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09500HB5148ham001

LRB095 19675 AJO 46833 a

1 AMENDMENT TO HOUSE BILL 5148

2 AMENDMENT NO. _____. Amend House Bill 5148 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-20 as follows:

6 (725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

7 Sec. 112A-20. Duration and extension of orders.

8 (a) Duration of emergency and interim orders. Unless
9 re-opened or extended or voided by entry of an order of greater
10 duration:

11 (1) Emergency orders issued under Section 112A-17
12 shall be effective for not less than 14 nor more than 21
13 days;

14 (2) Interim orders shall be effective for up to 30
15 days.

16 (b) Duration of plenary orders. Except as otherwise

1 provided in this Section, a plenary order of protection shall
2 be valid for a fixed period of time not to exceed 2 years. A
3 plenary order of protection entered in conjunction with a
4 criminal prosecution shall remain in effect as follows:

5 (1) if entered during pre-trial release, until
6 disposition, withdrawal, or dismissal of the underlying
7 charge; if, however, the case is continued as an
8 independent cause of action, the order's duration may be
9 for a fixed period of time not to exceed 2 years;

10 (2) if in effect in conjunction with a bond forfeiture
11 warrant, until final disposition or an additional period of
12 time not exceeding 2 years; no order of protection,
13 however, shall be terminated by a dismissal that is
14 accompanied by the issuance of a bond forfeiture warrant;

15 (3) until expiration of any supervision, conditional
16 discharge, probation, periodic imprisonment, parole or
17 mandatory supervised release and for an additional period
18 of time thereafter not exceeding 2 years; or

19 (4) until the date set by the court for expiration of
20 any sentence of imprisonment and subsequent parole or
21 mandatory supervised release and for an additional period
22 of time thereafter not exceeding 2 years.

23 (c) Computation of time. The duration of an order of
24 protection shall not be reduced by the duration of any prior
25 order of protection.

26 (d) Law enforcement records. When a plenary order of

1 protection expires upon the occurrence of a specified event,
2 rather than upon a specified date as provided in subsection
3 (b), no expiration date shall be entered in Department of State
4 Police records. To remove the plenary order from those records,
5 either party shall request the clerk of the court to file a
6 certified copy of an order stating that the specified event has
7 occurred or that the plenary order has been vacated or modified
8 with the sheriff, and the sheriff shall direct that law
9 enforcement records shall be promptly corrected in accordance
10 with the filed order.

11 (e) Extension of Orders. Any emergency, interim or plenary
12 order of protection may be extended one or more times, as
13 required, provided that the requirements of Section 112A-17,
14 112A-18 or 112A-19, as appropriate, are satisfied. If the
15 motion for extension is uncontested and petitioner seeks no
16 modification of the order, the order may be extended on the
17 basis of petitioner's motion or affidavit stating that there
18 has been no material change in relevant circumstances since
19 entry of the order and stating the reason for the requested
20 extension. An extension of a plenary order of protection may be
21 granted, upon good cause shown, to remain in effect until the
22 order of protection is vacated or modified. Extensions may be
23 granted only in open court and not under the provisions of
24 Section 112A-17(c), which applies only when the court is
25 unavailable at the close of business or on a court holiday.

26 (f) Termination date. Any order of protection which would

1 expire on a court holiday shall instead expire at the close of
2 the next court business day.

3 (g) Statement of purpose. The practice of dismissing or
4 suspending a criminal prosecution in exchange for issuing an
5 order of protection undermines the purposes of this Article.
6 This Section shall not be construed as encouraging that
7 practice.

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

9 Section 10. The Illinois Domestic Violence Act of 1986 is
10 amended by changing Section 220 as follows:

11 (750 ILCS 60/220) (from Ch. 40, par. 2312-20)

12 Sec. 220. Duration and extension of orders.

13 (a) Duration of emergency and interim orders. Unless
14 re-opened or extended or voided by entry of an order of greater
15 duration:

16 (1) Emergency orders issued under Section 217 shall be
17 effective for not less than 14 nor more than 21 days;

18 (2) Interim orders shall be effective for up to 30
19 days.

20 (b) Duration of plenary orders. Except as otherwise
21 provided in this Section, a plenary order of protection shall
22 be valid for a fixed period of time, not to exceed two years.

23 (1) A plenary order of protection entered in
24 conjunction with another civil proceeding shall remain in

1 effect as follows:

2 (i) if entered as preliminary relief in that other
3 proceeding, until entry of final judgment in that other
4 proceeding;

5 (ii) if incorporated into the final judgment in
6 that other proceeding, until the order of protection is
7 vacated or modified; or

8 (iii) if incorporated in an order for involuntary
9 commitment, until termination of both the involuntary
10 commitment and any voluntary commitment, or for a fixed
11 period of time not exceeding 2 years.

12 (2) A plenary order of protection entered in
13 conjunction with a criminal prosecution shall remain in
14 effect as follows:

15 (i) if entered during pre-trial release, until
16 disposition, withdrawal, or dismissal of the
17 underlying charge; if, however, the case is continued
18 as an independent cause of action, the order's duration
19 may be for a fixed period of time not to exceed 2
20 years;

21 (ii) if in effect in conjunction with a bond
22 forfeiture warrant, until final disposition or an
23 additional period of time not exceeding 2 years; no
24 order of protection, however, shall be terminated by a
25 dismissal that is accompanied by the issuance of a bond
26 forfeiture warrant;

1 (iii) until expiration of any supervision,
2 conditional discharge, probation, periodic
3 imprisonment, parole or mandatory supervised release
4 and for an additional period of time thereafter not
5 exceeding 2 years; or

6 (iv) until the date set by the court for expiration
7 of any sentence of imprisonment and subsequent parole
8 or mandatory supervised release and for an additional
9 period of time thereafter not exceeding 2 years.

10 (c) Computation of time. The duration of an order of
11 protection shall not be reduced by the duration of any prior
12 order of protection.

13 (d) Law enforcement records. When a plenary order of
14 protection expires upon the occurrence of a specified event,
15 rather than upon a specified date as provided in subsection
16 (b), no expiration date shall be entered in Department of State
17 Police records. To remove the plenary order from those records,
18 either party shall request the clerk of the court to file a
19 certified copy of an order stating that the specified event has
20 occurred or that the plenary order has been vacated or modified
21 with the Sheriff, and the Sheriff shall direct that law
22 enforcement records shall be promptly corrected in accordance
23 with the filed order.

24 (e) Extension of orders. Any emergency, interim or plenary
25 order may be extended one or more times, as required, provided
26 that the requirements of Section 217, 218 or 219, as

1 appropriate, are satisfied. If the motion for extension is
2 uncontested and petitioner seeks no modification of the order,
3 the order may be extended on the basis of petitioner's motion
4 or affidavit stating that there has been no material change in
5 relevant circumstances since entry of the order and stating the
6 reason for the requested extension. An extension of a plenary
7 order of protection may be granted, upon good cause shown, to
8 remain in effect until the order of protection is vacated or
9 modified. Extensions may be granted only in open court and not
10 under the provisions of subsection (c) of Section 217, which
11 applies only when the court is unavailable at the close of
12 business or on a court holiday.

13 (f) Termination date. Any order of protection which would
14 expire on a court holiday shall instead expire at the close of
15 the next court business day.

16 (g) Statement of purpose. The practice of dismissing or
17 suspending a criminal prosecution in exchange for the issuance
18 of an order of protection undermines the purposes of this Act.
19 This Section shall not be construed as encouraging that
20 practice.

21 (Source: P.A. 86-966; 87-1186.)".