



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0259

Introduced 1/14/2005, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Public Aid Code, the Circuit Courts Act, the Juvenile Court Act of 1987, the Illinois Marriage and Dissolution of Marriage Act, and other Acts. Provides that the chief judge of each circuit shall establish a separate family division for the circuit for the purpose of hearing all family cases. Provides that the chief judge shall designate an appropriate number of circuit judges or associate judges, or both, to serve in the family division. Provides that "family case" means an action in which the court exercises its jurisdiction under Article X of the Illinois Public Aid Code (concerning the enforcement of child support obligations), Article II, III, or IV of the Juvenile Court Act of 1987 (concerning abused, neglected, or dependent minors, minors requiring authoritative intervention, and addicted minors), the Illinois Marriage and Dissolution of Marriage Act, and other designated Acts. Provides for a right to trial by jury in family cases. (Under current law, trial by jury is expressly prohibited under the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, and the Illinois Domestic Violence Act of 1986.) Provides that the court may order parties to a family case to undergo counseling as the court deems appropriate, based on the evidence.

LRB094 04966 DRJ 34996 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT in relation to courts.

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

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 10-10 as follows:

6 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

7 Sec. 10-10. Court enforcement; applicability also to  
8 persons who are not applicants or recipients. Except where the  
9 Illinois Department, by agreement, acts for the local  
10 governmental unit, as provided in Section 10-3.1, local  
11 governmental units shall refer to the State's Attorney or to  
12 the proper legal representative of the governmental unit, for  
13 judicial enforcement as herein provided, instances of  
14 non-support or insufficient support when the dependents are  
15 applicants or recipients under Article VI. The Child and Spouse  
16 Support Unit established by Section 10-3.1 may institute in  
17 behalf of the Illinois Department any actions under this  
18 Section for judicial enforcement of the support liability when  
19 the dependents are (a) applicants or recipients under Articles  
20 III, IV, V or VII; (b) applicants or recipients in a local  
21 governmental unit when the Illinois Department, by agreement,  
22 acts for the unit; or (c) non-applicants or non-recipients who  
23 are receiving child support enforcement services under this  
24 Article X, as provided in Section 10-1. Where the Child and  
25 Spouse Support Unit has exercised its option and discretion not  
26 to apply the provisions of Sections 10-3 through 10-8, the  
27 failure by the Unit to apply such provisions shall not be a bar  
28 to bringing an action under this Section.

29 Action shall be brought in the circuit court to obtain  
30 support, or for the recovery of aid granted during the period  
31 such support was not provided, or both for the obtainment of  
32 support and the recovery of the aid provided. Actions for the

1 recovery of aid may be taken separately or they may be  
2 consolidated with actions to obtain support. Such actions may  
3 be brought in the name of the person or persons requiring  
4 support, or may be brought in the name of the Illinois  
5 Department or the local governmental unit, as the case  
6 requires, in behalf of such persons.

7 In accordance with the Code of Civil Procedure, in an  
8 action to obtain support or for the recovery of aid, the  
9 responsible relative, a person requiring support, the  
10 Department of Human Services, or the local governmental unit  
11 may demand a trial by jury as to the issues of fact raised in  
12 the action.

13 The court may enter such orders for the payment of moneys  
14 for the support of the person as may be just and equitable and  
15 may direct payment thereof for such period or periods of time  
16 as the circumstances require, including support for a period  
17 before the date the order for support is entered. The order may  
18 be entered against any or all of the defendant responsible  
19 relatives and may be based upon the proportionate ability of  
20 each to contribute to the person's support.

21 The Court shall determine the amount of child support  
22 (including child support for a period before the date the order  
23 for child support is entered) by using the guidelines and  
24 standards set forth in subsection (a) of Section 505 and in  
25 Section 505.2 of the Illinois Marriage and Dissolution of  
26 Marriage Act. For purposes of determining the amount of child  
27 support to be paid for a period before the date the order for  
28 child support is entered, there is a rebuttable presumption  
29 that the responsible relative's net income for that period was  
30 the same as his or her net income at the time the order is  
31 entered.

32 If (i) the responsible relative was properly served with a  
33 request for discovery of financial information relating to the  
34 responsible relative's ability to provide child support, (ii)  
35 the responsible relative failed to comply with the request,  
36 despite having been ordered to do so by the court, and (iii)

1 the responsible relative is not present at the hearing to  
2 determine support despite having received proper notice, then  
3 any relevant financial information concerning the responsible  
4 relative's ability to provide child support that was obtained  
5 pursuant to subpoena and proper notice shall be admitted into  
6 evidence without the need to establish any further foundation  
7 for its admission.

8 An order entered under this Section shall include a  
9 provision requiring the obligor to report to the obligee and to  
10 the clerk of court within 10 days each time the obligor obtains  
11 new employment, and each time the obligor's employment is  
12 terminated for any reason. The report shall be in writing and  
13 shall, in the case of new employment, include the name and  
14 address of the new employer. Failure to report new employment  
15 or the termination of current employment, if coupled with  
16 nonpayment of support for a period in excess of 60 days, is  
17 indirect criminal contempt. For any obligor arrested for  
18 failure to report new employment bond shall be set in the  
19 amount of the child support that should have been paid during  
20 the period of unreported employment. An order entered under  
21 this Section shall also include a provision requiring the  
22 obligor and obligee parents to advise each other of a change in  
23 residence within 5 days of the change except when the court  
24 finds that the physical, mental, or emotional health of a party  
25 or that of a minor child, or both, would be seriously  
26 endangered by disclosure of the party's address.

27 The Court shall determine the amount of maintenance using  
28 the standards set forth in Section 504 of the Illinois Marriage  
29 and Dissolution of Marriage Act.

30 Any new or existing support order entered by the court  
31 under this Section shall be deemed to be a series of judgments  
32 against the person obligated to pay support thereunder, each  
33 such judgment to be in the amount of each payment or  
34 installment of support and each such judgment to be deemed  
35 entered as of the date the corresponding payment or installment  
36 becomes due under the terms of the support order. Each such

1 judgment shall have the full force, effect and attributes of  
2 any other judgment of this State, including the ability to be  
3 enforced. Any such judgment is subject to modification or  
4 termination only in accordance with Section 510 of the Illinois  
5 Marriage and Dissolution of Marriage Act. A lien arises by  
6 operation of law against the real and personal property of the  
7 noncustodial parent for each installment of overdue support  
8 owed by the noncustodial parent.

9 In an action to obtain support or for the recovery of aid,  
10 the court at any time may order the responsible relative or a  
11 person requiring support to undergo counseling as the court  
12 deems appropriate, based on the evidence, for the purpose of  
13 ensuring the payment of any required support or recovered aid.

14 When an order is entered for the support of a minor, the  
15 court may provide therein for reasonable visitation of the  
16 minor by the person or persons who provided support pursuant to  
17 the order. Whoever willfully refuses to comply with such  
18 visitation order or willfully interferes with its enforcement  
19 may be declared in contempt of court and punished therefor.

20 Except where the local governmental unit has entered into  
21 an agreement with the Illinois Department for the Child and  
22 Spouse Support Unit to act for it, as provided in Section  
23 10-3.1, support orders entered by the court in cases involving  
24 applicants or recipients under Article VI shall provide that  
25 payments thereunder be made directly to the local governmental  
26 unit. Orders for the support of all other applicants or  
27 recipients shall provide that payments thereunder be made  
28 directly to the Illinois Department. In accordance with federal  
29 law and regulations, the Illinois Department may continue to  
30 collect current maintenance payments or child support  
31 payments, or both, after those persons cease to receive public  
32 assistance and until termination of services under Article X.  
33 The Illinois Department shall pay the net amount collected to  
34 those persons after deducting any costs incurred in making the  
35 collection or any collection fee from the amount of any  
36 recovery made. In both cases the order shall permit the local

1 governmental unit or the Illinois Department, as the case may  
2 be, to direct the responsible relative or relatives to make  
3 support payments directly to the needy person, or to some  
4 person or agency in his behalf, upon removal of the person from  
5 the public aid rolls or upon termination of services under  
6 Article X.

7 If the notice of support due issued pursuant to Section  
8 10-7 directs that support payments be made directly to the  
9 needy person, or to some person or agency in his behalf, and  
10 the recipient is removed from the public aid rolls, court  
11 action may be taken against the responsible relative hereunder  
12 if he fails to furnish support in accordance with the terms of  
13 such notice.

14 Actions may also be brought under this Section in behalf of  
15 any person who is in need of support from responsible  
16 relatives, as defined in Section 2-11 of Article II who is not  
17 an applicant for or recipient of financial aid under this Code.  
18 In such instances, the State's Attorney of the county in which  
19 such person resides shall bring action against the responsible  
20 relatives hereunder. If the Illinois Department, as authorized  
21 by Section 10-1, extends the child support enforcement services  
22 provided by this Article to spouses and dependent children who  
23 are not applicants or recipients under this Code, the Child and  
24 Spouse Support Unit established by Section 10-3.1 shall bring  
25 action against the responsible relatives hereunder and any  
26 support orders entered by the court in such cases shall provide  
27 that payments thereunder be made directly to the Illinois  
28 Department.

29 Whenever it is determined in a proceeding to establish or  
30 enforce a child support or maintenance obligation that the  
31 person owing a duty of support is unemployed, the court may  
32 order the person to seek employment and report periodically to  
33 the court with a diary, listing or other memorandum of his or  
34 her efforts in accordance with such order. Additionally, the  
35 court may order the unemployed person to report to the  
36 Department of Employment Security for job search services or to

1 make application with the local Job Training Partnership Act  
2 provider for participation in job search, training or work  
3 programs and where the duty of support is owed to a child  
4 receiving child support enforcement services under this  
5 Article X, the court may order the unemployed person to report  
6 to the Illinois Department for participation in job search,  
7 training or work programs established under Section 9-6 and  
8 Article IXA of this Code.

9 Whenever it is determined that a person owes past-due  
10 support for a child receiving assistance under this Code, the  
11 court shall order at the request of the Illinois Department:

12 (1) that the person pay the past-due support in  
13 accordance with a plan approved by the court; or

14 (2) if the person owing past-due support is unemployed,  
15 is subject to such a plan, and is not incapacitated, that  
16 the person participate in such job search, training, or  
17 work programs established under Section 9-6 and Article IXA  
18 of this Code as the court deems appropriate.

19 A determination under this Section shall not be  
20 administratively reviewable by the procedures specified in  
21 Sections 10-12, and 10-13 to 10-13.10. Any determination under  
22 these Sections, if made the basis of court action under this  
23 Section, shall not affect the de novo judicial determination  
24 required under this Section.

25 A one-time charge of 20% is imposable upon the amount of  
26 past-due child support owed on July 1, 1988 which has accrued  
27 under a support order entered by the court. The charge shall be  
28 imposed in accordance with the provisions of Section 10-21 of  
29 this Code and shall be enforced by the court upon petition.

30 All orders for support, when entered or modified, shall  
31 include a provision requiring the non-custodial parent to  
32 notify the court and, in cases in which a party is receiving  
33 child support enforcement services under this Article X, the  
34 Illinois Department, within 7 days, (i) of the name, address,  
35 and telephone number of any new employer of the non-custodial  
36 parent, (ii) whether the non-custodial parent has access to

1 health insurance coverage through the employer or other group  
2 coverage and, if so, the policy name and number and the names  
3 of persons covered under the policy, and (iii) of any new  
4 residential or mailing address or telephone number of the  
5 non-custodial parent. In any subsequent action to enforce a  
6 support order, upon a sufficient showing that a diligent effort  
7 has been made to ascertain the location of the non-custodial  
8 parent, service of process or provision of notice necessary in  
9 the case may be made at the last known address of the  
10 non-custodial parent in any manner expressly provided by the  
11 Code of Civil Procedure or this Code, which service shall be  
12 sufficient for purposes of due process.

13 An order for support shall include a date on which the  
14 current support obligation terminates. The termination date  
15 shall be no earlier than the date on which the child covered by  
16 the order will attain the age of 18. However, if the child will  
17 not graduate from high school until after attaining the age of  
18 18, then the termination date shall be no earlier than the  
19 earlier of the date on which the child's high school graduation  
20 will occur or the date on which the child will attain the age  
21 of 19. The order for support shall state that the termination  
22 date does not apply to any arrearage that may remain unpaid on  
23 that date. Nothing in this paragraph shall be construed to  
24 prevent the court from modifying the order or terminating the  
25 order in the event the child is otherwise emancipated.

26 Upon notification in writing or by electronic transmission  
27 from the Illinois Department to the clerk of the court that a  
28 person who is receiving support payments under this Section is  
29 receiving services under the Child Support Enforcement Program  
30 established by Title IV-D of the Social Security Act, any  
31 support payments subsequently received by the clerk of the  
32 court shall be transmitted in accordance with the instructions  
33 of the Illinois Department until the Illinois Department gives  
34 notice to the clerk of the court to cease the transmittal.  
35 After providing the notification authorized under this  
36 paragraph, the Illinois Department shall be entitled as a party



1 to notice of any further proceedings in the case. The clerk of  
2 the court shall file a copy of the Illinois Department's  
3 notification in the court file. The clerk's failure to file a  
4 copy of the notification in the court file shall not, however,  
5 affect the Illinois Department's right to receive notice of  
6 further proceedings.

7 Payments under this Section to the Illinois Department  
8 pursuant to the Child Support Enforcement Program established  
9 by Title IV-D of the Social Security Act shall be paid into the  
10 Child Support Enforcement Trust Fund. All payments under this  
11 Section to the Illinois Department of Human Services shall be  
12 deposited in the DHS Recoveries Trust Fund. Disbursements from  
13 these funds shall be as provided in Sections 12-9.1 and 12-10.2  
14 of this Code. Payments received by a local governmental unit  
15 shall be deposited in that unit's General Assistance Fund.

16 To the extent the provisions of this Section are  
17 inconsistent with the requirements pertaining to the State  
18 Disbursement Unit under Sections 10-10.4 and 10-26 of this  
19 Code, the requirements pertaining to the State Disbursement  
20 Unit shall apply.

21 (Source: P.A. 92-16, eff. 6-28-01; 92-590, eff. 7-1-02; 92-876,  
22 eff. 6-1-03; revised 9-27-03.)

23 Section 10. The Circuit Courts Act is amended by adding  
24 Section 4.4 as follows:

25 (705 ILCS 35/4.4 new)

26 Sec. 4.4. Family Division.

27 (a) In this Section, "family case" means an action in which  
28 the court exercises its jurisdiction under any of the  
29 following:

30 (1) Article X of the Illinois Public Aid Code.

31 (2) Article II, III, or IV of the Juvenile Court Act of  
32 1987.

33 (3) Article 112A of the Code of Criminal Procedure of  
34 1963.

1           (4) The Illinois Marriage and Dissolution of Marriage  
2           Act.

3           (5) The Illinois Uniform Premarital Agreement Act.

4           (6) The Uniform Interstate Family Support Act.

5           (7) The Income Withholding for Support Act.

6           (8) The Emancipation of Minors Act.

7           (9) The Uniform Child-Custody Jurisdiction and  
8           Enforcement Act.

9           (10) The Illinois Parentage Act.

10          (11) The Illinois Parentage Act of 1984.

11          (12) The Gestational Surrogacy Act.

12          (13) The Adoption Act.

13          (14) The Illinois Domestic Violence Act of 1986.

14          (15) The Rights of Married Persons Act.

15          (b) The chief judge of each circuit shall establish a  
16          separate family division for the circuit. In each circuit,  
17          every hearing or other proceeding in a family case shall be  
18          assigned to the family division.

19          (c) The chief judge of each circuit shall designate an  
20          appropriate number of circuit judges or associate judges, or  
21          both, to serve in the family division.

22          (d) This Section applies to all family cases pending on the  
23          effective date of this amendatory Act of the 94th General  
24          Assembly or commenced on or after that date.

25                 Section 15. The Juvenile Court Act of 1987 is amended by  
26                 changing Sections 1-5, 2-20, 2-23, 3-21, 3-24, 4-18, and 4-21  
27                 as follows:

28                         (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

29                         Sec. 1-5. Rights of parties to proceedings.

30                         (1) Except as provided in this Section and paragraph (2) of  
31                         Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who is the  
32                         subject of the proceeding and his parents, guardian, legal  
33                         custodian or responsible relative who are parties respondent  
34                         have the right to be present, to be heard, to present evidence

1 material to the proceedings, to cross-examine witnesses, to  
2 examine pertinent court files and records and also, although  
3 proceedings under this Act are not intended to be adversary in  
4 character, the right to be represented by counsel. At the  
5 request of any party financially unable to employ counsel, with  
6 the exception of a foster parent permitted to intervene under  
7 this Section, the court shall appoint the Public Defender or  
8 such other counsel as the case may require. Counsel appointed  
9 for the minor and any indigent party shall appear at all stages  
10 of the trial court proceeding, and such appointment shall  
11 continue through the permanency hearings and termination of  
12 parental rights proceedings subject to withdrawal or  
13 substitution pursuant to Supreme Court Rules or the Code of  
14 Civil Procedure. Following the dispositional hearing, the  
15 court may require appointed counsel, other than counsel for the  
16 minor or counsel for the guardian ad litem, to withdraw his or  
17 her appearance upon failure of the party for whom counsel was  
18 appointed under this Section to attend any subsequent  
19 proceedings.

20 No hearing on any petition or motion filed under this Act  
21 may be commenced unless the minor who is the subject of the  
22 proceeding is represented by counsel. Notwithstanding the  
23 preceding sentence, if a guardian ad litem has been appointed  
24 for the minor under Section 2-17 of this Act and the guardian  
25 ad litem is a licensed attorney at law of this State, or in the  
26 event that a court appointed special advocate has been  
27 appointed as guardian ad litem and counsel has been appointed  
28 to represent the court appointed special advocate, the court  
29 may not require the appointment of counsel to represent the  
30 minor unless the court finds that the minor's interests are in  
31 conflict with what the guardian ad litem determines to be in  
32 the best interest of the minor. Each adult respondent shall be  
33 furnished a written "Notice of Rights" at or before the first  
34 hearing at which he or she appears.

35 (1.5) The Department shall maintain a system of response to  
36 inquiry made by parents or putative parents as to whether their

1 child is under the custody or guardianship of the Department;  
2 and if so, the Department shall direct the parents or putative  
3 parents to the appropriate court of jurisdiction, including  
4 where inquiry may be made of the clerk of the court regarding  
5 the case number and the next scheduled court date of the  
6 minor's case. Effective notice and the means of accessing  
7 information shall be given to the public on a continuing basis  
8 by the Department.

9 (2) (a) Though not appointed guardian or legal custodian or  
10 otherwise made a party to the proceeding, any current or  
11 previously appointed foster parent or relative caregiver, or  
12 representative of an agency or association interested in the  
13 minor has the right to be heard by the court, but does not  
14 thereby become a party to the proceeding.

15 In addition to the foregoing right to be heard by the  
16 court, any current foster parent or relative caregiver of a  
17 minor and the agency designated by the court or the Department  
18 of Children and Family Services as custodian of the minor who  
19 is alleged to be or has been adjudicated an abused or neglected  
20 minor under Section 2-3 or a dependent minor under Section 2-4  
21 of this Act has the right to and shall be given adequate notice  
22 at all stages of any hearing or proceeding under this Act.

23 Any foster parent or relative caregiver who is denied his  
24 or her right to be heard under this Section may bring a  
25 mandamus action under Article XIV of the Code of Civil  
26 Procedure against the court or any public agency to enforce  
27 that right. The mandamus action may be brought immediately upon  
28 the denial of those rights but in no event later than 30 days  
29 after the foster parent has been denied the right to be heard.

30 (b) If after an adjudication that a minor is abused or  
31 neglected as provided under Section 2-21 of this Act and a  
32 motion has been made to restore the minor to any parent,  
33 guardian, or legal custodian found by the court to have caused  
34 the neglect or to have inflicted the abuse on the minor, a  
35 foster parent may file a motion to intervene in the proceeding  
36 for the sole purpose of requesting that the minor be placed

1 with the foster parent, provided that the foster parent (i) is  
2 the current foster parent of the minor or (ii) has previously  
3 been a foster parent for the minor for one year or more, has a  
4 foster care license or is eligible for a license, and is not  
5 the subject of any findings of abuse or neglect of any child.  
6 The juvenile court may only enter orders placing a minor with a  
7 specific foster parent under this subsection (2) (b) and nothing  
8 in this Section shall be construed to confer any jurisdiction  
9 or authority on the juvenile court to issue any other orders  
10 requiring the appointed guardian or custodian of a minor to  
11 place the minor in a designated foster home or facility. This  
12 Section is not intended to encompass any matters that are  
13 within the scope or determinable under the administrative and  
14 appeal process established by rules of the Department of  
15 Children and Family Services under Section 5(o) of the Children  
16 and Family Services Act. Nothing in this Section shall relieve  
17 the court of its responsibility, under Section 2-14(a) of this  
18 Act to act in a just and speedy manner to reunify families  
19 where it is the best interests of the minor and the child can  
20 be cared for at home without endangering the child's health or  
21 safety and, if reunification is not in the best interests of  
22 the minor, to find another permanent home for the minor.  
23 Nothing in this Section, or in any order issued by the court  
24 with respect to the placement of a minor with a foster parent,  
25 shall impair the ability of the Department of Children and  
26 Family Services, or anyone else authorized under Section 5 of  
27 the Abused and Neglected Child Reporting Act, to remove a minor  
28 from the home of a foster parent if the Department of Children  
29 and Family Services or the person removing the minor has reason  
30 to believe that the circumstances or conditions of the minor  
31 are such that continuing in the residence or care of the foster  
32 parent will jeopardize the child's health and safety or present  
33 an imminent risk of harm to that minor's life.

34 (c) If a foster parent has had the minor who is the subject  
35 of the proceeding under Article II in his or her home for more  
36 than one year on or after July 3, 1994 and if the minor's

1 placement is being terminated from that foster parent's home,  
2 that foster parent shall have standing and intervenor status  
3 except in those circumstances where the Department of Children  
4 and Family Services or anyone else authorized under Section 5  
5 of the Abused and Neglected Child Reporting Act has removed the  
6 minor from the foster parent because of a reasonable belief  
7 that the circumstances or conditions of the minor are such that  
8 continuing in the residence or care of the foster parent will  
9 jeopardize the child's health or safety or presents an imminent  
10 risk of harm to the minor's life.

11 (d) The court may grant standing to any foster parent if  
12 the court finds that it is in the best interest of the child  
13 for the foster parent to have standing and intervenor status.

14 (3) Parties respondent are entitled to notice in compliance  
15 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or  
16 5-525 and 5-530, as appropriate. At the first appearance before  
17 the court by the minor, his parents, guardian, custodian or  
18 responsible relative, the court shall explain the nature of the  
19 proceedings and inform the parties of their rights under the  
20 first 2 paragraphs of this Section.

21 If the child is alleged to be abused, neglected or  
22 dependent, the court shall admonish the parents that if the  
23 court declares the child to be a ward of the court and awards  
24 custody or guardianship to the Department of Children and  
25 Family Services, the parents must cooperate with the Department  
26 of Children and Family Services, comply with the terms of the  
27 service plans, and correct the conditions that require the  
28 child to be in care, or risk termination of their parental  
29 rights.

30 Upon an adjudication of wardship of the court under  
31 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform the  
32 parties of their right to appeal therefrom as well as from any  
33 other final judgment of the court.

34 When the court finds that a child is an abused, neglected,  
35 or dependent minor under Section 2-21, the court shall admonish  
36 the parents that the parents must cooperate with the Department

1 of Children and Family Services, comply with the terms of the  
2 service plans, and correct the conditions that require the  
3 child to be in care, or risk termination of their parental  
4 rights.

5 When the court declares a child to be a ward of the court  
6 and awards guardianship to the Department of Children and  
7 Family Services under Section 2-22, the court shall admonish  
8 the parents, guardian, custodian, or responsible relative that  
9 the parents must cooperate with the Department of Children and  
10 Family Services, comply with the terms of the service plans,  
11 and correct the conditions that require the child to be in  
12 care, or risk termination of their parental rights.

13 (4) No sanction may be applied against the minor who is the  
14 subject of the proceedings by reason of his refusal or failure  
15 to testify in the course of any hearing held prior to final  
16 adjudication under Section 2-22, 3-23, 4-20 or 5-705.

17 (5) In the discretion of the court, the minor may be  
18 excluded from any part or parts of a dispositional hearing and,  
19 with the consent of the parent or parents, guardian, counsel or  
20 a guardian ad litem, from any part or parts of an adjudicatory  
21 hearing.

22 (6) The general public except for the news media and the  
23 victim shall be excluded from any hearing and, except for the  
24 persons specified in this Section only persons, including  
25 representatives of agencies and associations, who in the  
26 opinion of the court have a direct interest in the case or in  
27 the work of the court shall be admitted to the hearing.  
28 However, the court may, for the minor's safety and protection  
29 and for good cause shown, prohibit any person or agency present  
30 in court from further disclosing the minor's identity. Nothing  
31 in this subsection (6) prevents the court from allowing other  
32 juveniles to be present or to participate in a court session  
33 being held under the Juvenile Drug Court Treatment Act.

34 (7) A party shall not be entitled to exercise the right to  
35 a substitution of a judge without cause under subdivision  
36 (a) (2) of Section 2-1001 of the Code of Civil Procedure in a

1 proceeding under this Act if the judge is currently assigned to  
2 a proceeding involving the alleged abuse, neglect, or  
3 dependency of the minor's sibling or half sibling and that  
4 judge has made a substantive ruling in the proceeding involving  
5 the minor's sibling or half sibling.

6 (8) In accordance with the Code of Civil Procedure, a party  
7 may demand a trial by jury as to the issues of fact raised in  
8 any of the following proceedings:

9 (a) An adjudicatory hearing under Section 2-21, 3-22,  
10 or 4-19.

11 (b) A dispositional hearing under Section 2-22, 3-23,  
12 or 4-20.

13 (c) A proceeding for termination of parental rights  
14 under Section 2-29, 3-30, or 4-27.

15 (Source: P.A. 92-559, eff. 1-1-03; 93-539, eff. 8-18-03.)

16 (705 ILCS 405/2-20) (from Ch. 37, par. 802-20)

17 Sec. 2-20. Continuance under supervision.

18 (1) The court may enter an order of continuance under  
19 supervision (a) upon an admission or stipulation by the  
20 appropriate respondent or minor respondent of the facts  
21 supporting the petition and before proceeding to findings and  
22 adjudication, or after hearing the evidence at the adjudicatory  
23 hearing but before noting in the minutes of proceeding a  
24 finding of whether or not the minor is abused, neglected or  
25 dependent; and (b) in the absence of objection made in open  
26 court by the minor, his parent, guardian, custodian,  
27 responsible relative, defense attorney or the State's  
28 Attorney.

29 (2) If the minor, his parent, guardian, custodian,  
30 responsible relative, defense attorney or the State's  
31 Attorney, objects in open court to any such continuance and  
32 insists upon proceeding to findings and adjudication, the court  
33 shall so proceed.

34 (3) Nothing in this Section limits the power of the court  
35 to order a continuance of the hearing for the production of



1 additional evidence or for any other proper reason.

2 (4) When a hearing where a minor is alleged to be abused,  
3 neglected or dependent is continued pursuant to this Section,  
4 the court may permit the minor to remain in his home if the  
5 court determines and makes written factual findings that the  
6 minor can be cared for at home when consistent with the minor's  
7 health, safety, and best interests, subject to such conditions  
8 concerning his conduct and supervision as the court may require  
9 by order.

10 (4.5) As a condition of supervision under this Section, the  
11 court may order the minor or the minor's parent, guardian,  
12 custodian, or other responsible relative to undergo counseling  
13 as the court deems appropriate, based on the evidence, in order  
14 to achieve the purposes of this Act.

15 (5) If a petition is filed charging a violation of a  
16 condition of the continuance under supervision, the court shall  
17 conduct a hearing. If the court finds that such condition of  
18 supervision has not been fulfilled the court may proceed to  
19 findings and adjudication and disposition. The filing of a  
20 petition for violation of a condition of the continuance under  
21 supervision shall toll the period of continuance under  
22 supervision until the final determination of the charge, and  
23 the term of the continuance under supervision shall not run  
24 until the hearing and disposition of the petition for  
25 violation; provided where the petition alleges conduct that  
26 does not constitute a criminal offense, the hearing must be  
27 held within 15 days of the filing of the petition unless a  
28 delay in such hearing has been occasioned by the minor, in  
29 which case the delay shall continue the tolling of the period  
30 of continuance under supervision for the period of such delay.

31 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98.)

32 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

33 Sec. 2-23. Kinds of dispositional orders.

34 (1) The following kinds of orders of disposition may be  
35 made in respect of wards of the court:

1 (a) A minor under 18 years of age found to be neglected  
2 or abused under Section 2-3 or dependent under Section 2-4  
3 may be (1) continued in the custody of his or her parents,  
4 guardian or legal custodian; (2) placed in accordance with  
5 Section 2-27; (3) restored to the custody of the parent,  
6 parents, guardian, or legal custodian, provided the court  
7 shall order the parent, parents, guardian, or legal  
8 custodian to cooperate with the Department of Children and  
9 Family Services and comply with the terms of an after-care  
10 plan or risk the loss of custody of the child and the  
11 possible termination of their parental rights; or (4)  
12 ordered partially or completely emancipated in accordance  
13 with the provisions of the Emancipation of ~~Mature~~ Minors  
14 Act.

15 However, in any case in which a minor is found by the  
16 court to be neglected or abused under Section 2-3 of this  
17 Act, custody of the minor shall not be restored to any  
18 parent, guardian or legal custodian whose acts or omissions  
19 or both have been identified, pursuant to subsection (1) of  
20 Section 2-21, as forming the basis for the court's finding  
21 of abuse or neglect, until such time as a hearing is held  
22 on the issue of the best interests of the minor and the  
23 fitness of such parent, guardian or legal custodian to care  
24 for the minor without endangering the minor's health or  
25 safety, and the court enters an order that such parent,  
26 guardian or legal custodian is fit to care for the minor.

27 (b) A minor under 18 years of age found to be dependent  
28 under Section 2-4 may be (1) placed in accordance with  
29 Section 2-27 or (2) ordered partially or completely  
30 emancipated in accordance with the provisions of the  
31 Emancipation of ~~Mature~~ Minors Act.

32 However, in any case in which a minor is found by the  
33 court to be dependent under Section 2-4 of this Act,  
34 custody of the minor shall not be restored to any parent,  
35 guardian or legal custodian whose acts or omissions or both  
36 have been identified, pursuant to subsection (1) of Section

1 2-21, as forming the basis for the court's finding of  
2 dependency, until such time as a hearing is held on the  
3 issue of the fitness of such parent, guardian or legal  
4 custodian to care for the minor without endangering the  
5 minor's health or safety, and the court enters an order  
6 that such parent, guardian or legal custodian is fit to  
7 care for the minor.

8 (c) When the court awards guardianship to the  
9 Department of Children and Family Services, the court shall  
10 order the parents to cooperate with the Department of  
11 Children and Family Services, comply with the terms of the  
12 service plans, and correct the conditions that require the  
13 child to be in care, or risk termination of their parental  
14 rights.

15 (2) Any order of disposition may provide for protective  
16 supervision under Section 2-24 and may include an order of  
17 protection under Section 2-25.

18 Unless the order of disposition expressly so provides, it  
19 does not operate to close proceedings on the pending petition,  
20 but is subject to modification, not inconsistent with Section  
21 2-28, until final closing and discharge of the proceedings  
22 under Section 2-31.

23 (3) The court also shall enter any other orders necessary  
24 to fulfill the service plan, including, but not limited to, (i)  
25 orders requiring parties to cooperate with services, (ii)  
26 restraining orders controlling the conduct of any party likely  
27 to frustrate the achievement of the goal, and (iii) visiting  
28 orders. Unless otherwise specifically authorized by law, the  
29 court is not empowered under this subsection (3) to order  
30 specific placements, specific services, or specific service  
31 providers to be included in the plan. If the court concludes  
32 that the Department of Children and Family Services has abused  
33 its discretion in setting the current service plan or  
34 permanency goal for the minor, the court shall enter specific  
35 findings in writing based on the evidence and shall enter an  
36 order for the Department to develop and implement a new

1 permanency goal and service plan consistent with the court's  
2 findings. The new service plan shall be filed with the court  
3 and served on all parties. The court shall continue the matter  
4 until the new service plan is filed.

5 (3.5) In addition to any other order of disposition, the  
6 court may order the minor or the minor's parent, guardian,  
7 custodian, or other responsible relative to undergo counseling  
8 as the court deems appropriate, based on the evidence, in order  
9 to achieve the purposes of this Act.

10 (4) In addition to any other order of disposition, the  
11 court may order any minor adjudicated neglected with respect to  
12 his or her own injurious behavior to make restitution, in  
13 monetary or non-monetary form, under the terms and conditions  
14 of Section 5-5-6 of the Unified Code of Corrections, except  
15 that the "presentence hearing" referred to therein shall be the  
16 dispositional hearing for purposes of this Section. The parent,  
17 guardian or legal custodian of the minor may pay some or all of  
18 such restitution on the minor's behalf.

19 (5) Any order for disposition where the minor is committed  
20 or placed in accordance with Section 2-27 shall provide for the  
21 parents or guardian of the estate of such minor to pay to the  
22 legal custodian or guardian of the person of the minor such  
23 sums as are determined by the custodian or guardian of the  
24 person of the minor as necessary for the minor's needs. Such  
25 payments may not exceed the maximum amounts provided for by  
26 Section 9.1 of the Children and Family Services Act.

27 (6) Whenever the order of disposition requires the minor to  
28 attend school or participate in a program of training, the  
29 truant officer or designated school official shall regularly  
30 report to the court if the minor is a chronic or habitual  
31 truant under Section 26-2a of the School Code.

32 (7) The court may terminate the parental rights of a parent  
33 at the initial dispositional hearing if all of the conditions  
34 in subsection (5) of Section 2-21 are met.

35 (Source: P.A. 89-17, eff. 5-31-95; 89-235, eff. 8-4-95; 90-27,  
36 eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98; 90-655,

1 eff. 7-30-98; revised 10-9-03.)

2 (705 ILCS 405/3-21) (from Ch. 37, par. 803-21)

3 Sec. 3-21. Continuance under supervision.

4 (1) The court may enter an order of continuance under  
5 supervision (a) upon an admission or stipulation by the  
6 appropriate respondent or minor respondent of the facts  
7 supporting the petition and before proceeding to findings and  
8 adjudication, or after hearing the evidence at the adjudicatory  
9 hearing but before noting in the minutes of proceedings a  
10 finding of whether or not the minor is a person requiring  
11 authoritative intervention; and (b) in the absence of objection  
12 made in open court by the minor, his parent, guardian,  
13 custodian, responsible relative, defense attorney or the  
14 State's Attorney.

15 (2) If the minor, his parent, guardian, custodian,  
16 responsible relative, defense attorney or State's Attorney,  
17 objects in open court to any such continuance and insists upon  
18 proceeding to findings and adjudication, the court shall so  
19 proceed.

20 (3) Nothing in this Section limits the power of the court  
21 to order a continuance of the hearing for the production of  
22 additional evidence or for any other proper reason.

23 (4) When a hearing where a minor is alleged to be a minor  
24 requiring authoritative intervention is continued pursuant to  
25 this Section, the court may permit the minor to remain in his  
26 home subject to such conditions concerning his conduct and  
27 supervision as the court may require by order.

28 (4.5) As a condition of supervision under this Section, the  
29 court may order the minor or the minor's parent, guardian,  
30 custodian, or other responsible relative to undergo counseling  
31 as the court deems appropriate, based on the evidence, in order  
32 to achieve the purposes of this Act.

33 (5) If a petition is filed charging a violation of a  
34 condition of the continuance under supervision, the court shall  
35 conduct a hearing. If the court finds that such condition of

1 supervision has not been fulfilled the court may proceed to  
2 findings and adjudication and disposition. The filing of a  
3 petition for violation of a condition of the continuance under  
4 supervision shall toll the period of continuance under  
5 supervision until the final determination of the charge, and  
6 the term of the continuance under supervision shall not run  
7 until the hearing and disposition of the petition for  
8 violation; provided where the petition alleges conduct that  
9 does not constitute a criminal offense, the hearing must be  
10 held within 15 days of the filing of the petition unless a  
11 delay in such hearing has been occasioned by the minor, in  
12 which case the delay shall continue the tolling of the period  
13 of continuance under supervision for the period of such delay.

14 (6) The court must impose upon a minor under an order of  
15 continuance under supervision or an order of disposition under  
16 this Article III, as a condition of the order, a fee of \$25 for  
17 each month or partial month of supervision with a probation  
18 officer. If the court determines the inability of the minor, or  
19 the parent, guardian, or legal custodian of the minor to pay  
20 the fee, the court may impose a lesser fee. The court may not  
21 impose the fee on a minor who is made a ward of the State under  
22 this Act. The fee may be imposed only upon a minor who is  
23 actively supervised by the probation and court services  
24 department. The fee must be collected by the clerk of the  
25 circuit court. The clerk of the circuit court must pay all  
26 monies collected from this fee to the county treasurer for  
27 deposit into the probation and court services fund under  
28 Section 15.1 of the Probation and Probation Officers Act.

29 (Source: P.A. 92-329, eff. 8-9-01.)

30 (705 ILCS 405/3-24) (from Ch. 37, par. 803-24)

31 Sec. 3-24. Kinds of dispositional orders.

32 (1) The following kinds of orders of disposition may be  
33 made in respect to wards of the court: A minor found to be  
34 requiring authoritative intervention under Section 3-3 may be  
35 (a) committed to the Department of Children and Family

1 Services, subject to Section 5 of the Children and Family  
2 Services Act; (b) placed under supervision and released to his  
3 or her parents, guardian or legal custodian; (c) placed in  
4 accordance with Section 3-28 with or without also being placed  
5 under supervision. Conditions of supervision may be modified or  
6 terminated by the court if it deems that the best interests of  
7 the minor and the public will be served thereby; (d) ordered  
8 partially or completely emancipated in accordance with the  
9 provisions of the Emancipation of ~~Mature~~ Minors Act; or (e)  
10 subject to having his or her driver's license or driving  
11 privilege suspended for such time as determined by the Court  
12 but only until he or she attains 18 years of age.

13 (2) Any order of disposition may provide for protective  
14 supervision under Section 3-25 and may include an order of  
15 protection under Section 3-26.

16 (3) Unless the order of disposition expressly so provides,  
17 it does not operate to close proceedings on the pending  
18 petition, but is subject to modification until final closing  
19 and discharge of the proceedings under Section 3-32.

20 (3.5) In addition to any other order of disposition, the  
21 court may order the minor or the minor's parent, guardian,  
22 custodian, or other responsible relative to undergo counseling  
23 as the court deems appropriate, based on the evidence, in order  
24 to achieve the purposes of this Act.

25 (4) In addition to any other order of disposition, the  
26 court may order any person found to be a minor requiring  
27 authoritative intervention under Section 3-3 to make  
28 restitution, in monetary or non-monetary form, under the terms  
29 and conditions of Section 5-5-6 of the Unified Code of  
30 Corrections, except that the "presentence hearing" referred to  
31 therein shall be the dispositional hearing for purposes of this  
32 Section. The parent, guardian or legal custodian of the minor  
33 may pay some or all of such restitution on the minor's behalf.

34 (5) Any order for disposition where the minor is committed  
35 or placed in accordance with Section 3-28 shall provide for the  
36 parents or guardian of the estate of such minor to pay to the

1 legal custodian or guardian of the person of the minor such  
2 sums as are determined by the custodian or guardian of the  
3 person of the minor as necessary for the minor's needs. Such  
4 payments may not exceed the maximum amounts provided for by  
5 Section 9.1 of the Children and Family Services Act.

6 (6) Whenever the order of disposition requires the minor to  
7 attend school or participate in a program of training, the  
8 truant officer or designated school official shall regularly  
9 report to the court if the minor is a chronic or habitual  
10 truant under Section 26-2a of the School Code.

11 (7) The court must impose upon a minor under an order of  
12 continuance under supervision or an order of disposition under  
13 this Article III, as a condition of the order, a fee of \$25 for  
14 each month or partial month of supervision with a probation  
15 officer. If the court determines the inability of the minor, or  
16 the parent, guardian, or legal custodian of the minor to pay  
17 the fee, the court may impose a lesser fee. The court may not  
18 impose the fee on a minor who is made a ward of the State under  
19 this Act. The fee may be imposed only upon a minor who is  
20 actively supervised by the probation and court services  
21 department. The fee must be collected by the clerk of the  
22 circuit court. The clerk of the circuit court must pay all  
23 monies collected from this fee to the county treasurer for  
24 deposit into the probation and court services fund under  
25 Section 15.1 of the Probation and Probation Officers Act.

26 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

27 (705 ILCS 405/4-18) (from Ch. 37, par. 804-18)

28 Sec. 4-18. Continuance under supervision.

29 (1) The court may enter an order of continuance under  
30 supervision (a) upon an admission or stipulation by the  
31 appropriate respondent or minor respondent of the facts  
32 supporting the petition and before proceeding to findings and  
33 adjudication, or after hearing the evidence at the adjudicatory  
34 hearing but before noting in the minutes of the proceeding a  
35 finding of whether or not the minor is an addict, and (b) in



1 the absence of objection made in open court by the minor, his  
2 parent, guardian, custodian, responsible relative, defense  
3 attorney or the State's Attorney.

4 (2) If the minor, his parent, guardian, custodian,  
5 responsible relative, defense attorney or State's Attorney,  
6 objects in open court to any such continuance and insists upon  
7 proceeding to findings and adjudication, the court shall so  
8 proceed.

9 (3) Nothing in this Section limits the power of the court  
10 to order a continuance of the hearing for the production of  
11 additional evidence or for any other proper reason.

12 (4) When a hearing is continued pursuant to this Section,  
13 the court may permit the minor to remain in his home subject to  
14 such conditions concerning his conduct and supervision as the  
15 court may require by order.

16 (4.5) As a condition of supervision under this Section, the  
17 court may order the minor or the minor's parent, guardian,  
18 custodian, or other responsible relative to undergo counseling  
19 as the court deems appropriate, based on the evidence, in order  
20 to achieve the purposes of this Act.

21 (5) If a petition is filed charging a violation of a  
22 condition of the continuance under supervision, the court shall  
23 conduct a hearing. If the court finds that such condition of  
24 supervision has not been fulfilled the court may proceed to  
25 findings and adjudication and disposition. The filing of a  
26 petition for violation of a condition of the continuance under  
27 supervision shall toll the period of continuance under  
28 supervision until the final determination of the charge, and  
29 the term of the continuance under supervision shall not run  
30 until the hearing and disposition of the petition for  
31 violation; provided where the petition alleges conduct that  
32 does not constitute a criminal offense, the hearing must be  
33 held within 15 days of the filing of the petition unless a  
34 delay in such hearing has been occasioned by the minor, in  
35 which case the delay shall continue the tolling of the period  
36 of continuance under supervision for the period of such delay.

1           (6) The court must impose upon a minor under an order of  
2 continuance under supervision or an order of disposition under  
3 this Article IV, as a condition of the order, a fee of \$25 for  
4 each month or partial month of supervision with a probation  
5 officer. If the court determines the inability of the minor, or  
6 the parent, guardian, or legal custodian of the minor to pay  
7 the fee, the court may impose a lesser fee. The court may not  
8 impose the fee on a minor who is made a ward of the State under  
9 this Act. The fee may be imposed only upon a minor who is  
10 actively supervised by the probation and court services  
11 department. The fee must be collected by the clerk of the  
12 circuit court. The clerk of the circuit court must pay all  
13 monies collected from this fee to the county treasurer for  
14 deposit into the probation and court services fund under  
15 Section 15.1 of the Probation and Probation Officers Act.

16       (Source: P.A. 92-329, eff. 8-9-01.)

17           (705 ILCS 405/4-21) (from Ch. 37, par. 804-21)

18       Sec. 4-21. Kinds of dispositional orders.

19       (1) A minor found to be addicted under Section 4-3 may be  
20 (a) committed to the Department of Children and Family  
21 Services, subject to Section 5 of the Children and Family  
22 Services Act; (b) placed under supervision and released to his  
23 or her parents, guardian or legal custodian; (c) placed in  
24 accordance with Section 4-25 with or without also being placed  
25 under supervision. Conditions of supervision may be modified or  
26 terminated by the court if it deems that the best interests of  
27 the minor and the public will be served thereby; (d) required  
28 to attend an approved alcohol or drug abuse treatment or  
29 counseling program on an inpatient or outpatient basis instead  
30 of or in addition to the disposition otherwise provided for in  
31 this paragraph; (e) ordered partially or completely  
32 emancipated in accordance with the provisions of the  
33 Emancipation of ~~Mature~~ Minors Act; or (f) subject to having his  
34 or her driver's license or driving privilege suspended for such  
35 time as determined by the Court but only until he or she

1 attains 18 years of age. No disposition under this subsection  
2 shall provide for the minor's placement in a secure facility.

3 (2) Any order of disposition may provide for protective  
4 supervision under Section 4-22 and may include an order of  
5 protection under Section 4-23.

6 (3) Unless the order of disposition expressly so provides,  
7 it does not operate to close proceedings on the pending  
8 petition, but is subject to modification until final closing  
9 and discharge of the proceedings under Section 4-29.

10 (3.5) In addition to any other order of disposition, the  
11 court may order the minor or the minor's parent, guardian,  
12 custodian, or other responsible relative to undergo counseling  
13 as the court deems appropriate, based on the evidence, in order  
14 to achieve the purposes of this Act.

15 (4) In addition to any other order of disposition, the  
16 court may order any minor found to be addicted under this  
17 Article as neglected with respect to his or her own injurious  
18 behavior, to make restitution, in monetary or non-monetary  
19 form, under the terms and conditions of Section 5-5-6 of the  
20 Unified Code of Corrections, except that the "presentence  
21 hearing" referred to therein shall be the dispositional hearing  
22 for purposes of this Section. The parent, guardian or legal  
23 custodian of the minor may pay some or all of such restitution  
24 on the minor's behalf.

25 (5) Any order for disposition where the minor is placed in  
26 accordance with Section 4-25 shall provide for the parents or  
27 guardian of the estate of such minor to pay to the legal  
28 custodian or guardian of the person of the minor such sums as  
29 are determined by the custodian or guardian of the person of  
30 the minor as necessary for the minor's needs. Such payments may  
31 not exceed the maximum amounts provided for by Section 9.1 of  
32 the Children and Family Services Act.

33 (6) Whenever the order of disposition requires the minor to  
34 attend school or participate in a program of training, the  
35 truant officer or designated school official shall regularly  
36 report to the court if the minor is a chronic or habitual

1 truant under Section 26-2a of the School Code.

2 (7) The court must impose upon a minor under an order of  
3 continuance under supervision or an order of disposition under  
4 this Article IV, as a condition of the order, a fee of \$25 for  
5 each month or partial month of supervision with a probation  
6 officer. If the court determines the inability of the minor, or  
7 the parent, guardian, or legal custodian of the minor to pay  
8 the fee, the court may impose a lesser fee. The court may not  
9 impose the fee on a minor who is made a ward of the State under  
10 this Act. The fee may be imposed only upon a minor who is  
11 actively supervised by the probation and court services  
12 department. The fee must be collected by the clerk of the  
13 circuit court. The clerk of the circuit court must pay all  
14 monies collected from this fee to the county treasurer for  
15 deposit into the probation and court services fund under  
16 Section 15.1 of the Probation and Probation Officers Act.

17 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

18 Section 20. The Code of Criminal Procedure of 1963 is  
19 amended by changing Sections 112A-7 and 112A-14 as follows:

20 (725 ILCS 5/112A-7) (from Ch. 38, par. 112A-7)

21 Sec. 112A-7. Trial by jury. In accordance with the Code of  
22 Civil Procedure, the petitioner or the respondent may demand a  
23 ~~There shall be no right to~~ trial by jury of the issues of fact  
24 in any proceeding to obtain, modify, vacate or extend an ~~any~~  
25 order of protection under this Article. ~~However,~~ Nothing in  
26 this Section shall deny any existing right to trial by jury in  
27 a criminal proceeding.

28 (Source: P.A. 87-895; 87-1186; 88-45.)

29 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

31 (a) Issuance of order. If the court finds that petitioner  
32 has been abused by a family or household member, as defined in  
33 this Article, an order of protection prohibiting such abuse

1 shall issue; provided that petitioner must also satisfy the  
2 requirements of one of the following Sections, as appropriate:  
3 Section 112A-17 on emergency orders, Section 112A-18 on interim  
4 orders, or Section 112A-19 on plenary orders. Petitioner shall  
5 not be denied an order of protection because petitioner or  
6 respondent is a minor. The court, when determining whether or  
7 not to issue an order of protection, shall not require physical  
8 manifestations of abuse on the person of the victim.  
9 Modification and extension of prior orders of protection shall  
10 be in accordance with this Article.

11 (b) Remedies and standards. The remedies to be included in  
12 an order of protection shall be determined in accordance with  
13 this Section and one of the following Sections, as appropriate:  
14 Section 112A-17 on emergency orders, Section 112A-18 on interim  
15 orders, and Section 112A-19 on plenary orders. The remedies  
16 listed in this subsection shall be in addition to other civil  
17 or criminal remedies available to petitioner.

18 (1) Prohibition of abuse. Prohibit respondent's  
19 harassment, interference with personal liberty,  
20 intimidation of a dependent, physical abuse or willful  
21 deprivation, as defined in this Article, if such abuse has  
22 occurred or otherwise appears likely to occur if not  
23 prohibited.

24 (2) Grant of exclusive possession of residence.  
25 Prohibit respondent from entering or remaining in any  
26 residence or household of the petitioner, including one  
27 owned or leased by respondent, if petitioner has a right to  
28 occupancy thereof. The grant of exclusive possession of the  
29 residence shall not affect title to real property, nor  
30 shall the court be limited by the standard set forth in  
31 Section 701 of the Illinois Marriage and Dissolution of  
32 Marriage Act.

33 (A) Right to occupancy. A party has a right to  
34 occupancy of a residence or household if it is solely  
35 or jointly owned or leased by that party, that party's  
36 spouse, a person with a legal duty to support that

1 party or a minor child in that party's care, or by any  
2 person or entity other than the opposing party that  
3 authorizes that party's occupancy (e.g., a domestic  
4 violence shelter). Standards set forth in subparagraph  
5 (B) shall not preclude equitable relief.

6 (B) Presumption of hardships. If petitioner and  
7 respondent each has the right to occupancy of a  
8 residence or household, the court shall balance (i) the  
9 hardships to respondent and any minor child or  
10 dependent adult in respondent's care resulting from  
11 entry of this remedy with (ii) the hardships to  
12 petitioner and any minor child or dependent adult in  
13 petitioner's care resulting from continued exposure to  
14 the risk of abuse (should petitioner remain at the  
15 residence or household) or from loss of possession of  
16 the residence or household (should petitioner leave to  
17 avoid the risk of abuse). When determining the balance  
18 of hardships, the court shall also take into account  
19 the accessibility of the residence or household.  
20 Hardships need not be balanced if respondent does not  
21 have a right to occupancy.

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

33 (3) Stay away order and additional prohibitions. Order  
34 respondent to stay away from petitioner or any other person  
35 protected by the order of protection, or prohibit  
36 respondent from entering or remaining present at

1 petitioner's school, place of employment, or other  
2 specified places at times when petitioner is present, or  
3 both, if reasonable, given the balance of hardships.  
4 Hardships need not be balanced for the court to enter a  
5 stay away order or prohibit entry if respondent has no  
6 right to enter the premises.

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

17 (4) Counseling. Require or recommend the respondent to  
18 undergo counseling for a specified duration with a social  
19 worker, psychologist, clinical psychologist, psychiatrist,  
20 family service agency, alcohol or substance abuse program,  
21 mental health center guidance counselor, agency providing  
22 services to elders, program designed for domestic violence  
23 abusers or any other guidance service the court deems  
24 appropriate. The court may also require or recommend that  
25 the petitioner undergo counseling as the court deems  
26 appropriate, based on the evidence.

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

1           If a court finds, after a hearing, that respondent has  
2 committed abuse (as defined in Section 112A-3) of a minor  
3 child, there shall be a rebuttable presumption that  
4 awarding physical care to respondent would not be in the  
5 minor child's best interest.

6           (6) Temporary legal custody. Award temporary legal  
7 custody to petitioner in accordance with this Section, the  
8 Illinois Marriage and Dissolution of Marriage Act, the  
9 Illinois Parentage Act of 1984, and this State's Uniform  
10 Child-Custody Jurisdiction and Enforcement Act.

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

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

35           Petitioner may deny respondent access to the minor  
36 child if, when respondent arrives for visitation,



1       respondent is under the influence of drugs or alcohol and  
2       constitutes a threat to the safety and well-being of  
3       petitioner or petitioner's minor children or is behaving in  
4       a violent or abusive manner.

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

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

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

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

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

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

33      If petitioner's sole claim to ownership of the property  
34      is that it is marital property, the court may award  
35      petitioner temporary possession thereof under the  
36      standards of subparagraph (ii) of this paragraph only if a

1 proper proceeding has been filed under the Illinois  
2 Marriage and Dissolution of Marriage Act, as now or  
3 hereafter amended.

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

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

10 (i) petitioner, but not respondent, owns the  
11 property; or

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

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

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

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

1 otherwise provided in the custody order.

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

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

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

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

31 (14.5) Prohibition of firearm possession. (a) When a  
32 complaint is made under a request for an order of  
33 protection, that the respondent has threatened or is likely  
34 to use firearms illegally against the petitioner, and the  
35 respondent is present in court, or has failed to appear  
36 after receiving actual notice, the court shall examine on

1 oath the petitioner, and any witnesses who may be produced.  
2 If the court is satisfied that there is any danger of the  
3 illegal use of firearms, it shall include in the order of  
4 protection the requirement that any firearms in the  
5 possession of the respondent, except as provided in  
6 subsection (b), be turned over to the local law enforcement  
7 agency for safekeeping. If the respondent fails to appear,  
8 or refuses or fails to surrender his or her firearms, the  
9 court shall issue a warrant for seizure of any firearm in  
10 the possession of the respondent. The period of safekeeping  
11 shall be for a stated period of time not to exceed 2 years.  
12 The firearm or firearms shall be returned to the respondent  
13 at the end of the stated period or at expiration of the  
14 order of protection, whichever is sooner. (b) If the  
15 respondent is a peace officer as defined in Section 2-13 of  
16 the Criminal Code of 1961, the court shall order that any  
17 firearms used by the respondent in the performance of his  
18 or her duties as a peace officer be surrendered to the  
19 chief law enforcement executive of the agency in which the  
20 respondent is employed, who shall retain the firearms for  
21 safekeeping for the stated period not to exceed 2 years as  
22 set forth in the court order.

23 (15) Prohibition of access to records. If an order of  
24 protection prohibits respondent from having contact with  
25 the minor child, or if petitioner's address is omitted  
26 under subsection (b) of Section 112A-5, or if necessary to  
27 prevent abuse or wrongful removal or concealment of a minor  
28 child, the order shall deny respondent access to, and  
29 prohibit respondent from inspecting, obtaining, or  
30 attempting to inspect or obtain, school or any other  
31 records of the minor child who is in the care of  
32 petitioner.

33 (16) Order for payment of shelter services. Order  
34 respondent to reimburse a shelter providing temporary  
35 housing and counseling services to the petitioner for the  
36 cost of the services, as certified by the shelter and

1 deemed reasonable by the court.

2 (17) Order for injunctive relief. Enter injunctive  
3 relief necessary or appropriate to prevent further abuse of  
4 a family or household member or to effectuate one of the  
5 granted remedies, if supported by the balance of hardships.  
6 If the harm to be prevented by the injunction is abuse or  
7 any other harm that one of the remedies listed in  
8 paragraphs (1) through (16) of this subsection is designed  
9 to prevent, no further evidence is necessary to establish  
10 that the harm is an irreparable injury.

11 (c) Relevant factors; findings.

12 (1) In determining whether to grant a specific remedy,  
13 other than payment of support, the court shall consider  
14 relevant factors, including but not limited to the  
15 following:

16 (i) the nature, frequency, severity, pattern and  
17 consequences of the respondent's past abuse of the  
18 petitioner or any family or household member,  
19 including the concealment of his or her location in  
20 order to evade service of process or notice, and the  
21 likelihood of danger of future abuse to petitioner or  
22 any member of petitioner's or respondent's family or  
23 household; and

24 (ii) the danger that any minor child will be abused  
25 or neglected or improperly removed from the  
26 jurisdiction, improperly concealed within the State or  
27 improperly separated from the child's primary  
28 caretaker.

29 (2) In comparing relative hardships resulting to the  
30 parties from loss of possession of the family home, the  
31 court shall consider relevant factors, including but not  
32 limited to the following:

33 (i) availability, accessibility, cost, safety,  
34 adequacy, location and other characteristics of  
35 alternate housing for each party and any minor child or  
36 dependent adult in the party's care;

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of  
24 protection in accordance with the requirements of Sections  
25 112A-5 and 112A-17 is presented to the court, the court  
26 shall examine petitioner on oath or affirmation. An  
27 emergency order of protection shall be issued by the court  
28 if it appears from the contents of the petition and the  
29 examination of petitioner that the averments are  
30 sufficient to indicate abuse by respondent and to support  
31 the granting of relief under the issuance of the emergency  
32 order of protection.

33 (5) Never married parties. No rights or  
34 responsibilities for a minor child born outside of marriage  
35 attach to a putative father until a father and child  
36 relationship has been established under the Illinois

1 Parentage Act of 1984. Absent such an adjudication, no  
2 putative father shall be granted temporary custody of the  
3 minor child, visitation with the minor child, or physical  
4 care and possession of the minor child, nor shall an order  
5 of payment for support of the minor child be entered.

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

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

17 (1) Respondent has cause for any use of force, unless  
18 that cause satisfies the standards for justifiable use of  
19 force provided by Article VII of the Criminal Code of 1961;

20 (2) Respondent was voluntarily intoxicated;

21 (3) Petitioner acted in self-defense or defense of  
22 another, provided that, if petitioner utilized force, such  
23 force was justifiable under Article VII of the Criminal  
24 Code of 1961;

25 (4) Petitioner did not act in self-defense or defense  
26 of another;

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

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

31 (7) Conduct by any family or household member excused  
32 the abuse by respondent, unless that same conduct would  
33 have excused such abuse if the parties had not been family  
34 or household members.

35 (Source: P.A. 93-108, eff. 1-1-04.)

1 Section 25. The Illinois Marriage and Dissolution of  
2 Marriage Act is amended by adding Sections 307, 404.05, 411.5,  
3 and 452.5 and by changing Sections 510 and 606 as follows:

4 (750 ILCS 5/307 new)

5 Sec. 307. Trial by jury. In accordance with the Code of  
6 Civil Procedure, a party to an action for a declaration of  
7 invalidity of marriage may demand a trial by jury as to the  
8 issues of fact raised in the action.

9 (750 ILCS 5/404.05 new)

10 Sec. 404.05. Counseling. Whether or not the court  
11 concludes that there is a prospect of reconciliation, the court  
12 may order the petitioner, the respondent, or a child of the  
13 parties to undergo counseling as the court deems appropriate,  
14 based on the evidence.

15 (750 ILCS 5/411.5 new)

16 Sec. 411.5. Trial by jury. In accordance with the Code of  
17 Civil Procedure, a party to an action for dissolution of  
18 marriage or for legal separation may demand a trial by jury as  
19 to the issues of fact raised in the action. This Section does  
20 not apply, however, to an action in which the parties have  
21 filed a petition for simplified dissolution under Part IV-A.

22 (750 ILCS 5/452.5 new)

23 Sec. 452.5. No trial by jury. There is no right to a trial  
24 by jury in an action in which the parties have filed a petition  
25 for simplified dissolution under this Part IV-A.

26 (750 ILCS 5/510) (from Ch. 40, par. 510)

27 Sec. 510. Modification and termination of provisions for  
28 maintenance, support, educational expenses, and property  
29 disposition.

30 (a) Except as otherwise provided in paragraph (f) of  
31 Section 502 and in subsection (b), clause (3) of Section 505.2,



1 the provisions of any judgment respecting maintenance or  
2 support may be modified only as to installments accruing  
3 subsequent to due notice by the moving party of the filing of  
4 the motion for modification. An order for child support may be  
5 modified as follows:

6 (1) upon a showing of a substantial change in  
7 circumstances; and

8 (2) without the necessity of showing a substantial  
9 change in circumstances, as follows:

10 (A) upon a showing of an inconsistency of at least  
11 20%, but no less than \$10 per month, between the amount  
12 of the existing order and the amount of child support  
13 that results from application of the guidelines  
14 specified in Section 505 of this Act unless the  
15 inconsistency is due to the fact that the amount of the  
16 existing order resulted from a deviation from the  
17 guideline amount and there has not been a change in the  
18 circumstances that resulted in that deviation; or

19 (B) Upon a showing of a need to provide for the  
20 health care needs of the child under the order through  
21 health insurance or other means. In no event shall the  
22 eligibility for or receipt of medical assistance be  
23 considered to meet the need to provide for the child's  
24 health care needs.

25 The provisions of subparagraph (a)(2)(A) shall apply only  
26 in cases in which a party is receiving child support  
27 enforcement services from the Illinois Department of Public Aid  
28 under Article X of the Illinois Public Aid Code, and only when  
29 at least 36 months have elapsed since the order for child  
30 support was entered or last modified.

31 (a-5) An order for maintenance may be modified or  
32 terminated only upon a showing of a substantial change in  
33 circumstances. In all such proceedings, as well as in  
34 proceedings in which maintenance is being reviewed, the court  
35 shall consider the applicable factors set forth in subsection  
36 (a) of Section 504 and the following factors:

1           (1) any change in the employment status of either party  
2           and whether the change has been made in good faith;

3           (2) the efforts, if any, made by the party receiving  
4           maintenance to become self-supporting, and the  
5           reasonableness of the efforts where they are appropriate;

6           (3) any impairment of the present and future earning  
7           capacity of either party;

8           (4) the tax consequences of the maintenance payments  
9           upon the respective economic circumstances of the parties;

10          (5) the duration of the maintenance payments  
11          previously paid (and remaining to be paid) relative to the  
12          length of the marriage;

13          (6) the property, including retirement benefits,  
14          awarded to each party under the judgment of dissolution of  
15          marriage, judgment of legal separation, or judgment of  
16          declaration of invalidity of marriage and the present  
17          status of the property;

18          (7) the increase or decrease in each party's income  
19          since the prior judgment or order from which a review,  
20          modification, or termination is being sought;

21          (8) the property acquired and currently owned by each  
22          party after the entry of the judgment of dissolution of  
23          marriage, judgment of legal separation, or judgment of  
24          declaration of invalidity of marriage; and

25          (9) any other factor that the court expressly finds to  
26          be just and equitable.

27          (b) The provisions as to property disposition may not be  
28          revoked or modified, unless the court finds the existence of  
29          conditions that justify the reopening of a judgment under the  
30          laws of this State.

31          (c) Unless otherwise agreed by the parties in a written  
32          agreement set forth in the judgment or otherwise approved by  
33          the court, the obligation to pay future maintenance is  
34          terminated upon the death of either party, or the remarriage of  
35          the party receiving maintenance, or if the party receiving  
36          maintenance cohabits with another person on a resident,

1 continuing conjugal basis.

2 (d) Unless otherwise provided in this Act, or as agreed in  
3 writing or expressly provided in the judgment, provisions for  
4 the support of a child are terminated by emancipation of the  
5 child, or if the child has attained the age of 18 and is still  
6 attending high school, provisions for the support of the child  
7 are terminated upon the date that the child graduates from high  
8 school or the date the child attains the age of 19, whichever  
9 is earlier, but not by the death of a parent obligated to  
10 support or educate the child. An existing obligation to pay for  
11 support or educational expenses, or both, is not terminated by  
12 the death of a parent. When a parent obligated to pay support  
13 or educational expenses, or both, dies, the amount of support  
14 or educational expenses, or both, may be enforced, modified,  
15 revoked or commuted to a lump sum payment, as equity may  
16 require, and that determination may be provided for at the time  
17 of the dissolution of the marriage or thereafter.

18 (e) The right to petition for support or educational  
19 expenses, or both, under Sections 505 and 513 is not  
20 extinguished by the death of a parent. Upon a petition filed  
21 before or after a parent's death, the court may award sums of  
22 money out of the decedent's estate for the child's support or  
23 educational expenses, or both, as equity may require. The time  
24 within which a claim may be filed against the estate of a  
25 decedent under Sections 505 and 513 and subsection (d) and this  
26 subsection shall be governed by the provisions of the Probate  
27 Act of 1975, as a barrable, noncontingent claim.

28 (f) A petition to modify or terminate child support,  
29 custody, or visitation shall not delay any child support  
30 enforcement litigation or supplementary proceeding on behalf  
31 of the obligee, including, but not limited to, a petition for a  
32 rule to show cause, for non-wage garnishment, or for a  
33 restraining order.

34 (g) In accordance with the Code of Civil Procedure, a party  
35 to an action to modify or terminate maintenance or support,  
36 including educational expenses, may demand a trial by jury as

1 to the issues of fact raised in the action.

2 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02; 92-651,  
3 eff. 7-11-02; 92-876, eff. 6-1-03; 93-353, eff. 1-1-04.)

4 (750 ILCS 5/606) (from Ch. 40, par. 606)

5 Sec. 606. Hearings.

6 (a) Custody proceedings shall receive priority in being set  
7 for hearing.

8 (b) The court may tax as costs the payment of necessary  
9 travel and other expenses incurred by any person whose presence  
10 at the hearing the court deems necessary to determine the best  
11 interest of the child.

12 (c) The court, ~~without a jury,~~ shall determine questions of  
13 law and fact, except that in accordance with the Code of Civil  
14 Procedure, a party to a custody proceeding may demand a trial  
15 by jury as to the issues of fact raised in the proceeding. If  
16 the court ~~it~~ finds that a public hearing may be detrimental to  
17 the child's best interest, the court may exclude the public  
18 from a custody hearing, but may admit any person who has a  
19 direct and legitimate interest in the particular case or a  
20 legitimate educational or research interest in the work of the  
21 court.

22 (d) If the court finds it necessary, in order to protect  
23 the child's welfare, that the record of any interview, report,  
24 investigation, or testimony in a custody proceeding be kept  
25 secret, the court may make an appropriate order sealing the  
26 record.

27 (e) Previous statements made by the child relating to any  
28 allegations that the child is an abused or neglected child  
29 within the meaning of the Abused and Neglected Child Reporting  
30 Act, or an abused or neglected minor within the meaning of the  
31 Juvenile Court Act of 1987, shall be admissible in evidence in  
32 a hearing concerning custody of or visitation with the child.  
33 No such statement, however, if uncorroborated and not subject  
34 to cross-examination, shall be sufficient in itself to support  
35 a finding of abuse or neglect.

1 (Source: P.A. 87-1081.)

2 (750 ILCS 5/103 rep.)

3 Section 26. The Illinois Marriage and Dissolution of  
4 Marriage Act is amended by repealing Section 103.

5 Section 30. The Illinois Uniform Premarital Agreement Act  
6 is amended by adding Sections 8.5 and 8.10 as follows:

7 (750 ILCS 10/8.5 new)

8 Sec. 8.5. Trial by jury. In accordance with the Code of  
9 Civil Procedure, a party to an action asserting a claim for  
10 relief under a premarital agreement may demand a trial by jury  
11 as to the issues of fact raised in the action.

12 (750 ILCS 10/8.10 new)

13 Sec. 8.10. Counseling. In an action asserting a claim for  
14 relief under a premarital agreement, the court may order one or  
15 both of the parties to undergo counseling as the court deems  
16 appropriate, based on the evidence.

17 Section 35. The Uniform Interstate Family Support Act is  
18 amended by changing Section 301 as follows:

19 (750 ILCS 22/301)

20 (Text of Section before amendment by P.A. 93-479)

21 Sec. 301. Proceedings under Act.

22 (a) Except as otherwise provided in this Act, this Article  
23 applies to all proceedings under this Act.

24 (b) This Act provides for the following proceedings:

25 (1) establishment of an order for spousal support or  
26 child support pursuant to Article 4;

27 (2) enforcement of a support order and  
28 income-withholding order of another state without  
29 registration pursuant to Article 5;

30 (3) registration of an order for spousal support or

1 child support of another state for enforcement pursuant to  
2 Article 6;

3 (4) modification of an order for child support or  
4 spousal support issued by a tribunal of this State pursuant  
5 to Article 2, Part 2;

6 (5) registration of an order for child support of  
7 another state for modification pursuant to Article 6;

8 (6) determination of parentage pursuant to Article 7;  
9 and

10 (7) assertion of jurisdiction over nonresidents  
11 pursuant to Article 2, Part 1.

12 (c) An individual obligee or a support enforcement agency  
13 may commence a proceeding authorized under this Act by filing a  
14 petition in an initiating tribunal for forwarding to a  
15 responding tribunal or by filing a petition or a comparable  
16 pleading directly in a tribunal of another state which has or  
17 can obtain personal jurisdiction over the obligor.

18 (d) In accordance with the Code of Civil Procedure, a party  
19 to a proceeding described in subsection (b) may demand a trial  
20 by jury as to the issues of fact raised in the proceeding.

21 (Source: P.A. 90-240, eff. 7-28-97.)

22 (Text of Section after amendment by P.A. 93-479; for  
23 operative date see Section 99 of P.A. 93-479)

24 Sec. 301. Proceedings under Act.

25 (a) Except as otherwise provided in this Act, this Article  
26 applies to all proceedings under this Act.

27 (b) An individual obligee or a support enforcement agency  
28 may initiate a proceeding authorized under this Act by filing a  
29 petition in an initiating tribunal for forwarding to a  
30 responding tribunal or by filing a petition or a comparable  
31 pleading directly in a tribunal of another state which has or  
32 can obtain personal jurisdiction over the obligor.

33 (d) In accordance with the Code of Civil Procedure, a party  
34 to a proceeding initiated under this Act may demand a trial by  
35 jury as to the issues of fact raised in the proceeding.

1 (Source: P.A. 93-479, eff. 1-1-04; for operative date see  
2 Section 99 of P.A. 93-479.)

3 Sec. 301. Proceedings under Act.

4 (a) Except as otherwise provided in this Act, this Article  
5 applies to all proceedings under this Act.

6 (b) An individual obligee or a support enforcement agency  
7 may initiate a proceeding authorized under this Act by filing a  
8 petition in an initiating tribunal for forwarding to a  
9 responding tribunal or by filing a petition or a comparable  
10 pleading directly in a tribunal of another state which has or  
11 can obtain personal jurisdiction over the obligor.

12 (c) In accordance with the Code of Civil Procedure, a party  
13 to a proceeding initiated under this Act may demand a trial by  
14 jury as to the issues of fact raised in the proceeding.

15 (Source: P.A. 93-479, eff. 1-1-04; for operative date see  
16 Section 99 of P.A. 93-479.)

17 Section 40. The Income Withholding for Support Act is  
18 amended by changing Section 40 as follows:

19 (750 ILCS 28/40)

20 Sec. 40. Petitions to contest withholding or to modify,  
21 suspend, terminate, or correct income withholding notices.

22 (a) When an obligor files a petition to contest  
23 withholding, the court, after due notice to all parties, shall  
24 hear the matter as soon as practicable and shall enter an order  
25 granting or denying relief, ordering service of an amended  
26 income withholding notice, where applicable, or otherwise  
27 resolving the matter. In accordance with the Code of Civil  
28 Procedure, a party to a proceeding to contest withholding under  
29 this subsection may demand a trial by jury as to the issues of  
30 fact raised in the proceeding.

31 The court shall deny the obligor's petition if the court  
32 finds that when the income withholding notice was mailed, sent  
33 by facsimile transmission or other electronic means, or placed

1 for personal delivery to or service on the payor:

2 (1) a delinquency existed; or

3 (2) the parties' written agreement providing an  
4 alternative arrangement to immediate withholding under  
5 subsection (a) of Section 20 no longer ensured payment of  
6 support.

7 (b) At any time, an obligor, obligee, public office or  
8 Clerk of the Circuit Court may petition the court to:

9 (1) modify, suspend or terminate the income  
10 withholding notice because of a modification, suspension  
11 or termination of the underlying order for support; or

12 (2) modify the amount of income to be withheld to  
13 reflect payment in full or in part of the delinquency or  
14 arrearage by income withholding or otherwise; or

15 (3) suspend the income withholding notice because of  
16 inability to deliver income withheld to the obligee due to  
17 the obligee's failure to provide a mailing address or other  
18 means of delivery.

19 (c) At any time an obligor may petition the court to  
20 correct a term contained in an income withholding notice to  
21 conform to that stated in the underlying order for support for:

22 (1) the amount of current support;

23 (2) the amount of the arrearage;

24 (3) the periodic amount for payment of the arrearage;

25 or

26 (4) the periodic amount for payment of the delinquency.

27 (d) The obligor, obligee or public office shall serve on  
28 the payor, in the manner provided for service of income  
29 withholding notices in subsection (g) of Section 20, a copy of  
30 any order entered pursuant to this Section that affects the  
31 duties of the payor.

32 (e) At any time, a public office or Clerk of the Circuit  
33 Court may serve a notice on the payor to:

34 (1) cease withholding of income for payment of current  
35 support for a child when the support obligation for that  
36 child has automatically ceased under the order for support



1 through emancipation or otherwise; or

2 (2) cease withholding of income for payment of  
3 delinquency or arrearage when the delinquency or arrearage  
4 has been paid in full.

5 (f) The notice provided for under subsection (e) of this  
6 Section shall be served on the payor in the manner provided for  
7 service of income withholding notices in subsection (g) of  
8 Section 20, and a copy shall be provided to the obligor and the  
9 obligee.

10 (g) The income withholding notice shall continue to be  
11 binding upon the payor until service of an amended income  
12 withholding notice or any order of the court or notice entered  
13 or provided for under this Section.

14 (Source: P.A. 90-673, eff. 1-1-99.)

15 Section 45. The Emancipation of Minors Act is amended by  
16 adding Section 7.5 and changing Section 9 as follows:

17 (750 ILCS 30/7.5 new)

18 Sec. 7.5. Trial by jury. In accordance with the Code of  
19 Civil Procedure, a party to a proceeding for emancipation under  
20 this Act may demand a trial by jury as to the issues of fact  
21 raised in the proceeding.

22 (750 ILCS 30/9) (from Ch. 40, par. 2209)

23 Sec. 9. Hearing on petition.

24 (a) Mature minor. Before proceeding to a hearing on the  
25 petition for emancipation of a mature minor the court shall  
26 advise all persons present of the nature of the proceedings,  
27 and their rights and responsibilities if an order of  
28 emancipation should be entered.

29 If, after the hearing, the court determines that the minor  
30 is a mature minor who is of sound mind and has the capacity and  
31 maturity to manage his own affairs including his finances, and  
32 that the best interests of the minor and his family will be  
33 promoted by declaring the minor an emancipated minor, the court

1 shall enter a finding that the minor is an emancipated minor  
2 within the meaning of this Act, or that the mature minor is  
3 partially emancipated with such limitations as the court by  
4 order deems appropriate. The court may also order that the  
5 emancipated or partially emancipated minor or the minor's  
6 parent or parents or guardian undergo counseling as the court  
7 deems appropriate, based on the evidence. No order of complete  
8 or partial emancipation may be entered under this Act if there  
9 is any objection by the minor, his parents or guardian.

10 (b) Homeless minor. Upon the verified petition of a  
11 homeless minor, the court shall immediately grant partial  
12 emancipation for the sole purpose of allowing the homeless  
13 minor to consent to the receipt of services and shelter or  
14 housing provided by the youth transitional housing program  
15 named in the petition and to other services that the youth  
16 transitional housing program may arrange by referral. The court  
17 may require that a youth transitional housing program employee  
18 appear before the court at the time of the filing of the  
19 petition and may inquire into the facts asserted in the  
20 petition. No other hearing shall be scheduled in the case of a  
21 petition affecting a homeless minor, unless, after notice, a  
22 parent or guardian requests such a hearing. If such a hearing  
23 is requested, then the homeless minor must be present at the  
24 hearing. After the granting of partial emancipation to a  
25 homeless youth, if the youth transitional housing program  
26 determines that its facility and services are no longer  
27 appropriate for the minor or that another program is more  
28 appropriate for the minor, the program shall notify the court  
29 and the court, after a hearing, may modify its order. At any  
30 hearing under this subsection (b), the court may also order  
31 that the minor or the minor's parent or parents or guardian  
32 undergo counseling as the court deems appropriate, based on the  
33 evidence.

34 (Source: P.A. 93-105, eff. 7-8-03.)

35 Section 50. The Illinois Parentage Act of 1984 is amended

1 by changing Sections 13 and 14 as follows:

2 (750 ILCS 45/13) (from Ch. 40, par. 2513)

3 Sec. 13. Civil Action.

4 (a) An action under this Act is a civil action governed by  
5 the provisions of the "Code of Civil Procedure", approved  
6 August 19, 1981, as amended, and the Supreme Court rules  
7 applicable thereto, except where otherwise specified in this  
8 Act.

9 (b) In accordance with the Code of Civil Procedure, a party  
10 to an action under this Act may demand a trial by jury as to the  
11 issues of fact raised in the action. ~~Trial by jury is not~~  
12 ~~available under this Act.~~

13 (c) Certified copies of the bills for costs incurred for  
14 pregnancy and childbirth shall be admitted into evidence at  
15 judicial or administrative proceedings without foundation  
16 testimony or other proof of authenticity or accuracy.

17 (Source: P.A. 90-18, eff. 7-1-97.)

18 (750 ILCS 45/14) (from Ch. 40, par. 2514)

19 Sec. 14. Judgment.

20 (a) (1) The judgment shall contain or explicitly reserve  
21 provisions concerning any duty and amount of child support and  
22 may contain provisions concerning the custody and guardianship  
23 of the child, visitation privileges with the child, the  
24 furnishing of bond or other security for the payment of the  
25 judgment, which the court shall determine in accordance with  
26 the relevant factors set forth in the Illinois Marriage and  
27 Dissolution of Marriage Act and any other applicable law of  
28 Illinois, to guide the court in a finding in the best interests  
29 of the child. In determining custody, joint custody, removal,  
30 or visitation, the court shall apply the relevant standards of  
31 the Illinois Marriage and Dissolution of Marriage Act,  
32 including Section 609. Specifically, in determining the amount  
33 of any child support award, the court shall use the guidelines  
34 and standards set forth in subsection (a) of Section 505 and in

1 Section 505.2 of the Illinois Marriage and Dissolution of  
2 Marriage Act. For purposes of Section 505 of the Illinois  
3 Marriage and Dissolution of Marriage Act, "net income" of the  
4 non-custodial parent shall include any benefits available to  
5 that person under the Illinois Public Aid Code or from other  
6 federal, State or local government-funded programs. The court  
7 shall, in any event and regardless of the amount of the  
8 non-custodial parent's net income, in its judgment order the  
9 non-custodial parent to pay child support to the custodial  
10 parent in a minimum amount of not less than \$10 per month. In  
11 an action brought within 2 years after a child's birth, the  
12 judgment or order may direct either parent to pay the  
13 reasonable expenses incurred by either parent related to the  
14 mother's pregnancy and the delivery of the child. The judgment  
15 or order shall contain the father's social security number,  
16 which the father shall disclose to the court; however, failure  
17 to include the father's social security number on the judgment  
18 or order does not invalidate the judgment or order.

19 (2) If a judgment of parentage contains no explicit award  
20 of custody, the establishment of a support obligation or of  
21 visitation rights in one parent shall be considered a judgment  
22 granting custody to the other parent. If the parentage judgment  
23 contains no such provisions, custody shall be presumed to be  
24 with the mother; however, the presumption shall not apply if  
25 the father has had physical custody for at least 6 months prior  
26 to the date that the mother seeks to enforce custodial rights.

27 (3) The court may also order that the child or the child's  
28 parent or parents undergo counseling as the court deems  
29 appropriate, based on the evidence.

30 (b) The court shall order all child support payments,  
31 determined in accordance with such guidelines, to commence with  
32 the date summons is served. The level of current periodic  
33 support payments shall not be reduced because of payments set  
34 for the period prior to the date of entry of the support order.  
35 The Court may order any child support payments to be made for a  
36 period prior to the commencement of the action. In determining

1 whether and the extent to which the payments shall be made for  
2 any prior period, the court shall consider all relevant facts,  
3 including the factors for determining the amount of support  
4 specified in the Illinois Marriage and Dissolution of Marriage  
5 Act and other equitable factors including but not limited to:

6 (1) The father's prior knowledge of the fact and  
7 circumstances of the child's birth.

8 (2) The father's prior willingness or refusal to help  
9 raise or support the child.

10 (3) The extent to which the mother or the public agency  
11 bringing the action previously informed the father of the  
12 child's needs or attempted to seek or require his help in  
13 raising or supporting the child.

14 (4) The reasons the mother or the public agency did not  
15 file the action earlier.

16 (5) The extent to which the father would be prejudiced  
17 by the delay in bringing the action.

18 For purposes of determining the amount of child support to  
19 be paid for any period before the date the order for current  
20 child support is entered, there is a rebuttable presumption  
21 that the father's net income for the prior period was the same  
22 as his net income at the time the order for current child  
23 support is entered.

24 If (i) the non-custodial parent was properly served with a  
25 request for discovery of financial information relating to the  
26 non-custodial parent's ability to provide child support, (ii)  
27 the non-custodial parent failed to comply with the request,  
28 despite having been ordered to do so by the court, and (iii)  
29 the non-custodial parent is not present at the hearing to  
30 determine support despite having received proper notice, then  
31 any relevant financial information concerning the  
32 non-custodial parent's ability to provide child support that  
33 was obtained pursuant to subpoena and proper notice shall be  
34 admitted into evidence without the need to establish any  
35 further foundation for its admission.

36 (c) Any new or existing support order entered by the court

1 under this Section shall be deemed to be a series of judgments  
2 against the person obligated to pay support thereunder, each  
3 judgment to be in the amount of each payment or installment of  
4 support and each such judgment to be deemed entered as of the  
5 date the corresponding payment or installment becomes due under  
6 the terms of the support order. Each judgment shall have the  
7 full force, effect and attributes of any other judgment of this  
8 State, including the ability to be enforced. A lien arises by  
9 operation of law against the real and personal property of the  
10 noncustodial parent for each installment of overdue support  
11 owed by the noncustodial parent.

12 (d) If the judgment or order of the court is at variance  
13 with the child's birth certificate, the court shall order that  
14 a new birth certificate be issued under the Vital Records Act.

15 (e) On request of the mother and the father, the court  
16 shall order a change in the child's name. After hearing  
17 evidence the court may stay payment of support during the  
18 period of the father's minority or period of disability.

19 (f) If, upon a showing of proper service, the father fails  
20 to appear in court, or otherwise appear as provided by law, the  
21 court may proceed to hear the cause upon testimony of the  
22 mother or other parties taken in open court and shall enter a  
23 judgment by default. The court may reserve any order as to the  
24 amount of child support until the father has received notice,  
25 by regular mail, of a hearing on the matter.

26 (g) A one-time charge of 20% is imposable upon the amount  
27 of past-due child support owed on July 1, 1988 which has  
28 accrued under a support order entered by the court. The charge  
29 shall be imposed in accordance with the provisions of Section  
30 10-21 of the Illinois Public Aid Code and shall be enforced by  
31 the court upon petition.

32 (h) All orders for support, when entered or modified, shall  
33 include a provision requiring the non-custodial parent to  
34 notify the court and, in cases in which party is receiving  
35 child support enforcement services under Article X of the  
36 Illinois Public Aid Code, the Illinois Department of Public

1 Aid, within 7 days, (i) of the name and address of any new  
2 employer of the non-custodial parent, (ii) whether the  
3 non-custodial parent has access to health insurance coverage  
4 through the employer or other group coverage and, if so, the  
5 policy name and number and the names of persons covered under  
6 the policy, and (iii) of any new residential or mailing address  
7 or telephone number of the non-custodial parent. In any  
8 subsequent action to enforce a support order, upon a sufficient  
9 showing that a diligent effort has been made to ascertain the  
10 location of the non-custodial parent, service of process or  
11 provision of notice necessary in the case may be made at the  
12 last known address of the non-custodial parent in any manner  
13 expressly provided by the Code of Civil Procedure or this Act,  
14 which service shall be sufficient for purposes of due process.

15 (i) An order for support shall include a date on which the  
16 current support obligation terminates. The termination date  
17 shall be no earlier than the date on which the child covered by  
18 the order will attain the age of 18. However, if the child will  
19 not graduate from high school until after attaining the age of  
20 18, then the termination date shall be no earlier than the  
21 earlier of the date on which the child's high school graduation  
22 will occur or the date on which the child will attain the age  
23 of 19. The order for support shall state that the termination  
24 date does not apply to any arrearage that may remain unpaid on  
25 that date. Nothing in this subsection shall be construed to  
26 prevent the court from modifying the order or terminating the  
27 order in the event the child is otherwise emancipated.

28 (j) An order entered under this Section shall include a  
29 provision requiring the obligor to report to the obligee and to  
30 the clerk of court within 10 days each time the obligor obtains  
31 new employment, and each time the obligor's employment is  
32 terminated for any reason. The report shall be in writing and  
33 shall, in the case of new employment, include the name and  
34 address of the new employer. Failure to report new employment  
35 or the termination of current employment, if coupled with  
36 nonpayment of support for a period in excess of 60 days, is

1 indirect criminal contempt. For any obligor arrested for  
2 failure to report new employment bond shall be set in the  
3 amount of the child support that should have been paid during  
4 the period of unreported employment. An order entered under  
5 this Section shall also include a provision requiring the  
6 obligor and obligee parents to advise each other of a change in  
7 residence within 5 days of the change except when the court  
8 finds that the physical, mental, or emotional health of a party  
9 or that of a minor child, or both, would be seriously  
10 endangered by disclosure of the party's address.

11 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; 93-139,  
12 eff. 7-10-03; revised 9-15-03.)

13 Section 55. The Adoption Act is amended by adding Section  
14 5.5 as follows:

15 (750 ILCS 50/5.5 new)

16 Sec. 5.5. Trial by jury. In accordance with the Code of  
17 Civil Procedure, a party to a proceeding for adoption under  
18 this Act may demand a trial by jury as to the issues of fact  
19 raised in the proceeding.

20 Section 60. The Illinois Domestic Violence Act of 1986 is  
21 amended by changing Sections 206 and 214 as follows:

22 (750 ILCS 60/206) (from Ch. 40, par. 2312-6)

23 Sec. 206. Trial by jury. In accordance with the Code of  
24 Civil Procedure, the petitioner or the respondent may demand a  
25 ~~There shall be no right to~~ trial by jury of the issues of fact  
26 in any proceeding to obtain, modify, vacate or extend an ~~any~~  
27 order of protection under this Act. ~~However,~~ Nothing in this  
28 Section shall deny any existing right to trial by jury in a  
29 criminal proceeding.

30 (Source: P.A. 87-1186.)

31 (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 petitioner  
3 has been abused by a family or household member or that  
4 petitioner is a high-risk adult who has been abused, neglected,  
5 or exploited, as defined in this Act, an order of protection  
6 prohibiting the abuse, neglect, or exploitation shall issue;  
7 provided that petitioner must also satisfy the requirements of  
8 one of the following Sections, as appropriate: Section 217 on  
9 emergency orders, Section 218 on interim orders, or Section 219  
10 on plenary orders. Petitioner shall not be denied an order of  
11 protection because petitioner or respondent is a minor. The  
12 court, when determining whether or not to issue an order of  
13 protection, shall not require physical manifestations of abuse  
14 on the person of the victim. Modification and extension of  
15 prior orders of protection shall be in accordance with this  
16 Act.

17           (b) Remedies and standards. The remedies to be included in  
18 an order of protection shall be determined in accordance with  
19 this Section and one of the following Sections, as appropriate:  
20 Section 217 on emergency orders, Section 218 on interim orders,  
21 and Section 219 on plenary orders. The remedies listed in this  
22 subsection shall be in addition to other civil or criminal  
23 remedies available to petitioner.

24           (1) Prohibition of abuse, neglect, or exploitation.  
25           Prohibit respondent's harassment, interference with  
26 personal liberty, intimidation of a dependent, physical  
27 abuse, or willful deprivation, neglect or exploitation, as  
28 defined in this Act, or stalking of the petitioner, as  
29 defined in Section 12-7.3 of the Criminal Code of 1961, if  
30 such abuse, neglect, exploitation, or stalking has  
31 occurred or otherwise appears likely to occur if not  
32 prohibited.

33           (2) Grant of exclusive possession of residence.  
34           Prohibit respondent from entering or remaining in any  
35 residence or household of the petitioner, including one  
36 owned or leased by respondent, if petitioner has a right to

1 occupancy thereof. The grant of exclusive possession of the  
2 residence shall not affect title to real property, nor  
3 shall the court be limited by the standard set forth in  
4 Section 701 of the Illinois Marriage and Dissolution of  
5 Marriage Act.

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

15 (B) Presumption of hardships. If petitioner and  
16 respondent each has the right to occupancy of a  
17 residence or household, the court shall balance (i) the  
18 hardships to respondent and any minor child or  
19 dependent adult in respondent's care resulting from  
20 entry of this remedy with (ii) the hardships to  
21 petitioner and any minor child or dependent adult in  
22 petitioner's care resulting from continued exposure to  
23 the risk of abuse (should petitioner remain at the  
24 residence or household) or from loss of possession of  
25 the residence or household (should petitioner leave to  
26 avoid the risk of abuse). When determining the balance  
27 of hardships, the court shall also take into account  
28 the accessibility of the residence or household.  
29 Hardships need not be balanced if respondent does not  
30 have a right to occupancy.

31 The balance of hardships is presumed to favor  
32 possession by petitioner unless the presumption is  
33 rebutted by a preponderance of the evidence, showing  
34 that the hardships to respondent substantially  
35 outweigh the hardships to petitioner and any minor  
36 child or dependent adult in petitioner's care. The

1 court, on the request of petitioner or on its own  
2 motion, may order respondent to provide suitable,  
3 accessible, alternate housing for petitioner instead  
4 of excluding respondent from a mutual residence or  
5 household.

6 (3) Stay away order and additional prohibitions. Order  
7 respondent to stay away from petitioner or any other person  
8 protected by the order of protection, or prohibit  
9 respondent from entering or remaining present at  
10 petitioner's school, place of employment, or other  
11 specified places at times when petitioner is present, or  
12 both, if reasonable, given the balance of hardships.  
13 Hardships need not be balanced for the court to enter a  
14 stay away order or prohibit entry if respondent has no  
15 right to enter the premises.

16 If an order of protection grants petitioner exclusive  
17 possession of the residence, or prohibits respondent from  
18 entering the residence, or orders respondent to stay away  
19 from petitioner or other protected persons, then the court  
20 may allow respondent access to the residence to remove  
21 items of clothing and personal adornment used exclusively  
22 by respondent, medications, and other items as the court  
23 directs. The right to access shall be exercised on only one  
24 occasion as the court directs and in the presence of an  
25 agreed-upon adult third party or law enforcement officer.

26 (4) Counseling. Require or recommend the respondent to  
27 undergo counseling for a specified duration with a social  
28 worker, psychologist, clinical psychologist, psychiatrist,  
29 family service agency, alcohol or substance abuse program,  
30 mental health center guidance counselor, agency providing  
31 services to elders, program designed for domestic violence  
32 abusers or any other guidance service the court deems  
33 appropriate. The court may also require or recommend that  
34 the petitioner undergo counseling as the court deems  
35 appropriate, based on the evidence.

36 (5) Physical care and possession of the minor child. In

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

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

15 (6) Temporary legal custody. Award temporary legal  
16 custody to petitioner in accordance with this Section, the  
17 Illinois Marriage and Dissolution of Marriage Act, the  
18 Illinois Parentage Act of 1984, and this State's Uniform  
19 Child-Custody Jurisdiction and Enforcement Act.

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 temporary legal custody to respondent would not be  
24 in the child's best interest.

25 (7) Visitation. Determine the visitation rights, if  
26 any, of respondent in any case in which the court awards  
27 physical care or temporary legal custody of a minor child  
28 to petitioner. The court shall restrict or deny  
29 respondent's visitation with a minor child if the court  
30 finds that respondent has done or is likely to do any of  
31 the following: (i) abuse or endanger the minor child during  
32 visitation; (ii) use the visitation as an opportunity to  
33 abuse or harass petitioner or petitioner's family or  
34 household members; (iii) improperly conceal or detain the  
35 minor child; or (iv) otherwise act in a manner that is not  
36 in the best interests of the minor child. The court shall

1 not be limited by the standards set forth in Section 607.1  
2 of the Illinois Marriage and Dissolution of Marriage Act.  
3 If the court grants visitation, the order shall specify  
4 dates and times for the visitation to take place or other  
5 specific parameters or conditions that are appropriate. No  
6 order for visitation shall refer merely to the term  
7 "reasonable visitation".

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

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

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

26 (9) Order to appear. Order the respondent to appear in  
27 court, alone or with a minor child, to prevent abuse,  
28 neglect, removal or concealment of the child, to return the  
29 child to the custody or care of the petitioner or to permit  
30 any court-ordered interview or examination of the child or  
31 the respondent.

32 (10) Possession of personal property. Grant petitioner  
33 exclusive possession of personal property and, if  
34 respondent has possession or control, direct respondent to  
35 promptly make it available to petitioner, if:

36 (i) petitioner, but not respondent, owns the

1 property; or

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

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

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

15 (11) Protection of property. Forbid the respondent  
16 from taking, transferring, encumbering, concealing,  
17 damaging or otherwise disposing of any real or personal  
18 property, except as explicitly authorized by the court, if:

19 (i) petitioner, but not respondent, owns the  
20 property; or

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

23 If petitioner's sole claim to ownership of the property  
24 is that it is marital property, the court may grant  
25 petitioner relief under subparagraph (ii) of this  
26 paragraph only if a proper proceeding has been filed under  
27 the Illinois Marriage and Dissolution of Marriage Act, as  
28 now or hereafter amended.

29 The court may further prohibit respondent from  
30 improperly using the financial or other resources of an  
31 aged member of the family or household for the profit or  
32 advantage of respondent or of any other person.

33 (12) Order for payment of support. Order respondent to  
34 pay temporary support for the petitioner or any child in  
35 the petitioner's care or custody, when the respondent has a  
36 legal obligation to support that person, in accordance with

1 the Illinois Marriage and Dissolution of Marriage Act,  
2 which shall govern, among other matters, the amount of  
3 support, payment through the clerk and withholding of  
4 income to secure payment. An order for child support may be  
5 granted to a petitioner with lawful physical care or  
6 custody of a child, or an order or agreement for physical  
7 care or custody, prior to entry of an order for legal  
8 custody. Such a support order shall expire upon entry of a  
9 valid order granting legal custody to another, unless  
10 otherwise provided in the custody order.

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

20 (i) Losses affecting family needs. If a party is  
21 entitled to seek maintenance, child support or  
22 property distribution from the other party under the  
23 Illinois Marriage and Dissolution of Marriage Act, as  
24 now or hereafter amended, the court may order  
25 respondent to reimburse petitioner's actual losses, to  
26 the extent that such reimbursement would be  
27 "appropriate temporary relief", as authorized by  
28 subsection (a) (3) of Section 501 of that Act.

29 (ii) Recovery of expenses. In the case of an  
30 improper concealment or removal of a minor child, the  
31 court may order respondent to pay the reasonable  
32 expenses incurred or to be incurred in the search for  
33 and recovery of the minor child, including but not  
34 limited to legal fees, court costs, private  
35 investigator fees, and travel costs.

36 (14) Prohibition of entry. Prohibit the respondent

1 from entering or remaining in the residence or household  
2 while the respondent is under the influence of alcohol or  
3 drugs and constitutes a threat to the safety and well-being  
4 of the petitioner or the petitioner's children.

5 (14.5) Prohibition of firearm possession.

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

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

35 (15) Prohibition of access to records. If an order of  
36 protection prohibits respondent from having contact with



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

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

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

24 (c) Relevant factors; findings.

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

29 (i) the nature, frequency, severity, pattern and  
30 consequences of the respondent's past abuse, neglect  
31 or exploitation of the petitioner or any family or  
32 household member, including the concealment of his or  
33 her location in order to evade service of process or  
34 notice, and the likelihood of danger of future abuse,  
35 neglect, or exploitation to petitioner or any member of  
36 petitioner's or respondent's family or household; and

1 (ii) the danger that any minor child will be abused  
2 or neglected or improperly removed from the  
3 jurisdiction, improperly concealed within the State or  
4 improperly separated from the child's primary  
5 caretaker.

6 (2) In comparing relative hardships resulting to the  
7 parties from loss of possession of the family home, the  
8 court shall consider relevant factors, including but not  
9 limited to the following:

10 (i) availability, accessibility, cost, safety,  
11 adequacy, location and other characteristics of  
12 alternate housing for each party and any minor child or  
13 dependent adult in the party's care;

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

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

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

22 (i) That the court has considered the applicable  
23 relevant factors described in paragraphs (1) and (2) of  
24 this subsection.

25 (ii) Whether the conduct or actions of respondent,  
26 unless prohibited, will likely cause irreparable harm  
27 or continued abuse.

28 (iii) Whether it is necessary to grant the  
29 requested relief in order to protect petitioner or  
30 other alleged abused persons.

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

36 When a verified petition for an emergency order of

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

10 (5) Never married parties. No rights or  
11 responsibilities for a minor child born outside of marriage  
12 attach to a putative father until a father and child  
13 relationship has been established under the Illinois  
14 Parentage Act of 1984, the Illinois Public Aid Code,  
15 Section 12 of the Vital Records Act, the Juvenile Court Act  
16 of 1987, the Probate Act of 1985, the Revised Uniform  
17 Reciprocal Enforcement of Support Act, the Uniform  
18 Interstate Family Support Act, the Expedited Child Support  
19 Act of 1990, any judicial, administrative, or other act of  
20 another state or territory, any other Illinois statute, or  
21 by any foreign nation establishing the father and child  
22 relationship, any other proceeding substantially in  
23 conformity with the Personal Responsibility and Work  
24 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),  
25 or where both parties appeared in open court or at an  
26 administrative hearing acknowledging under oath or  
27 admitting by affirmation the existence of a father and  
28 child relationship. Absent such an adjudication, finding,  
29 or acknowledgement, no putative father shall be granted  
30 temporary custody of the minor child, visitation with the  
31 minor child, or physical care and possession of the minor  
32 child, nor shall an order of payment for support of the  
33 minor child be entered.

34 (d) Balance of hardships; findings. If the court finds that  
35 the balance of hardships does not support the granting of a  
36 remedy governed by paragraph (2), (3), (10), (11), or (16) of

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

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

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

12 (2) Respondent was voluntarily intoxicated;

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

17 (4) Petitioner did not act in self-defense or defense  
18 of another;

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

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

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

29 (Source: P.A. 93-108, eff. 1-1-04.)

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2		Statutes amended in order of appearance
3	305 ILCS 5/10-10	from Ch. 23, par. 10-10
4	705 ILCS 35/4.4 new	
5	705 ILCS 405/1-5	from Ch. 37, par. 801-5
6	705 ILCS 405/2-20	from Ch. 37, par. 802-20
7	705 ILCS 405/2-23	from Ch. 37, par. 802-23
8	705 ILCS 405/3-21	from Ch. 37, par. 803-21
9	705 ILCS 405/3-24	from Ch. 37, par. 803-24
10	705 ILCS 405/4-18	from Ch. 37, par. 804-18
11	705 ILCS 405/4-21	from Ch. 37, par. 804-21
12	725 ILCS 5/112A-7	from Ch. 38, par. 112A-7
13	725 ILCS 5/112A-14	from Ch. 38, par. 112A-14
14	750 ILCS 5/307 new	
15	750 ILCS 5/404.05 new	
16	750 ILCS 5/411.5 new	
17	750 ILCS 5/452.5 new	
18	750 ILCS 5/510	from Ch. 40, par. 510
19	750 ILCS 5/606	from Ch. 40, par. 606
20	750 ILCS 5/103 rep.	
21	750 ILCS 10/8.5 new	
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30	750 ILCS 60/206	from Ch. 40, par. 2312-6
31	750 ILCS 60/214	from Ch. 40, par. 2312-14