



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0009

Introduced 1/19/2007, by Rep. John A. Fritchey - Naomi D. Jakobsson - Thomas Holbrook, Dan Brady, Patrick J Verschoore, et al.

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-14  
750 ILCS 60/214

from Ch. 38, par. 112A-14  
from Ch. 40, par. 2312-14

Amends the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that the court may include in the order of protection granting the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and ordering the respondent to stay away from the animal and forbidding the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

LRB095 03424 RLC 23428 b

1 AN ACT concerning orders of protection.

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

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

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

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

8 (a) Issuance of order. If the court finds that petitioner  
9 has been abused by a family or household member, as defined in  
10 this Article, an order of protection prohibiting such abuse  
11 shall issue; provided that petitioner must also satisfy the  
12 requirements of one of the following Sections, as appropriate:  
13 Section 112A-17 on emergency orders, Section 112A-18 on interim  
14 orders, or Section 112A-19 on plenary orders. Petitioner shall  
15 not be denied an order of protection because petitioner or  
16 respondent is a minor. The court, when determining whether or  
17 not to issue an order of protection, shall not require physical  
18 manifestations of abuse on the person of the victim.  
19 Modification and extension of prior orders of protection shall  
20 be in accordance with this Article.

21 (b) Remedies and standards. The remedies to be included in  
22 an order of protection shall be determined in accordance with  
23 this Section and one of the following Sections, as appropriate:

1 Section 112A-17 on emergency orders, Section 112A-18 on interim  
2 orders, and Section 112A-19 on plenary orders. The remedies  
3 listed in this subsection shall be in addition to other civil  
4 or criminal remedies available to petitioner.

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

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

20 (A) Right to occupancy. A party has a right to  
21 occupancy of a residence or household if it is solely  
22 or jointly owned or leased by that party, that party's  
23 spouse, a person with a legal duty to support that  
24 party or a minor child in that party's care, or by any  
25 person or entity other than the opposing party that  
26 authorizes that party's occupancy (e.g., a domestic

1 violence shelter). Standards set forth in subparagraph  
2 (B) shall not preclude equitable relief.

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

19 The balance of hardships is presumed to favor  
20 possession by petitioner unless the presumption is  
21 rebutted by a preponderance of the evidence, showing  
22 that the hardships to respondent substantially  
23 outweigh the hardships to petitioner and any minor  
24 child or dependent adult in petitioner's care. The  
25 court, on the request of petitioner or on its own  
26 motion, may order respondent to provide suitable,

1           accessible, alternate housing for petitioner instead  
2           of excluding respondent from a mutual residence or  
3           household.

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

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

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

1 family service agency, alcohol or substance abuse program,  
2 mental health center guidance counselor, agency providing  
3 services to elders, program designed for domestic violence  
4 abusers or any other guidance service the court deems  
5 appropriate.

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

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

21 (6) Temporary legal custody. Award temporary legal  
22 custody to petitioner in accordance with this Section, the  
23 Illinois Marriage and Dissolution of Marriage Act, the  
24 Illinois Parentage Act of 1984, and this State's Uniform  
25 Child-Custody Jurisdiction and Enforcement Act.

26 If a court finds, after a hearing, that respondent has

1 committed abuse (as defined in Section 112A-3) of a minor  
2 child, there shall be a rebuttable presumption that  
3 awarding temporary legal custody to respondent would not be  
4 in the child's best interest.

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

24 Petitioner may deny respondent access to the minor  
25 child if, when respondent arrives for visitation,  
26 respondent is under the influence of drugs or alcohol and

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

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

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

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

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

26 (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

1 the Illinois Marriage and Dissolution of Marriage Act, as  
2 now or hereafter amended.

3 The court may further prohibit respondent from  
4 improperly using the financial or other resources of an  
5 aged member of the family or household for the profit or  
6 advantage of respondent or of any other person.

7 (11.5) Protection of animals. Grant the petitioner the  
8 exclusive care, custody, or control of any animal owned,  
9 possessed, leased, kept, or held by either the petitioner  
10 or the respondent or a minor child residing in the  
11 residence or household of either the petitioner or the  
12 respondent and order the respondent to stay away from the  
13 animal and forbid the respondent from taking,  
14 transferring, encumbering, concealing, harming, or  
15 otherwise disposing of the animal.

16 (12) Order for payment of support. Order respondent to  
17 pay temporary support for the petitioner or any child in  
18 the petitioner's care or custody, when the respondent has a  
19 legal obligation to support that person, in accordance with  
20 the Illinois Marriage and Dissolution of Marriage Act,  
21 which shall govern, among other matters, the amount of  
22 support, payment through the clerk and withholding of  
23 income to secure payment. An order for child support may be  
24 granted to a petitioner with lawful physical care or  
25 custody of a child, or an order or agreement for physical  
26 care or custody, prior to entry of an order for legal

1 custody. Such a support order shall expire upon entry of a  
2 valid order granting legal custody to another, unless  
3 otherwise provided in the custody order.

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

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

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

1 investigator fees, and travel costs.

2 (14) Prohibition of entry. Prohibit the respondent  
3 from entering or remaining in the residence or household  
4 while the respondent is under the influence of alcohol or  
5 drugs and constitutes a threat to the safety and well-being  
6 of the petitioner or the petitioner's children.

7 (14.5) Prohibition of firearm possession. (a) When a  
8 complaint is made under a request for an order of  
9 protection, that the respondent has threatened or is likely  
10 to use firearms illegally against the petitioner, and the  
11 respondent is present in court, or has failed to appear  
12 after receiving actual notice, the court shall examine on  
13 oath the petitioner, and any witnesses who may be produced.  
14 If the court is satisfied that there is any danger of the  
15 illegal use of firearms, it shall include in the order of  
16 protection the requirement that any firearms in the  
17 possession of the respondent, except as provided in  
18 subsection (b), be turned over to the local law enforcement  
19 agency for safekeeping. If the respondent fails to appear,  
20 or refuses or fails to surrender his or her firearms, the  
21 court shall issue a warrant for seizure of any firearm in  
22 the possession of the respondent. The period of safekeeping  
23 shall be for a stated period of time not to exceed 2 years.  
24 The firearm or firearms shall be returned to the respondent  
25 at the end of the stated period or at expiration of the  
26 order of protection, whichever is sooner. (b) If the

1           respondent is a peace officer as defined in Section 2-13 of  
2           the Criminal Code of 1961, the court shall order that any  
3           firearms used by the respondent in the performance of his  
4           or her duties as a peace officer be surrendered to the  
5           chief law enforcement executive of the agency in which the  
6           respondent is employed, who shall retain the firearms for  
7           safekeeping for the stated period not to exceed 2 years as  
8           set forth in the court order.

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

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

24          (17) Order for injunctive relief. Enter injunctive  
25          relief necessary or appropriate to prevent further abuse of  
26          a family or household member or to effectuate one of the

1 granted remedies, if supported by the balance of hardships.  
2 If the harm to be prevented by the injunction is abuse or  
3 any other harm that one of the remedies listed in  
4 paragraphs (1) through (16) of this subsection is designed  
5 to prevent, no further evidence is necessary to establish  
6 that the harm is an irreparable injury.

7 (c) Relevant factors; findings.

8 (1) In determining whether to grant a specific remedy,  
9 other than payment of support, the court shall consider  
10 relevant factors, including but not limited to the  
11 following:

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

20 (ii) the danger that any minor child will be abused  
21 or neglected or improperly removed from the  
22 jurisdiction, improperly concealed within the State or  
23 improperly separated from the child's primary  
24 caretaker.

25 (2) In comparing relative hardships resulting to the  
26 parties from loss of possession of the family home, the

1 court shall consider relevant factors, including but not  
2 limited to the following:

3 (i) availability, accessibility, cost, safety,  
4 adequacy, location and other characteristics of  
5 alternate housing for each party and any minor child or  
6 dependent adult in the party's care;

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

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

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

15 (i) That the court has considered the applicable  
16 relevant factors described in paragraphs (1) and (2) of  
17 this subsection.

18 (ii) Whether the conduct or actions of respondent,  
19 unless prohibited, will likely cause irreparable harm  
20 or continued abuse.

21 (iii) Whether it is necessary to grant the  
22 requested relief in order to protect petitioner or  
23 other alleged abused persons.

24 (4) For purposes of issuing an ex parte emergency order  
25 of protection, the court, as an alternative to or as a  
26 supplement to making the findings described in paragraphs

1 (c) (3) (i) through (c) (3) (iii) of this subsection, may use  
2 the following procedure:

3 When a verified petition for an emergency order of  
4 protection in accordance with the requirements of Sections  
5 112A-5 and 112A-17 is presented to the court, the court  
6 shall examine petitioner on oath or affirmation. An  
7 emergency order of protection shall be issued by the court  
8 if it appears from the contents of the petition and the  
9 examination of petitioner that the averments are  
10 sufficient to indicate abuse by respondent and to support  
11 the granting of relief under the issuance of the emergency  
12 order of protection.

13 (5) Never married parties. No rights or  
14 responsibilities for a minor child born outside of marriage  
15 attach to a putative father until a father and child  
16 relationship has been established under the Illinois  
17 Parentage Act of 1984. Absent such an adjudication, no  
18 putative father shall be granted temporary custody of the  
19 minor child, visitation with the minor child, or physical  
20 care and possession of the minor child, nor shall an order  
21 of payment for support of the minor child be entered.

22 (d) Balance of hardships; findings. If the court finds that  
23 the balance of hardships does not support the granting of a  
24 remedy governed by paragraph (2), (3), (10), (11), or (16) of  
25 subsection (b) of this Section, which may require such  
26 balancing, the court's findings shall so indicate and shall



1 include a finding as to whether granting the remedy will result  
2 in hardship to respondent that would substantially outweigh the  
3 hardship to petitioner from denial of the remedy. The findings  
4 shall be an official record or in writing.

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

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

10 (2) Respondent was voluntarily intoxicated;

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

15 (4) Petitioner did not act in self-defense or defense  
16 of another;

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

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

21 (7) Conduct by any family or household member excused  
22 the abuse by respondent, unless that same conduct would  
23 have excused such abuse if the parties had not been family  
24 or household members.

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

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

3           (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

4           Sec. 214. Order of protection; remedies.

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

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

1 remedies available to petitioner.

2 (1) Prohibition of abuse, neglect, or exploitation.  
3 Prohibit respondent's harassment, interference with  
4 personal liberty, intimidation of a dependent, physical  
5 abuse, or willful deprivation, neglect or exploitation, as  
6 defined in this Act, or stalking of the petitioner, as  
7 defined in Section 12-7.3 of the Criminal Code of 1961, if  
8 such abuse, neglect, exploitation, or stalking has  
9 occurred or otherwise appears likely to occur if not  
10 prohibited.

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

20 (A) Right to occupancy. A party has a right to  
21 occupancy of a residence or household if it is solely  
22 or jointly owned or leased by that party, that party's  
23 spouse, a person with a legal duty to support that  
24 party or a minor child in that party's care, or by any  
25 person or entity other than the opposing party that  
26 authorizes that party's occupancy (e.g., a domestic

1 violence shelter). Standards set forth in subparagraph  
2 (B) shall not preclude equitable relief.

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

19 The balance of hardships is presumed to favor  
20 possession by petitioner unless the presumption is  
21 rebutted by a preponderance of the evidence, showing  
22 that the hardships to respondent substantially  
23 outweigh the hardships to petitioner and any minor  
24 child or dependent adult in petitioner's care. The  
25 court, on the request of petitioner or on its own  
26 motion, may order respondent to provide suitable,

1           accessible, alternate housing for petitioner instead  
2           of excluding respondent from a mutual residence or  
3           household.

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

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

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

1 family service agency, alcohol or substance abuse program,  
2 mental health center guidance counselor, agency providing  
3 services to elders, program designed for domestic violence  
4 abusers or any other guidance service the court deems  
5 appropriate.

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

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

21 (6) Temporary legal custody. Award temporary legal  
22 custody to petitioner in accordance with this Section, the  
23 Illinois Marriage and Dissolution of Marriage Act, the  
24 Illinois Parentage Act of 1984, and this State's Uniform  
25 Child-Custody Jurisdiction and Enforcement Act.

26 If a court finds, after a hearing, that respondent has

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

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

24 Petitioner may deny respondent access to the minor  
25 child if, when respondent arrives for visitation,  
26 respondent is under the influence of drugs or alcohol and

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

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

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

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

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

26 (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

1 the Illinois Marriage and Dissolution of Marriage Act, as  
2 now or hereafter amended.

3 The court may further prohibit respondent from  
4 improperly using the financial or other resources of an  
5 aged member of the family or household for the profit or  
6 advantage of respondent or of any other person.

7 (11.5) Protection of animals. Grant the petitioner the  
8 exclusive care, custody, or control of any animal owned,  
9 possessed, leased, kept, or held by either the petitioner  
10 or the respondent or a minor child residing in the  
11 residence or household of either the petitioner or the  
12 respondent and order the respondent to stay away from the  
13 animal and forbid the respondent from taking,  
14 transferring, encumbering, concealing, harming, or  
15 otherwise disposing of the animal.

16 (12) Order for payment of support. Order respondent to  
17 pay temporary support for the petitioner or any child in  
18 the petitioner's care or custody, when the respondent has a  
19 legal obligation to support that person, in accordance with  
20 the Illinois Marriage and Dissolution of Marriage Act,  
21 which shall govern, among other matters, the amount of  
22 support, payment through the clerk and withholding of  
23 income to secure payment. An order for child support may be  
24 granted to a petitioner with lawful physical care or  
25 custody of a child, or an order or agreement for physical  
26 care or custody, prior to entry of an order for legal

1 custody. Such a support order shall expire upon entry of a  
2 valid order granting legal custody to another, unless  
3 otherwise provided in the custody order.

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

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

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

1 limited to legal fees, court costs, private  
2 investigator fees, and travel costs.

3 (14) Prohibition of entry. Prohibit the respondent  
4 from entering or remaining in the residence or household  
5 while the respondent is under the influence of alcohol or  
6 drugs and constitutes a threat to the safety and well-being  
7 of the petitioner or the petitioner's children.

8 (14.5) Prohibition of firearm possession.

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

1 period or at expiration of the order of protection,  
2 whichever is sooner.

3 (b) If the respondent is a peace officer as defined  
4 in Section 2-13 of the Criminal Code of 1961, the court  
5 shall order that any firearms used by the respondent in  
6 the performance of his or her duties as a peace officer  
7 be surrendered to the chief law enforcement executive  
8 of the agency in which the respondent is employed, who  
9 shall retain the firearms for safekeeping for the  
10 stated period not to exceed 2 years as set forth in the  
11 court order.

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

22 (16) Order for payment of shelter services. Order  
23 respondent to reimburse a shelter providing temporary  
24 housing and counseling services to the petitioner for the  
25 cost of the services, as certified by the shelter and  
26 deemed reasonable by the court.

1           (17) Order for injunctive relief. Enter injunctive  
2 relief necessary or appropriate to prevent further abuse of  
3 a family or household member or further abuse, neglect, or  
4 exploitation of a high-risk adult with disabilities or to  
5 effectuate one of the granted remedies, if supported by the  
6 balance of hardships. If the harm to be prevented by the  
7 injunction is abuse or any other harm that one of the  
8 remedies listed in paragraphs (1) through (16) of this  
9 subsection is designed to prevent, no further evidence is  
10 necessary 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, neglect  
18 or exploitation of the petitioner or any family or  
19 household member, including the concealment of his or  
20 her location in order to evade service of process or  
21 notice, and the likelihood of danger of future abuse,  
22 neglect, or exploitation to petitioner or any member of  
23 petitioner's or respondent's family or 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

1           improperly separated from the child's primary  
2           caretaker.

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

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

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

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

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

19                   (i) That the court has considered the applicable  
20                   relevant factors described in paragraphs (1) and (2) of  
21                   this subsection.

22                   (ii) Whether the conduct or actions of respondent,  
23                   unless prohibited, will likely cause irreparable harm  
24                   or continued abuse.

25                   (iii) Whether it is necessary to grant the  
26                   requested relief in order to protect petitioner or

1 other alleged abused persons.

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

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

17 (5) Never married parties. No rights or  
18 responsibilities for a minor child born outside of marriage  
19 attach to a putative father until a father and child  
20 relationship has been established under the Illinois  
21 Parentage Act of 1984, the Illinois Public Aid Code,  
22 Section 12 of the Vital Records Act, the Juvenile Court Act  
23 of 1987, the Probate Act of 1985, the Revised Uniform  
24 Reciprocal Enforcement of Support Act, the Uniform  
25 Interstate Family Support Act, the Expedited Child Support  
26 Act of 1990, any judicial, administrative, or other act of



1 another state or territory, any other Illinois statute, or  
2 by any foreign nation establishing the father and child  
3 relationship, any other proceeding substantially in  
4 conformity with the Personal Responsibility and Work  
5 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),  
6 or where both parties appeared in open court or at an  
7 administrative hearing acknowledging under oath or  
8 admitting by affirmation the existence of a father and  
9 child relationship. Absent such an adjudication, finding,  
10 or acknowledgement, no putative father shall be granted  
11 temporary custody of the minor child, visitation with the  
12 minor child, or physical care and possession of the minor  
13 child, nor shall an order of payment for support of the  
14 minor child be entered.

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

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

26 (1) Respondent has cause for any use of force, unless

1           that cause satisfies the standards for justifiable use of  
2           force provided by Article VII of the Criminal Code of 1961;

3           (2) Respondent was voluntarily intoxicated;

4           (3) Petitioner acted in self-defense or defense of  
5           another, provided that, if petitioner utilized force, such  
6           force was justifiable under Article VII of the Criminal  
7           Code of 1961;

8           (4) Petitioner did not act in self-defense or defense  
9           of another;

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

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

15          (7) Conduct by any family or household member excused  
16          the abuse, neglect, or exploitation by respondent, unless  
17          that same conduct would have excused such abuse, neglect,  
18          or exploitation if the parties had not been family or  
19          household members.

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