  
25 subsection (b) of Section 214 of this Act may be enforced by  
26 any remedy provided by Section 611 of the Illinois Marriage  
27 and Dissolution of Marriage Act. The court may enforce any  
28 order for support issued under paragraph (12) of subsection  
29 (b) of Section 214 in the manner provided for under Articles  
30 V and VII of the Illinois Marriage and Dissolution of  
31 Marriage Act.

32 (d) Actual knowledge. An order of protection may be  
33 enforced pursuant to this Section if the respondent violates  
34 the order after the respondent has actual knowledge of its

1 contents as shown through one of the following means:

2 (1) By service, delivery, or notice under Section  
3 210.

4 (2) By notice under Section 210.1 or 211.

5 (3) By service of an order of protection under  
6 Section 222.

7 (4) By other means demonstrating actual knowledge  
8 of the contents of the order.

9 (e) The enforcement of an order of protection in civil  
10 or criminal court shall not be affected by either of the  
11 following:

12 (1) The existence of a separate, correlative order,  
13 entered under Section 215.

14 (2) Any finding or order entered in a conjoined  
15 criminal proceeding.

16 (f) Circumstances. The court, when determining whether  
17 or not a violation of an order of protection has occurred,  
18 shall not require physical manifestations of abuse on the  
19 person of the victim.

20 (g) Penalties.

21 (1) Except as provided in paragraph (3) of this  
22 subsection, where the court finds the commission of a  
23 crime or contempt of court under subsections (a) or (b)  
24 of this Section, the penalty shall be the penalty that  
25 generally applies in such criminal or contempt  
26 proceedings, and may include one or more of the  
27 following: incarceration, payment of restitution, a fine,  
28 payment of attorneys' fees and costs, or community  
29 service.

30 (2) The court shall hear and take into account  
31 evidence of any factors in aggravation or mitigation  
32 before deciding an appropriate penalty under paragraph  
33 (1) of this subsection.

34 (3) To the extent permitted by law, the court is



1 encouraged to:

2 (i) increase the penalty for the knowing  
3 violation of any order of protection over any  
4 penalty previously imposed by any court for  
5 respondent's violation of any order of protection or  
6 penal statute involving petitioner as victim and  
7 respondent as defendant;

8 (ii) impose a minimum penalty of 24 hours  
9 imprisonment for respondent's first violation of any  
10 order of protection; and

11 (iii) impose a minimum penalty of 48 hours  
12 imprisonment for respondent's second or subsequent  
13 violation of an order of protection

14 unless the court explicitly finds that an increased  
15 penalty or that period of imprisonment would be  
16 manifestly unjust.

17 (4) In addition to any other penalties imposed for  
18 a violation of an order of protection, a criminal court  
19 may consider evidence of any violations of an order of  
20 protection:

21 (i) to increase, revoke or modify the bail  
22 bond on an underlying criminal charge pursuant to  
23 Section 110-6 of the Code of Criminal Procedure of  
24 1963;

25 (ii) to revoke or modify an order of  
26 probation, conditional discharge or supervision,  
27 pursuant to Section 5-6-4 of the Unified Code of  
28 Corrections;

29 (iii) to revoke or modify a sentence of  
30 periodic imprisonment, pursuant to Section 5-7-2 of  
31 the Unified Code of Corrections.

32 (5) In addition to any other penalties, the court  
33 shall impose an additional fine of \$20 as authorized by  
34 Section 5-9-1.11 of the Unified Code of Corrections upon

1           any person convicted of or placed on supervision for a  
2           violation of an order of protection. The additional fine  
3           shall be imposed for each violation of this Section.

4           (Source: P.A. 90-241, eff. 1-1-98; 91-903, eff. 1-1-01.)".