

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 Illinois Domestic Violence Act of 1986 is
5 amended by changing Sections 202 and 222 as follows:

6 (750 ILCS 60/202) (from Ch. 40, par. 2312-2)

7 Sec. 202. Commencement of action; filing fees;
8 dismissal.

9 (a) How to commence action. Actions for orders of
10 protection are commenced:

11 (1) Independently: By filing a petition for an
12 order of protection in any civil court, unless specific
13 courts are designated by local rule or order.

14 (2) In conjunction with another civil proceeding:
15 By filing a petition for an order of protection under the
16 same case number as another civil proceeding involving
17 the parties, including but not limited to: (i) any
18 proceeding under the Illinois Marriage and Dissolution of
19 Marriage Act, Illinois Parentage Act of 1984, Nonsupport
20 of Spouse and Children Act, Revised Uniform Reciprocal
21 Enforcement of Support Act or an action for nonsupport
22 brought under Article 10 of the Illinois Public Aid Code,
23 provided that a petitioner and the respondent are a party
24 to or the subject of that proceeding or (ii) a
25 guardianship proceeding under the Probate Act of 1975, or
26 a proceeding for involuntary commitment under the Mental
27 Health and Developmental Disabilities Code, or any
28 proceeding, other than a delinquency petition, under the
29 Juvenile Court Act of 1987, provided that a petitioner or
30 the respondent is a party to or the subject of such
31 proceeding.

1 (3) In conjunction with a delinquency petition or a
2 criminal prosecution: By filing a petition for an order
3 of protection, under the same case number as the
4 delinquency petition or criminal prosecution, to be
5 granted during pre-trial release of a defendant, with any
6 dispositional order issued under Section 5-710 of the
7 Juvenile Court Act of 1987 or as a condition of release,
8 supervision, conditional discharge, probation, periodic
9 imprisonment, parole or mandatory supervised release, or
10 in conjunction with imprisonment or a bond forfeiture
11 warrant; provided that:

12 (i) the violation is alleged in an
13 information, complaint, indictment or delinquency
14 petition on file, and the alleged offender and
15 victim are family or household members or persons
16 protected by this Act; and

17 (ii) the petition, which is filed by the
18 State's Attorney, names a victim of the alleged
19 crime as a petitioner.

20 (b) Filing, certification, and service fees. No fee
21 shall be charged by the clerk for filing, amending, vacating,
22 certifying, or photocopying petitions or certifying orders;
23 or for issuing alias summons; or for any related filing
24 service. No fee shall be charged by the sheriff for service
25 by the sheriff of a petition, rule, motion, or order in an
26 action commenced under this Section.

27 (c) Dismissal and consolidation. Withdrawal or
28 dismissal of any petition for an order of protection prior to
29 adjudication where the petitioner is represented by the State
30 shall operate as a dismissal without prejudice. No action
31 for an order of protection shall be dismissed because the
32 respondent is being prosecuted for a crime against the
33 petitioner. An independent action may be consolidated with
34 another civil proceeding, as provided by paragraph (2) of

1 subsection (a) of this Section. For any action commenced
2 under paragraph (2) or (3) of subsection (a) of this Section,
3 dismissal of the conjoined case (or a finding of not guilty)
4 shall not require dismissal of the action for the order of
5 protection; instead, it may be treated as an independent
6 action and, if necessary and appropriate, transferred to a
7 different court or division. Dismissal of any conjoined case
8 shall not affect the validity of any previously issued order
9 of protection, and thereafter subsections (b)(1) and (b)(2)
10 of Section 220 shall be inapplicable to such order.

11 (d) Pro se petitions. The court shall provide, through
12 the office of the clerk of the court, simplified forms and
13 clerical assistance to help with the writing and filing of a
14 petition under this Section by any person not represented by
15 counsel. In addition, that assistance may be provided by the
16 state's attorney.

17 (Source: P.A. 90-590, eff. 1-1-99.)

18 (750 ILCS 60/222) (from Ch. 40, par. 2312-22)

19 Sec. 222. Notice of orders.

20 (a) Entry and issuance. Upon issuance of any order of
21 protection, the clerk shall immediately, or on the next court
22 day if an emergency order is issued in accordance with
23 subsection (c) of Section 217, (i) enter the order on the
24 record and file it in accordance with the circuit court
25 procedures and (ii) provide a file stamped copy of the order
26 to respondent, if present, and to petitioner.

27 (b) Filing with sheriff. The clerk of the issuing judge
28 shall, or the petitioner may, on the same day that an order
29 of protection is issued, file a certified copy of that order
30 with the sheriff or other law enforcement officials charged
31 with maintaining Department of State Police records or
32 charged with serving the order upon respondent. If the order
33 was issued in accordance with subsection (c) of Section 217,

1 the clerk shall on the next court day, file a certified copy
2 of the order with the Sheriff or other law enforcement
3 officials charged with maintaining Department of State Police
4 records.

5 (c) Service by sheriff. Unless respondent was present
6 in court when the order was issued, the sheriff, other law
7 enforcement official or special process server shall promptly
8 serve that order upon respondent and file proof of such
9 service, in the manner provided for service of process in
10 civil proceedings. Instead of serving the order upon the
11 respondent, however, the sheriff, other law enforcement
12 official, or special process server may serve the respondent
13 with a short form notification as provided in Section 222.10.
14 If process has not yet been served upon the respondent, it
15 shall be served with the order or short form notification. A
16 single fee may be charged for service of an order obtained in
17 civil court, or for service of such an order together with
18 process, unless waived or deferred under Section 210.

19 (c-5) If the person against whom the order of protection
20 is issued is arrested and the written order is issued in
21 accordance with subsection (c) of Section 217 and received by
22 the custodial law enforcement agency before the respondent or
23 arrestee is released from custody, the custodial law
24 enforcement agent shall promptly serve the order upon the
25 respondent or arrestee before the respondent or arrestee is
26 released from custody. In no event shall detention of the
27 respondent or arrestee be extended for hearing on the
28 petition for order of protection or receipt of the order
29 issued under Section 217 of this Act.

30 (d) Extensions, modifications and revocations. Any
31 order extending, modifying or revoking any order of
32 protection shall be promptly recorded, issued and served as
33 provided in this Section.

34 (e) Notice to schools. Upon the request of the

1 petitioner, or after an order of protection is entered within
2 which any children of the petitioner are protected persons
3 within 24 hours of the issuance of an order of protection,
4 the clerk of the issuing judge shall send written notice of
5 the order of protection along with a certified copy of the
6 order of protection to the day-care facility, pre-school or
7 pre-kindergarten, or private school or the principal office
8 of the public school district or any college or university,
9 or the State licensed day care facility or the State licensed
10 before-school or after-school program facility in which the
11 petitioner informs the clerk that any child who is a
12 protected person under the order of protection or any child
13 of the petitioner is enrolled. The petitioner must provide
14 the name, address, and telephone number of the school or
15 facility to the clerk. If the child transfers enrollment to
16 another day-care facility, pre-school, pre-kindergarten,
17 private school, public school, college, or university, the
18 petitioner may, within 24 hours of the transfer, send to the
19 clerk written notice of the transfer, including the name and
20 address of the institution to which the child is
21 transferring. Within 24 hours of receipt of notice from the
22 petitioner that a child is transferring to another day-care
23 facility, pre-school, pre-kindergarten, private school,
24 public school, college, or university, the clerk shall send
25 written notice of the order of protection, along with a
26 certified copy of the order, to the institution to which the
27 child is transferring.

28 (f) Disclosure by schools, day care, and before-school
29 or after-school program facilities. After receiving a
30 certified copy of an order of protection that prohibits a
31 respondent's access to records, neither a day-care facility,
32 pre-school, pre-kindergarten, public or private school,
33 college, or university, State licensed day care facility, a
34 State licensed before-school or after-school program

1 facility, nor its employees shall allow a respondent access
2 to a protected child's records or release information in
3 those records to the respondent. The school, day care
4 facilities, or before-school or after-school program facility
5 shall file the copy of the order of protection in the records
6 of a child who is a protected person under the order of
7 protection. When a child who is a protected person under the
8 order of protection transfers to another day-care facility,
9 pre-school, pre-kindergarten, public or private school,
10 college, or university, the institution from which the child
11 is transferring may, at the request of the petitioner,
12 provide, within 24 hours of the transfer, written notice of
13 the order of protection, along with a certified copy of the
14 order, to the institution to which the child is transferring.
15 (Source: P.A. 92-90, eff. 7-18-01; 92-162, eff. 1-1-02;
16 92-651, eff. 7-11-02.)