

1 AN ACT in relation to domestic violence.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-14 as follows:

6 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

7 Sec. 112A-14. Order of protection; remedies.

8 (a) Issuance of order. If the court finds that
9 petitioner has been abused by a family or household member,
10 as defined in this Article, an order of protection
11 prohibiting such abuse shall issue; provided that petitioner
12 must also satisfy the requirements of one of the following
13 Sections, as appropriate: Section 112A-17 on emergency
14 orders, Section 112A-18 on interim orders, or Section 112A-19
15 on plenary orders. Petitioner shall not be denied an order
16 of protection because petitioner or respondent is a minor.
17 The court, when determining whether or not to issue an order
18 of protection, shall not require physical manifestations of
19 abuse on the person of the victim. Modification and
20 extension of prior orders of protection shall be in
21 accordance with this Article. Whenever a court upon its own
22 motion or upon the motion of any party determines that a
23 petitioner, respondent, or other necessary party is not
24 fluent in English to the extent he or she will sufficiently
25 understand an order of protection, the court shall order that
26 the order of protection be translated into the language of
27 that party. The court may determine a reasonable fee for the
28 translation services that shall be paid out of the funds of
29 the county or assessed as court costs.

30 (b) Remedies and standards. The remedies to be included
31 in an order of protection shall be determined in accordance

1 with this Section and one of the following Sections, as
2 appropriate: Section 112A-17 on emergency orders, Section
3 112A-18 on interim orders, and Section 112A-19 on plenary
4 orders. The remedies listed in this subsection shall be in
5 addition to other civil or criminal remedies available to
6 petitioner.

7 (1) Prohibition of abuse. Prohibit respondent's
8 harassment, interference with personal liberty,
9 intimidation of a dependent, physical abuse or willful
10 deprivation, as defined in this Article, if such abuse
11 has occurred or otherwise appears likely to occur if not
12 prohibited.

13 (2) Grant of exclusive possession of residence.
14 Prohibit respondent from entering or remaining in any
15 residence or household of the petitioner, including one
16 owned or leased by respondent, if petitioner has a right
17 to occupancy thereof. The grant of exclusive possession
18 of the residence shall not affect title to real property,
19 nor shall the court be limited by the standard set forth
20 in Section 701 of the Illinois Marriage and Dissolution
21 of Marriage Act.

22 (A) Right to occupancy. A party has a right
23 to occupancy of a residence or household if it is
24 solely or jointly owned or leased by that party,
25 that party's spouse, a person with a legal duty to
26 support that party or a minor child in that party's
27 care, or by any person or entity other than the
28 opposing party that authorizes that party's
29 occupancy (e.g., a domestic violence shelter).
30 Standards set forth in subparagraph (B) shall not
31 preclude equitable relief.

32 (B) Presumption of hardships. If petitioner
33 and respondent each has the right to occupancy of a
34 residence or household, the court shall balance (i)

1 the hardships to respondent and any minor child or
2 dependent adult in respondent's care resulting from
3 entry of this remedy with (ii) the hardships to
4 petitioner and any minor child or dependent adult in
5 petitioner's care resulting from continued exposure
6 to the risk of abuse (should petitioner remain at
7 the residence or household) or from loss of
8 possession of the residence or household (should
9 petitioner leave to avoid the risk of abuse). When
10 determining the balance of hardships, the court
11 shall also take into account the accessibility of
12 the residence or household. Hardships need not be
13 balanced if respondent does not have a right to
14 occupancy.

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

26 (3) Stay away order and additional prohibitions.
27 Order respondent to stay away from petitioner or any
28 other person protected by the order of protection, or
29 prohibit respondent from entering or remaining present at
30 petitioner's school, place of employment, or other
31 specified places at times when petitioner is present, or
32 both, if reasonable, given the balance of hardships.
33 Hardships need not be balanced for the court to enter a
34 stay away order or prohibit entry if respondent has no

1 right to enter the premises.

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

13 (4) Counseling. Require or recommend the
14 respondent to undergo counseling for a specified duration
15 with a social worker, psychologist, clinical
16 psychologist, psychiatrist, family service agency,
17 alcohol or substance abuse program, mental health center
18 guidance counselor, agency providing services to elders,
19 program designed for domestic violence abusers or any
20 other guidance service the court deems appropriate.

21 (5) Physical care and possession of the minor
22 child. In order to protect the minor child from abuse,
23 neglect, or unwarranted separation from the person who
24 has been the minor child's primary caretaker, or to
25 otherwise protect the well-being of the minor child, the
26 court may do either or both of the following: (i) grant
27 petitioner physical care or possession of the minor
28 child, or both, or (ii) order respondent to return a
29 minor child to, or not remove a minor child from, the
30 physical care of a parent or person in loco parentis.

31 If a court finds, after a hearing, that respondent
32 has committed abuse (as defined in Section 112A-3) of a
33 minor child, there shall be a rebuttable presumption that
34 awarding physical care to respondent would not be in the

1 minor child's best interest.

2 (6) Temporary legal custody. Award temporary legal
3 custody to petitioner in accordance with this Section,
4 the Illinois Marriage and Dissolution of Marriage Act,
5 the Illinois Parentage Act of 1984, and this State's
6 Uniform Child Custody Jurisdiction Act.

7 If a court finds, after a hearing, that respondent
8 has committed abuse (as defined in Section 112A-3) of a
9 minor child, there shall be a rebuttable presumption that
10 awarding temporary legal custody to respondent would not
11 be in the child's best interest.

12 (7) Visitation. Determine the visitation rights,
13 if any, of respondent in any case in which the court
14 awards physical care or temporary legal custody of a
15 minor child to petitioner. The court shall restrict or
16 deny respondent's visitation with a minor child if the
17 court finds that respondent has done or is likely to do
18 any of the following: (i) abuse or endanger the minor
19 child during visitation; (ii) use the visitation as an
20 opportunity to abuse or harass petitioner or petitioner's
21 family or household members; (iii) improperly conceal or
22 detain the minor child; or (iv) otherwise act in a manner
23 that is not in the best interests of the minor child.
24 The court shall not be limited by the standards set forth
25 in Section 607.1 of the Illinois Marriage and Dissolution
26 of Marriage Act. If the court grants visitation, the
27 order shall specify dates and times for the visitation to
28 take place or other specific parameters or conditions
29 that are appropriate. No order for visitation shall
30 refer merely to the term "reasonable visitation".

31 Petitioner may deny respondent access to the minor
32 child if, when respondent arrives for visitation,
33 respondent is under the influence of drugs or alcohol and
34 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
5 be prohibited from coming to petitioner's residence to
6 meet the minor child for visitation, and the parties
7 shall submit to the court their recommendations for
8 reasonable alternative arrangements for visitation. A
9 person may be approved to supervise visitation only after
10 filing an affidavit accepting that responsibility and
11 acknowledging accountability to the court.

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

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

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

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

28 (ii) the parties own the property jointly;
29 sharing it would risk abuse of petitioner by
30 respondent or is impracticable; and the balance of
31 hardships favors temporary possession by petitioner.

32 If petitioner's sole claim to ownership of the
33 property is that it is marital property, the court may
34 award petitioner temporary possession thereof under the

1 standards of subparagraph (ii) of this paragraph only if
2 a proper proceeding has been filed under the Illinois
3 Marriage and Dissolution of Marriage Act, as now or
4 hereafter amended.

5 No order under this provision shall affect title to
6 property.

7 (11) Protection of property. Forbid the respondent
8 from taking, transferring, encumbering, concealing,
9 damaging or otherwise disposing of any real or personal
10 property, except as explicitly authorized by the court,
11 if:

12 (i) petitioner, but not respondent, owns the
13 property; or

14 (ii) the parties own the property jointly, and
15 the balance of hardships favors granting this
16 remedy.

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

23 The court may further prohibit respondent from
24 improperly using the financial or other resources of an
25 aged member of the family or household for the profit or
26 advantage of respondent or of any other person.

27 (12) Order for payment of support. Order
28 respondent to pay temporary support for the petitioner or
29 any child in the petitioner's care or custody, when the
30 respondent has a legal obligation to support that person,
31 in accordance with the Illinois Marriage and Dissolution
32 of Marriage Act, which shall govern, among other matters,
33 the amount of support, payment through the clerk and
34 withholding of income to secure payment. An order for

1 child support may be granted to a petitioner with lawful
2 physical care or custody of a child, or an order or
3 agreement for physical care or custody, prior to entry of
4 an order for legal custody. Such a support order shall
5 expire upon entry of a valid order granting legal custody
6 to another, unless otherwise provided in the custody
7 order.

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

16 (i) Losses affecting family needs. If a party
17 is entitled to seek maintenance, child support or
18 property distribution from the other party under the
19 Illinois Marriage and Dissolution of Marriage Act,
20 as now or hereafter amended, the court may order
21 respondent to reimburse petitioner's actual losses,
22 to 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,
27 the court may order respondent to pay the reasonable
28 expenses incurred or to be incurred in the search
29 for and recovery of the minor child, including but
30 not limited to legal fees, court costs, private
31 investigator fees, and travel costs.

32 (14) Prohibition of entry. Prohibit the respondent
33 from entering or remaining in the residence or household
34 while the respondent is under the influence of alcohol or

1 drugs and constitutes a threat to the safety and
2 well-being of the petitioner or the petitioner's
3 children.

4 (14.5) Prohibition of firearm possession.

5 (a) Prohibit the respondent from possessing
6 any firearms during the period of the order of
7 protection. The court When--a--complaint--is--made
8 under--a--request--for--an--order--of--protection,--that--the
9 respondent--has--threatened--or--is--likely--to--use
10 firearms--illegally--against--the--petitioner,--and--the
11 respondent--is--present--in--court,--or--has--failed--to
12 appear--after--receiving--actual--notice,--the--court
13 shall--examine--on--oath--the--petitioner,--and--any
14 witnesses--who--may--be--produced.---If--the--court--is
15 satisfied--that--there--is--any--danger--of--the--illegal
16 use--of--firearms,--it shall include in the order of
17 protection the requirement that any firearms in the
18 possession of the respondent, except as provided in
19 subsection (b), be turned over to the local law
20 enforcement agency for safekeeping during the period
21 of the order of protection. If the respondent fails
22 to appear, or refuses or fails to surrender his or
23 her firearms, the court shall issue a warrant for
24 seizure of any firearm in the possession of the
25 respondent. The period of safekeeping shall be for
26 the duration of the order of protection a--stated
27 period--of--time--not--to--exceed--2--years. The firearm
28 or firearms shall be returned to the respondent at
29 the end of the stated period or at expiration of the
30 order of protection,--whichever--is--sooner.

31 (b) If the respondent is a peace officer as
32 defined in Section 2-13 of the Criminal Code of
33 1961, the court shall order that any firearms used
34 by the respondent in the performance of his or her

1 duties as a peace officer be surrendered to the
2 chief law enforcement executive of the agency in
3 which the respondent is employed, who shall retain
4 the firearms for safekeeping for the duration of the
5 order of protection ~~stated-period-not--to--exceed--2~~
6 ~~years-as-set-forth-in-the-court-order.~~

7 (15) Prohibition of access to records. If an order
8 of protection prohibits respondent from having contact
9 with the minor child, or if petitioner's address is
10 omitted under subsection (b) of Section 112A-5, or if
11 necessary to prevent abuse or wrongful removal or
12 concealment of a minor child, the order shall deny
13 respondent access to, and prohibit respondent from
14 inspecting, obtaining, or attempting to inspect or
15 obtain, school or any other records of the minor child
16 who is in the care of petitioner.

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

22 (17) Order for injunctive relief. Enter injunctive
23 relief necessary or appropriate to prevent further abuse
24 of a family or household member or to effectuate one of
25 the granted remedies, if supported by the balance of
26 hardships. If the harm to be prevented by the injunction
27 is abuse or any other harm that one of the remedies
28 listed in paragraphs (1) through (16) of this subsection
29 is designed to prevent, no further evidence is necessary
30 to establish that the harm is an irreparable injury.

31 (c) Relevant factors; findings.

32 (1) In determining whether to grant a specific
33 remedy, other than payment of support, the court shall
34 consider relevant factors, including but not limited to

1 the following:

2 (i) the nature, frequency, severity, pattern
3 and consequences of the respondent's past abuse of
4 the petitioner or any family or household member,
5 including the concealment of his or her location in
6 order to evade service of process or notice, and the
7 likelihood of danger of future abuse to petitioner
8 or any member of petitioner's or respondent's family
9 or household; and

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

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

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

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

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

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

32 (i) That the court has considered the
33 applicable relevant factors described in paragraphs
34 (1) and (2) of this subsection.

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

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

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

12 When a verified petition for an emergency order of
13 protection in accordance with the requirements of
14 Sections 112A-5 and 112A-17 is presented to the court,
15 the court shall examine petitioner on oath or
16 affirmation. An emergency order of protection shall be
17 issued by the court if it appears from the contents of
18 the petition and the examination of petitioner that the
19 averments are sufficient to indicate abuse by respondent
20 and to support the granting of relief under the issuance
21 of the emergency order of protection.

22 (5) Never married parties. No rights or
23 responsibilities for a minor child born outside of
24 marriage attach to a putative father until a father and
25 child relationship has been established under the
26 Illinois Parentage Act of 1984. Absent such an
27 adjudication, no putative father shall be granted
28 temporary custody of the minor child, visitation with the
29 minor child, or physical care and possession of the minor
30 child, nor shall an order of payment for support of the
31 minor child be entered.

32 (d) Balance of hardships; findings. If the court finds
33 that the balance of hardships does not support the granting
34 of a remedy governed by paragraph (2), (3), (10), (11), or

1 (16) of subsection (b) of this Section, which may require
2 such balancing, the court's findings shall so indicate and
3 shall include a finding as to whether granting the remedy
4 will result in hardship to respondent that would
5 substantially outweigh the hardship to petitioner from denial
6 of the remedy. The findings shall be an official record or
7 in writing.

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

10 (1) Respondent has cause for any use of force,
11 unless that cause satisfies the standards for justifiable
12 use of force provided by Article VII of the Criminal Code
13 of 1961;

14 (2) Respondent was voluntarily intoxicated;

15 (3) Petitioner acted in self-defense or defense of
16 another, provided that, if petitioner utilized force,
17 such force was justifiable under Article VII of the
18 Criminal Code of 1961;

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

21 (5) Petitioner left the residence or household to
22 avoid further abuse by respondent;

23 (6) Petitioner did not leave the residence or
24 household to avoid further abuse by respondent;

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

29 (Source: P.A. 89-367, eff. 1-1-96.)

30 Section 10. The Illinois Domestic Violence Act of 1986
31 is amended by changing Section 214 as follows:

32 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

1 Sec. 214. Order of protection; remedies.

2 (a) Issuance of order. If the court finds that
3 petitioner has been abused by a family or household member or
4 that petitioner is a high-risk adult who has been abused,
5 neglected, or exploited, as defined in this Act, an order of
6 protection prohibiting the abuse, neglect, or exploitation
7 shall issue; provided that petitioner must also satisfy the
8 requirements of one of the following Sections, as
9 appropriate: Section 217 on emergency orders, Section 218 on
10 interim orders, or Section 219 on plenary orders. Petitioner
11 shall not be denied an order of protection because petitioner
12 or respondent is a minor. The court, when determining whether
13 or not to issue an order of protection, shall not require
14 physical manifestations of abuse on the person of the victim.
15 Modification and extension of prior orders of protection
16 shall be in accordance with this Act. Whenever a court upon
17 its own motion or upon the motion of any party determines
18 that a petitioner, respondent, or other necessary party is
19 not fluent in English to the extent he or she will
20 sufficiently understand an order of protection, the court
21 shall order that the order of protection be translated into
22 the language of that party. The court may determine a
23 reasonable fee for the translation services that shall be
24 paid out of the funds of the county or assessed as court
25 costs.

26 (b) Remedies and standards. The remedies to be included
27 in an order of protection shall be determined in accordance
28 with this Section and one of the following Sections, as
29 appropriate: Section 217 on emergency orders, Section 218 on
30 interim orders, and Section 219 on plenary orders. The
31 remedies listed in this subsection shall be in addition to
32 other civil or criminal remedies available to petitioner.

33 (1) Prohibition of abuse, neglect, or exploitation.
34 Prohibit respondent's harassment, interference with

1 personal liberty, intimidation of a dependent, physical
2 abuse, or willful deprivation, neglect or exploitation,
3 as defined in this Act, or stalking of the petitioner, as
4 defined in Section 12-7.3 of the Criminal Code of 1961,
5 if such abuse, neglect, exploitation, or stalking has
6 occurred or otherwise appears likely to occur if not
7 prohibited.

8 (2) Grant of exclusive possession of residence.
9 Prohibit respondent from entering or remaining in any
10 residence or household of the petitioner, including one
11 owned or leased by respondent, if petitioner has a right
12 to occupancy thereof. The grant of exclusive possession
13 of the residence shall not affect title to real property,
14 nor shall the court be limited by the standard set forth
15 in Section 701 of the Illinois Marriage and Dissolution
16 of Marriage Act.

17 (A) Right to occupancy. A party has a right
18 to occupancy of a residence or household if it is
19 solely or jointly owned or leased by that party,
20 that party's spouse, a person with a legal duty to
21 support that party or a minor child in that party's
22 care, or by any person or entity other than the
23 opposing party that authorizes that party's
24 occupancy (e.g., a domestic violence shelter).
25 Standards set forth in subparagraph (B) shall not
26 preclude equitable relief.

27 (B) Presumption of hardships. If petitioner
28 and respondent each has the right to occupancy of a
29 residence or household, the court shall balance (i)
30 the hardships to respondent and any minor child or
31 dependent adult in respondent's care resulting from
32 entry of this remedy with (ii) the hardships to
33 petitioner and any minor child or dependent adult in
34 petitioner's care resulting from continued exposure

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

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

21 (3) Stay away order and additional prohibitions.
22 Order respondent to stay away from petitioner or any
23 other person protected by the order of protection, or
24 prohibit respondent from entering or remaining present at
25 petitioner's school, place of employment, or other
26 specified places at times when petitioner is present, or
27 both, if reasonable, given the balance of hardships.
28 Hardships need not be balanced for the court to enter a
29 stay away order or prohibit entry if respondent has no
30 right to enter the premises.

31 If an order of protection grants petitioner
32 exclusive possession of the residence, or prohibits
33 respondent from entering the residence, or orders
34 respondent to stay away from petitioner or other

1 protected persons, then the court may allow respondent
2 access to the residence to remove items of clothing and
3 personal adornment used exclusively by respondent,
4 medications, and other items as the court directs. The
5 right to access shall be exercised on only one occasion
6 as the court directs and in the presence of an
7 agreed-upon adult third party or law enforcement officer.

8 (4) Counseling. Require or recommend the
9 respondent to undergo counseling for a specified duration
10 with a social worker, psychologist, clinical
11 psychologist, psychiatrist, family service agency,
12 alcohol or substance abuse program, mental health center
13 guidance counselor, agency providing services to elders,
14 program designed for domestic violence abusers or any
15 other guidance service the court deems appropriate.

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

26 If a court finds, after a hearing, that respondent
27 has committed abuse (as defined in Section 103) of a
28 minor child, there shall be a rebuttable presumption that
29 awarding physical care to respondent would not be in the
30 minor child's best interest.

31 (6) Temporary legal custody. Award temporary legal
32 custody to petitioner in accordance with this Section,
33 the Illinois Marriage and Dissolution of Marriage Act,
34 the Illinois Parentage Act of 1984, and this State's

1 Uniform Child Custody Jurisdiction Act.

2 If a court finds, after a hearing, that respondent
3 has committed abuse (as defined in Section 103) of a
4 minor child, there shall be a rebuttable presumption that
5 awarding temporary legal custody to respondent would not
6 be in the child's best interest.

7 (7) Visitation. Determine the visitation rights,
8 if any, of respondent in any case in which the court
9 awards physical care or temporary legal custody of a
10 minor child to petitioner. The court shall restrict or
11 deny respondent's visitation with a minor child if the
12 court finds that respondent has done or is likely to do
13 any of the following: (i) abuse or endanger the minor
14 child during visitation; (ii) use the visitation as an
15 opportunity to abuse or harass petitioner or petitioner's
16 family or household members; (iii) improperly conceal or
17 detain the minor child; or (iv) otherwise act in a manner
18 that is not in the best interests of the minor child.
19 The court shall not be limited by the standards set forth
20 in Section 607.1 of the Illinois Marriage and Dissolution
21 of Marriage Act. If the court grants visitation, the
22 order shall specify dates and times for the visitation to
23 take place or other specific parameters or conditions
24 that are appropriate. No order for visitation shall
25 refer merely to the term "reasonable visitation".

26 Petitioner may deny respondent access to the minor
27 child if, when respondent arrives for visitation,
28 respondent is under the influence of drugs or alcohol and
29 constitutes a threat to the safety and well-being of
30 petitioner or petitioner's minor children or is behaving
31 in a violent or abusive manner.

32 If necessary to protect any member of petitioner's
33 family or household from future abuse, respondent shall
34 be prohibited from coming to petitioner's residence to

1 meet the minor child for visitation, and the parties
2 shall submit to the court their recommendations for
3 reasonable alternative arrangements for visitation. A
4 person may be approved to supervise visitation only after
5 filing an affidavit accepting that responsibility and
6 acknowledging accountability to the court.

7 (8) Removal or concealment of minor child. Prohibit
8 respondent from removing a minor child from the State or
9 concealing the child within the State.

10 (9) Order to appear. Order the respondent to
11 appear in court, alone or with a minor child, to prevent
12 abuse, neglect, removal or concealment of the child, to
13 return the child to the custody or care of the petitioner
14 or to permit any court-ordered interview or examination
15 of the child or the respondent.

16 (10) Possession of personal property. Grant
17 petitioner exclusive possession of personal property and,
18 if respondent has possession or control, direct
19 respondent to promptly make it available to petitioner,
20 if:

21 (i) petitioner, but not respondent, owns the
22 property; or

23 (ii) the parties own the property jointly;
24 sharing it would risk abuse of petitioner by
25 respondent or is impracticable; and the balance of
26 hardships favors temporary possession by petitioner.

27 If petitioner's sole claim to ownership of the
28 property is that it is marital property, the court may
29 award petitioner temporary possession thereof under the
30 standards of subparagraph (ii) of this paragraph only if
31 a proper proceeding has been filed under the Illinois
32 Marriage and Dissolution of Marriage Act, as now or
33 hereafter amended.

34 No order under this provision shall affect title to

1 property.

2 (11) Protection of property. Forbid the respondent
3 from taking, transferring, encumbering, concealing,
4 damaging or otherwise disposing of any real or personal
5 property, except as explicitly authorized by the court,
6 if:

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

9 (ii) the parties own the property jointly, and
10 the balance of hardships favors granting this
11 remedy.

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

18 The court may further prohibit respondent from
19 improperly using the financial or other resources of an
20 aged member of the family or household for the profit or
21 advantage of respondent or of any other person.

22 (12) Order for payment of support. Order
23 respondent to pay temporary support for the petitioner or
24 any child in the petitioner's care or custody, when the
25 respondent has a legal obligation to support that person,
26 in accordance with the Illinois Marriage and Dissolution
27 of Marriage Act, which shall govern, among other matters,
28 the amount of support, payment through the clerk and
29 withholding of income to secure payment. An order for
30 child support may be granted to a petitioner with lawful
31 physical care or custody of a child, or an order or
32 agreement for physical care or custody, prior to entry of
33 an order for legal custody. Such a support order shall
34 expire upon entry of a valid order granting legal custody

1 to another, unless otherwise provided in the custody
2 order.

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

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

21 (ii) Recovery of expenses. In the case of an
22 improper concealment or removal of a minor child,
23 the court may order respondent to pay the reasonable
24 expenses incurred or to be incurred in the search
25 for and recovery of the minor child, including but
26 not limited to legal fees, court costs, private
27 investigator fees, and travel costs.

28 (14) Prohibition of entry. Prohibit the respondent
29 from entering or remaining in the residence or household
30 while the respondent is under the influence of alcohol or
31 drugs and constitutes a threat to the safety and
32 well-being of the petitioner or the petitioner's
33 children.

34 (14.5) Prohibition of firearm possession.

1 (a) Prohibit the respondent from possessing
2 any firearms during the period of the order of
3 protection. The court When--a--complaint-is-made
4 under-a-request-for-an-order-of-protection, that the
5 respondent--has--threatened--or--is--likely--to--use
6 firearms-illegally-against-the-petitioner,--and--the
7 respondent--is--present--in--court,--or-has-failed-to
8 appear-after--receiving--actual--notice,--the--court
9 shall--examine--on--oath--the--petitioner,--and--any
10 witnesses--who--may--be--produced.---If-the-court-is
11 satisfied-that-there-is-any-danger--of--the--illegal
12 use--of--firearms,--it shall issue an order that any
13 firearms in the possession of the respondent, except
14 as provided in subsection (b), be turned over to the
15 local law enforcement agency for safekeeping. If
16 the respondent has failed to appear, the court shall
17 issue a warrant for seizure of any firearm in the
18 possession of the respondent. The period of
19 safekeeping shall be for the duration of the order
20 of protection a-stated-period-of-time-not-to--exceed
21 2--years. The firearm or firearms shall be returned
22 to the respondent at-the-end-of-the-stated-period-or
23 at expiration of the order of protection,--whichever
24 is-sooner.

25 (b) If the respondent is a peace officer as
26 defined in Section 2-13 of the Criminal Code of
27 1961, the court shall order that any firearms used
28 by the respondent in the performance of his or her
29 duties as a peace officer be surrendered to the
30 chief law enforcement executive of the agency in
31 which the respondent is employed, who shall retain
32 the firearms for safekeeping for the duration of the
33 order of protection for-the--stated--period--not--to
34 exceed-2-years-as-set-forth-in-the-court-order.

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

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

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

27 (c) Relevant factors; findings.

28 (1) In determining whether to grant a specific
29 remedy, other than payment of support, the court shall
30 consider relevant factors, including but not limited to
31 the following:

32 (i) the nature, frequency, severity, pattern
33 and consequences of the respondent's past abuse,
34 neglect or exploitation of the petitioner or any

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

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

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

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

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

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

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

29 (i) That the court has considered the
30 applicable relevant factors described in paragraphs
31 (1) and (2) of this subsection.

32 (ii) Whether the conduct or actions of
33 respondent, unless prohibited, will likely cause
34 irreparable harm or continued abuse.

1 (iii) Whether it is necessary to grant the
2 requested relief in order to protect petitioner or
3 other alleged abused persons.

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

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

19 (5) Never married parties. No rights or
20 responsibilities for a minor child born outside of
21 marriage attach to a putative father until a father and
22 child relationship has been established under the
23 Illinois Parentage Act of 1984, the Illinois Public Aid
24 Code, Section 12 of the Vital Records Act, the Juvenile
25 Court Act of 1987, the Probate Act of 1985, the Revised
26 Uniform Reciprocal Enforcement of Support Act, the
27 Uniform Interstate Family Support Act, the Expedited
28 Child Support Act of 1990, any judicial, administrative,
29 or other act of another state or territory, any other
30 Illinois statute, or by any foreign nation establishing
31 the father and child relationship, any other proceeding
32 substantially in conformity with the Personal
33 Responsibility and Work Opportunity Reconciliation Act of
34 1996 (Pub. L. 104-193), or where both parties appeared in

1 open court or at an administrative hearing acknowledging
2 under oath or admitting by affirmation the existence of
3 a father and child relationship. Absent such an
4 adjudication, finding, or acknowledgement, no putative
5 father shall be granted temporary custody of the minor
6 child, visitation with the minor child, or physical care
7 and possession of the minor child, nor shall an order of
8 payment for support of the minor child be entered.

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

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

21 (1) Respondent has cause for any use of force,
22 unless that cause satisfies the standards for justifiable
23 use of force provided by Article VII of the Criminal Code
24 of 1961;

25 (2) Respondent was voluntarily intoxicated;

26 (3) Petitioner acted in self-defense or defense of
27 another, provided that, if petitioner utilized force,
28 such force was justifiable under Article VII of the
29 Criminal Code of 1961;

30 (4) Petitioner did not act in self-defense or
31 defense of another;

32 (5) Petitioner left the residence or household to
33 avoid further abuse, neglect, or exploitation by
34 respondent;

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

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

9 (Source: P.A. 89-367, eff. 1-1-96; 90-118, eff. 1-1-98.)