



Sen. Susan Garrett

Filed: 5/20/2008

09500SB2719sam001

LRB095 05883 AJ0 50822 a

1 AMENDMENT TO SENATE BILL 2719

2 AMENDMENT NO. _____. Amend Senate Bill 2719 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. This Act may be referred to as the Cindy
5 Bischof Law.

6 Section 10. The State Finance Act is amended by adding
7 Section 5.710 as follows:

8 (30 ILCS 105/5.710 new)

9 Sec. 5.710. The Domestic Violence Surveillance Fund.

10 Section 20. The Code of Criminal Procedure of 1963 is
11 amended by changing Sections 110-5 and 112A-14 as follows:

12 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

13 Sec. 110-5. Determining the amount of bail and conditions

1 of release.

2 (a) In determining the amount of monetary bail or
3 conditions of release, if any, which will reasonably assure the
4 appearance of a defendant as required or the safety of any
5 other person or the community and the likelihood of compliance
6 by the defendant with all the conditions of bail, the court
7 shall, on the basis of available information, take into account
8 such matters as the nature and circumstances of the offense
9 charged, whether the evidence shows that as part of the offense
10 there was a use of violence or threatened use of violence,
11 whether the offense involved corruption of public officials or
12 employees, whether there was physical harm or threats of
13 physical harm to any public official, public employee, judge,
14 prosecutor, juror or witness, senior citizen, child or
15 handicapped person, whether evidence shows that during the
16 offense or during the arrest the defendant possessed or used a
17 firearm, machine gun, explosive or metal piercing ammunition or
18 explosive bomb device or any military or paramilitary armament,
19 whether the evidence shows that the offense committed was
20 related to or in furtherance of the criminal activities of an
21 organized gang or was motivated by the defendant's membership
22 in or allegiance to an organized gang, the condition of the
23 victim, any written statement submitted by the victim or
24 proffer or representation by the State regarding the impact
25 which the alleged criminal conduct has had on the victim and
26 the victim's concern, if any, with further contact with the

1 defendant if released on bail, whether the offense was based on
2 racial, religious, sexual orientation or ethnic hatred, the
3 likelihood of the filing of a greater charge, the likelihood of
4 conviction, the sentence applicable upon conviction, the
5 weight of the evidence against such defendant, whether there
6 exists motivation or ability to flee, whether there is any
7 verification as to prior residence, education, or family ties
8 in the local jurisdiction, in another county, state or foreign
9 country, the defendant's employment, financial resources,
10 character and mental condition, past conduct, prior use of
11 alias names or dates of birth, and length of residence in the
12 community, the consent of the defendant to periodic drug
13 testing in accordance with Section 110-6.5, whether a foreign
14 national defendant is lawfully admitted in the United States of
15 America, whether the government of the foreign national
16 maintains an extradition treaty with the United States by which
17 the foreign government will extradite to the United States its
18 national for a trial for a crime allegedly committed in the
19 United States, whether the defendant is currently subject to
20 deportation or exclusion under the immigration laws of the
21 United States, whether the defendant, although a United States
22 citizen, is considered under the law of any foreign state a
23 national of that state for the purposes of extradition or
24 non-extradition to the United States, the amount of unrecovered
25 proceeds lost as a result of the alleged offense, the source of
26 bail funds tendered or sought to be tendered for bail, whether

1 from the totality of the court's consideration, the loss of
2 funds posted or sought to be posted for bail will not deter the
3 defendant from flight, whether the evidence shows that the
4 defendant is engaged in significant possession, manufacture,
5 or delivery of a controlled substance or cannabis, either
6 individually or in consort with others, whether at the time of
7 the offense charged he was on bond or pre-trial release pending
8 trial, probation, periodic imprisonment or conditional
9 discharge pursuant to this Code or the comparable Code of any
10 other state or federal jurisdiction, whether the defendant is
11 on bond or pre-trial release pending the imposition or
12 execution of sentence or appeal of sentence for any offense
13 under the laws of Illinois or any other state or federal
14 jurisdiction, whether the defendant is under parole or
15 mandatory supervised release or work release from the Illinois
16 Department of Corrections or any penal institution or
17 corrections department of any state or federal jurisdiction,
18 the defendant's record of convictions, whether the defendant
19 has been convicted of a misdemeanor or ordinance offense in
20 Illinois or similar offense in other state or federal
21 jurisdiction within the 10 years preceding the current charge
22 or convicted of a felony in Illinois, whether the defendant was
23 convicted of an offense in another state or federal
24 jurisdiction that would be a felony if committed in Illinois
25 within the 20 years preceding the current charge or has been
26 convicted of such felony and released from the penitentiary

1 within 20 years preceding the current charge if a penitentiary
2 sentence was imposed in Illinois or other state or federal
3 jurisdiction, the defendant's records of juvenile adjudication
4 of delinquency in any jurisdiction, any record of appearance or
5 failure to appear by the defendant at court proceedings,
6 whether there was flight to avoid arrest or prosecution,
7 whether the defendant escaped or attempted to escape to avoid
8 arrest, whether the defendant refused to identify himself, or
9 whether there was a refusal by the defendant to be
10 fingerprinted as required by law. Information used by the court
11 in its findings or stated in or offered in connection with this
12 Section may be by way of proffer based upon reliable
13 information offered by the State or defendant. All evidence
14 shall be admissible if it is relevant and reliable regardless
15 of whether it would be admissible under the rules of evidence
16 applicable at criminal trials. If the State presents evidence
17 that the offense committed by the defendant was related to or
18 in furtherance of the criminal activities of an organized gang
19 or was motivated by the defendant's membership in or allegiance
20 to an organized gang, and if the court determines that the
21 evidence may be substantiated, the court shall prohibit the
22 defendant from associating with other members of the organized
23 gang as a condition of bail or release. For the purposes of
24 this Section, "organized gang" has the meaning ascribed to it
25 in Section 10 of the Illinois Streetgang Terrorism Omnibus
26 Prevention Act.

1 (b) The amount of bail shall be:

2 (1) Sufficient to assure compliance with the
3 conditions set forth in the bail bond, which shall include
4 the defendant's current address with a written
5 admonishment to the defendant that he or she must comply
6 with the provisions of Section 110-12 regarding any change
7 in his or her address. The defendant's address shall at all
8 times remain a matter of public record with the clerk of
9 the court.

10 (2) Not oppressive.

11 (3) Considerate of the financial ability of the
12 accused.

13 (4) When a person is charged with a drug related
14 offense involving possession or delivery of cannabis or
15 possession or delivery of a controlled substance as defined
16 in the Cannabis Control Act, the Illinois Controlled
17 Substances Act, or the Methamphetamine Control and
18 Community Protection Act, the full street value of the
19 drugs seized shall be considered. "Street value" shall be
20 determined by the court on the basis of a proffer by the
21 State based upon reliable information of a law enforcement
22 official contained in a written report as to the amount
23 seized and such proffer may be used by the court as to the
24 current street value of the smallest unit of the drug
25 seized.

26 (b-5) Upon the filing of a written request demonstrating

1 reasonable cause, the State's Attorney may request a source of
2 bail hearing either before or after the posting of any funds.
3 If the hearing is granted, before the posting of any bail, the
4 accused must file a written notice requesting that the court
5 conduct a source of bail hearing. The notice must be
6 accompanied by justifying affidavits stating the legitimate
7 and lawful source of funds for bail. At the hearing, the court
8 shall inquire into any matters stated in any justifying
9 affidavits, and may also inquire into matters appropriate to
10 the determination which shall include, but are not limited to,
11 the following:

12 (1) the background, character, reputation, and
13 relationship to the accused of any surety; and

14 (2) the source of any money or property deposited by
15 any surety, and whether any such money or property
16 constitutes the fruits of criminal or unlawful conduct; and

17 (3) the source of any money posted as cash bail, and
18 whether any such money constitutes the fruits of criminal
19 or unlawful conduct; and

20 (4) the background, character, reputation, and
21 relationship to the accused of the person posting cash
22 bail.

23 Upon setting the hearing, the court shall examine, under
24 oath, any persons who may possess material information.

25 The State's Attorney has a right to attend the hearing, to
26 call witnesses and to examine any witness in the proceeding.

1 The court shall, upon request of the State's Attorney, continue
2 the proceedings for a reasonable period to allow the State's
3 Attorney to investigate the matter raised in any testimony or
4 affidavit. If the hearing is granted after the accused has
5 posted bail, the court shall conduct a hearing consistent with
6 this subsection (b-5). At the conclusion of the hearing, the
7 court must issue an order either approving or disapproving the
8 bail.

9 (c) When a person is charged with an offense punishable by
10 fine only the amount of the bail shall not exceed double the
11 amount of the maximum penalty.

12 (d) When a person has been convicted of an offense and only
13 a fine has been imposed the amount of the bail shall not exceed
14 double the amount of the fine.

15 (e) The State may appeal any order granting bail or setting
16 a given amount for bail.

17 (f) When a person is charged with a violation of an order
18 of protection under Section 12-30 of the Criminal Code of 1961,
19 the court shall order the respondent to undergo a risk
20 assessment evaluation at an Illinois Department of Human
21 Services protocol approved partner abuse intervention program.
22 Based on the results of the risk assessment and the other
23 circumstances of the violation, the court may order that the
24 person, as a condition of bail, be placed under electronic
25 surveillance as provided in Section 5-8A-7 of the Unified Code
26 of Corrections.

1 (Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04;
2 94-556, eff. 9-11-05.)

3 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

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

25 (1) Prohibition of abuse. Prohibit respondent's

1 harassment, interference with personal liberty,
2 intimidation of a dependent, physical abuse or willful
3 deprivation, as defined in this Article, if such abuse has
4 occurred or otherwise appears likely to occur if not
5 prohibited.

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

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

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

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

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

25 (3) Stay away order and additional prohibitions. Order
26 respondent to stay away from petitioner or any other person

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

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

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

1 intimate partner relationship to report to an Illinois
2 Department of Human Services protocol approved partner
3 abuse intervention program for an assessment and to follow
4 all recommended treatment.

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

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

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

25 If a court finds, after a hearing, that respondent has
26 committed abuse (as defined in Section 112A-3) of a minor

1 child, there shall be a rebuttable presumption that
2 awarding temporary legal custody to respondent would not be
3 in the child's best interest.

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

23 Petitioner may deny respondent access to the minor
24 child if, when respondent arrives for visitation,
25 respondent is under the influence of drugs or alcohol and
26 constitutes a threat to the safety and well-being of

1 petitioner or petitioner's minor children or is behaving in
2 a violent or abusive manner.

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

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

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

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

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

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

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

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

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

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

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

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

1 now or hereafter amended.

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

6 (11.5) Protection of animals. Grant the petitioner the
7 exclusive care, custody, or control of any animal owned,
8 possessed, leased, kept, or held by either the petitioner
9 or the respondent or a minor child residing in the
10 residence or household of either the petitioner or the
11 respondent and order the respondent to stay away from the
12 animal and forbid the respondent from taking,
13 transferring, encumbering, concealing, harming, or
14 otherwise disposing of the animal.

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

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

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

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

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

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

6 (14.5) Prohibition of firearm possession.

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

1 order of protection, whichever is sooner.

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

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

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

26 (17) Order for injunctive relief. Enter injunctive

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

9 (c) Relevant factors; findings.

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

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

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

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

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

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

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

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

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

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

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

26 (4) For purposes of issuing an ex parte emergency order

1 of protection, the court, as an alternative to or as a
2 supplement to making the findings described in paragraphs
3 (c)(3)(i) through (c)(3)(iii) of this subsection, may use
4 the following procedure:

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

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

24 (d) Balance of hardships; findings. If the court finds that
25 the balance of hardships does not support the granting of a
26 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 by respondent;

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

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

1 (Source: P.A. 95-234, eff. 1-1-08.)

2 Section 25. The Unified Code of Corrections is amended by
3 changing Sections 3-3-7, 3-6-3, and 5-6-3 and by adding
4 Sections 5-8A-7 and 5-9-1.16 as follows:

5 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

6 (Text of Section after amendment by P.A. 95-464, 95-579,
7 and 95-640)

8 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised
9 Release.

10 (a) The conditions of parole or mandatory supervised
11 release shall be such as the Prisoner Review Board deems
12 necessary to assist the subject in leading a law-abiding life.
13 The conditions of every parole and mandatory supervised release
14 are that the subject:

15 (1) not violate any criminal statute of any
16 jurisdiction during the parole or release term;

17 (2) refrain from possessing a firearm or other
18 dangerous weapon;

19 (3) report to an agent of the Department of
20 Corrections;

21 (4) permit the agent to visit him or her at his or her
22 home, employment, or elsewhere to the extent necessary for
23 the agent to discharge his or her duties;

24 (5) attend or reside in a facility established for the

1 instruction or residence of persons on parole or mandatory
2 supervised release;

3 (6) secure permission before visiting or writing a
4 committed person in an Illinois Department of Corrections
5 facility;

6 (7) report all arrests to an agent of the Department of
7 Corrections as soon as permitted by the arresting authority
8 but in no event later than 24 hours after release from
9 custody;

10 (7.5) if convicted of a sex offense as defined in the
11 Sex Offender Management Board Act, the individual shall
12 undergo and successfully complete sex offender treatment
13 conducted in conformance with the standards developed by
14 the Sex Offender Management Board Act by a treatment
15 provider approved by the Board;

16 (7.6) if convicted of a sex offense as defined in the
17 Sex Offender Management Board Act, refrain from residing at
18 the same address or in the same condominium unit or
19 apartment unit or in the same condominium complex or
20 apartment complex with another person he or she knows or
21 reasonably should know is a convicted sex offender or has
22 been placed on supervision for a sex offense; the
23 provisions of this paragraph do not apply to a person
24 convicted of a sex offense who is placed in a Department of
25 Corrections licensed transitional housing facility for sex
26 offenders, or is in any facility operated or licensed by

1 the Department of Children and Family Services or by the
2 Department of Human Services, or is in any licensed medical
3 facility;

4 (7.7) if convicted for an offense that would qualify
5 the accused as a sexual predator under the Sex Offender
6 Registration Act on or after the effective date of this
7 amendatory Act of the 94th General Assembly, wear an
8 approved electronic monitoring device as defined in
9 Section 5-8A-2 for the duration of the person's parole,
10 mandatory supervised release term, or extended mandatory
11 supervised release term;

12 (7.8) if convicted for an offense committed on or after
13 the effective date of this amendatory Act of the 95th
14 General Assembly that would qualify the accused as a child
15 sex offender as defined in Section 11-9.3 or 11-9.4 of the
16 Criminal Code of 1961, refrain from communicating with or
17 contacting, by means of the Internet, a person who is not
18 related to the accused and whom the accused reasonably
19 believes to be under 18 years of age; for purposes of this
20 paragraph (7.8), "Internet" has the meaning ascribed to it
21 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
22 ~~Public Act 94-179~~; and a person is not related to the
23 accused if the person is not: (i) the spouse, brother, or
24 sister of the accused; (ii) a descendant of the accused;
25 (iii) a first or second cousin of the accused; or (iv) a
26 step-child or adopted child of the accused;

1 (7.9) ~~(7.8)~~ if convicted under Section 11-6, 11-20.1,
2 11-20.3, or 11-21 of the Criminal Code of 1961, consent to
3 search of computers, PDAs, cellular phones, and other
4 devices under his or her control that are capable of
5 accessing the Internet or storing electronic files, in
6 order to confirm Internet protocol addresses reported in
7 accordance with the Sex Offender Registration Act and
8 compliance with conditions in this Act;

9 (7.10) ~~(7.8)~~ if convicted for an offense that would
10 qualify the accused as a sex offender or sexual predator
11 under the Sex Offender Registration Act on or after the
12 effective date of this amendatory Act of the 95th General
13 Assembly, not possess prescription drugs for erectile
14 dysfunction;

15 (8) obtain permission of an agent of the Department of
16 Corrections before leaving the State of Illinois;

17 (9) obtain permission of an agent of the Department of
18 Corrections before changing his or her residence or
19 employment;

20 (10) consent to a search of his or her person,
21 property, or residence under his or her control;

22 (11) refrain from the use or possession of narcotics or
23 other controlled substances in any form, or both, or any
24 paraphernalia related to those substances and submit to a
25 urinalysis test as instructed by a parole agent of the
26 Department of Corrections;

1 (12) not frequent places where controlled substances
2 are illegally sold, used, distributed, or administered;

3 (13) not knowingly associate with other persons on
4 parole or mandatory supervised release without prior
5 written permission of his or her parole agent and not
6 associate with persons who are members of an organized gang
7 as that term is defined in the Illinois Streetgang
8 Terrorism Omnibus Prevention Act;

9 (14) provide true and accurate information, as it
10 relates to his or her adjustment in the community while on
11 parole or mandatory supervised release or to his or her
12 conduct while incarcerated, in response to inquiries by his
13 or her parole agent or of the Department of Corrections;

14 (15) follow any specific instructions provided by the
15 parole agent that are consistent with furthering
16 conditions set and approved by the Prisoner Review Board or
17 by law, exclusive of placement on electronic detention, to
18 achieve the goals and objectives of his or her parole or
19 mandatory supervised release or to protect the public.
20 These instructions by the parole agent may be modified at
21 any time, as the agent deems appropriate; ~~and~~

22 (16) if convicted of a sex offense as defined in
23 subsection (a-5) of Section 3-1-2 of this Code, unless the
24 offender is a parent or guardian of the person under 18
25 years of age present in the home and no non-familial minors
26 are present, not participate in a holiday event involving

1 children under 18 years of age, such as distributing candy
2 or other items to children on Halloween, wearing a Santa
3 Claus costume on or preceding Christmas, being employed as
4 a department store Santa Claus, or wearing an Easter Bunny
5 costume on or preceding Easter; ~~and-~~

6 (17) if convicted of a violation of an order of
7 protection under Section 12-30 of the Criminal Code of
8 1961, be placed under electronic surveillance as provided
9 in Section 5-8A-7 of this Code.

10 (b) The Board may in addition to other conditions require
11 that the subject:

12 (1) work or pursue a course of study or vocational
13 training;

14 (2) undergo medical or psychiatric treatment, or
15 treatment for drug addiction or alcoholism;

16 (3) attend or reside in a facility established for the
17 instruction or residence of persons on probation or parole;

18 (4) support his dependents;

19 (5) (blank);

20 (6) (blank);

21 (7) comply with the terms and conditions of an order of
22 protection issued pursuant to the Illinois Domestic
23 Violence Act of 1986, enacted by the 84th General Assembly,
24 or an order of protection issued by the court of another
25 state, tribe, or United States territory;

26 (7.5) if convicted for an offense committed on or after

1 the effective date of this amendatory Act of the 95th
2 General Assembly that would qualify the accused as a child
3 sex offender as defined in Section 11-9.3 or 11-9.4 of the
4 Criminal Code of 1961, refrain from communicating with or
5 contacting, by means of the Internet, a person who is
6 related to the accused and whom the accused reasonably
7 believes to be under 18 years of age; for purposes of this
8 paragraph (7.5), "Internet" has the meaning ascribed to it
9 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
10 ~~Public Act 94-179~~; and a person is related to the accused
11 if the person is: (i) the spouse, brother, or sister of the
12 accused; (ii) a descendant of the accused; (iii) a first or
13 second cousin of the accused; or (iv) a step-child or
14 adopted child of the accused; and

15 (8) in addition, if a minor:

16 (i) reside with his parents or in a foster home;

17 (ii) attend school;

18 (iii) attend a non-residential program for youth;

19 or

20 (iv) contribute to his own support at home or in a

21 foster home.

22 (b-1) In addition to the conditions set forth in
23 subsections (a) and (b), persons required to register as sex
24 offenders pursuant to the Sex Offender Registration Act, upon
25 release from the custody of the Illinois Department of
26 Corrections, may be required by the Board to comply with the

1 following specific conditions of release:

2 (1) reside only at a Department approved location;

3 (2) comply with all requirements of the Sex Offender
4 Registration Act;

5 (3) notify third parties of the risks that may be
6 occasioned by his or her criminal record;

7 (4) obtain the approval of an agent of the Department
8 of Corrections prior to accepting employment or pursuing a
9 course of study or vocational training and notify the
10 Department prior to any change in employment, study, or
11 training;

12 (5) not be employed or participate in any volunteer
13 activity that involves contact with children, except under
14 circumstances approved in advance and in writing by an
15 agent of the Department of Corrections;

16 (6) be electronically monitored for a minimum of 12
17 months from the date of release as determined by the Board;

18 (7) refrain from entering into a designated geographic
19 area except upon terms approved in advance by an agent of
20 the Department of Corrections. The terms may include
21 consideration of the purpose of the entry, the time of day,
22 and others accompanying the person;

23 (8) refrain from having any contact, including written
24 or oral communications, directly or indirectly, personally
25 or by telephone, letter, or through a third party with
26 certain specified persons including, but not limited to,

1 the victim or the victim's family without the prior written
2 approval of an agent of the Department of Corrections;

3 (9) refrain from all contact, directly or indirectly,
4 personally, by telephone, letter, or through a third party,
5 with minor children without prior identification and
6 approval of an agent of the Department of Corrections;

7 (10) neither possess or have under his or her control
8 any material that is sexually oriented, sexually
9 stimulating, or that shows male or female sex organs or any
10 pictures depicting children under 18 years of age nude or
11 any written or audio material describing sexual
12 intercourse or that depicts or alludes to sexual activity,
13 including but not limited to visual, auditory, telephonic,
14 or electronic media, or any matter obtained through access
15 to any computer or material linked to computer access use;

16 (11) not patronize any business providing sexually
17 stimulating or sexually oriented entertainment nor utilize
18 "900" or adult telephone numbers;

19 (12) not reside near, visit, or be in or about parks,
20 schools, day care centers, swimming pools, beaches,
21 theaters, or any other places where minor children
22 congregate without advance approval of an agent of the
23 Department of Corrections and immediately report any
24 incidental contact with minor children to the Department;

25 (13) not possess or have under his or her control
26 certain specified items of contraband related to the

1 incidence of sexually offending as determined by an agent
2 of the Department of Corrections;

3 (14) may be required to provide a written daily log of
4 activities if directed by an agent of the Department of
5 Corrections;

6 (15) comply with all other special conditions that the
7 Department may impose that restrict the person from
8 high-risk situations and limit access to potential
9 victims;

10 (16) take an annual polygraph exam;

11 (17) maintain a log of his or her travel; or

12 (18) obtain prior approval of his or her parole officer
13 before driving alone in a motor vehicle.

14 (c) The conditions under which the parole or mandatory
15 supervised release is to be served shall be communicated to the
16 person in writing prior to his release, and he shall sign the
17 same before release. A signed copy of these conditions,
18 including a copy of an order of protection where one had been
19 issued by the criminal court, shall be retained by the person
20 and another copy forwarded to the officer in charge of his
21 supervision.

22 (d) After a hearing under Section 3-3-9, the Prisoner
23 Review Board may modify or enlarge the conditions of parole or
24 mandatory supervised release.

25 (e) The Department shall inform all offenders committed to
26 the Department of the optional services available to them upon

1 release and shall assist inmates in availing themselves of such
2 optional services upon their release on a voluntary basis.

3 (f) When the subject is in compliance with all conditions
4 of his or her parole or mandatory supervised release, the
5 subject shall receive a reduction of the period of his or her
6 parole or mandatory supervised release of 90 days upon passage
7 of the high school level Test of General Educational
8 Development during the period of his or her parole or mandatory
9 supervised release. This reduction in the period of a subject's
10 term of parole or mandatory supervised release shall be
11 available only to subjects who have not previously earned a
12 high school diploma or who have not previously passed the high
13 school level Test of General Educational Development.

14 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
15 94-988, eff. 1-1-07; 95-464, eff. 6-1-08; 95-539, eff. 1-1-08;
16 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; revised 12-26-07.)

17 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

18 (Text of Section after amendment by P.A. 95-585, 95-625,
19 and 95-640)

20 Sec. 3-6-3. Rules and Regulations for Early Release.

21 (a) (1) The Department of Corrections shall prescribe
22 rules and regulations for the early release on account of
23 good conduct of persons committed to the Department which
24 shall be subject to review by the Prisoner Review Board.

25 (2) The rules and regulations on early release shall

1 provide, with respect to offenses listed in clause (i),
2 (ii), or (iii) of this paragraph (2) committed on or after
3 June 19, 1998 or with respect to the offense listed in
4 clause (iv) of this paragraph (2) committed on or after
5 June 23, 2005 (the effective date of Public Act 94-71) or
6 with respect to offense listed in clause (vi) ~~(v)~~ committed
7 on or after June 1, 2008 (the effective date of Public Act
8 95-625) ~~this amendatory Act of the 95th General Assembly~~ or
9 with respect to the offense of being an armed habitual
10 criminal committed on or after August 2, 2005 (the
11 effective date of Public Act 94-398) or with respect to the
12 offenses listed in clause (v) of this paragraph (2)
13 committed on or after August 13, 2007 (the effective date
14 of Public Act 95-134) ~~this amendatory Act of the 95th~~
15 ~~General Assembly~~, the following:

16 (i) that a prisoner who is serving a term of
17 imprisonment for first degree murder or for the offense
18 of terrorism shall receive no good conduct credit and
19 shall serve the entire sentence imposed by the court;

20 (ii) that a prisoner serving a sentence for attempt
21 to commit first degree murder, solicitation of murder,
22 solicitation of murder for hire, intentional homicide
23 of an unborn child, predatory criminal sexual assault
24 of a child, aggravated criminal sexual assault,
25 criminal sexual assault, aggravated kidnapping,
26 aggravated battery with a firearm, heinous battery,

1 being an armed habitual criminal, aggravated battery
2 of a senior citizen, or aggravated battery of a child
3 shall receive no more than 4.5 days of good conduct
4 credit for each month of his or her sentence of
5 imprisonment;

6 (iii) that a prisoner serving a sentence for home
7 invasion, armed robbery, aggravated vehicular
8 hijacking, aggravated discharge of a firearm, or armed
9 violence with a category I weapon or category II
10 weapon, when the court has made and entered a finding,
11 pursuant to subsection (c-1) of Section 5-4-1 of this
12 Code, that the conduct leading to conviction for the
13 enumerated offense resulted in great bodily harm to a
14 victim, shall receive no more than 4.5 days of good
15 conduct credit for each month of his or her sentence of
16 imprisonment;

17 (iv) that a prisoner serving a sentence for
18 aggravated discharge of a firearm, whether or not the
19 conduct leading to conviction for the offense resulted
20 in great bodily harm to the victim, shall receive no
21 more than 4.5 days of good conduct credit for each
22 month of his or her sentence of imprisonment; ~~and~~

23 (v) that a person serving a sentence for
24 gunrunning, narcotics racketeering, controlled
25 substance trafficking, methamphetamine trafficking,
26 drug-induced homicide, aggravated

1 methamphetamine-related child endangerment, money
2 laundering pursuant to clause (c) (4) or (5) of Section
3 29B-1 of the Criminal Code of 1961, or a Class X felony
4 conviction for delivery of a controlled substance,
5 possession of a controlled substance with intent to
6 manufacture or deliver, calculated criminal drug
7 conspiracy, criminal drug conspiracy, street gang
8 criminal drug conspiracy, participation in
9 methamphetamine manufacturing, aggravated
10 participation in methamphetamine manufacturing,
11 delivery of methamphetamine, possession with intent to
12 deliver methamphetamine, aggravated delivery of
13 methamphetamine, aggravated possession with intent to
14 deliver methamphetamine, methamphetamine conspiracy
15 when the substance containing the controlled substance
16 or methamphetamine is 100 grams or more shall receive
17 no more than 7.5 days good conduct credit for each
18 month of his or her sentence of imprisonment; and-

19 (vi) ~~(v)~~ that a prisoner serving a sentence for a
20 second or subsequent offense of luring a minor shall
21 receive no more than 4.5 days of good conduct credit
22 for each month of his or her sentence of imprisonment.

23 (2.1) For all offenses, other than those enumerated in
24 subdivision (a) (2) (i), (ii), or (iii) committed on or after
25 June 19, 1998 or subdivision (a) (2) (iv) committed on or
26 after June 23, 2005 (the effective date of Public Act

1 94-71) or subdivision (a)(2)(v) committed on or after
2 August 13, 2007 (the effective date of Public Act 95-134)
3 ~~this amendatory Act of the 95th General Assembly~~ or
4 subdivision (a)(2)(vi)~~(v)~~ committed on or after June 1,
5 2008 (the effective date of Public Act 95-625) ~~this~~
6 ~~amendatory Act of the 95th General Assembly~~, and other than
7 the offense of reckless homicide as defined in subsection
8 (e) of Section 9-3 of the Criminal Code of 1961 committed
9 on or after January 1, 1999, or aggravated driving under
10 the influence of alcohol, other drug or drugs, or
11 intoxicating compound or compounds, or any combination
12 thereof as defined in subparagraph (F) of paragraph (1) of
13 subsection (d) of Section 11-501 of the Illinois Vehicle
14 Code, the rules and regulations shall provide that a
15 prisoner who is serving a term of imprisonment shall
16 receive one day of good conduct credit for each day of his
17 or her sentence of imprisonment or recommitment under
18 Section 3-3-9. Each day of good conduct credit shall reduce
19 by one day the prisoner's period of imprisonment or
20 recommitment under Section 3-3-9.

21 (2.2) A prisoner serving a term of natural life
22 imprisonment or a prisoner who has been sentenced to death
23 shall receive no good conduct credit.

24 (2.3) The rules and regulations on early release shall
25 provide that a prisoner who is serving a sentence for
26 reckless homicide as defined in subsection (e) of Section

1 9-3 of the Criminal Code of 1961 committed on or after
2 January 1, 1999, or aggravated driving under the influence
3 of alcohol, other drug or drugs, or intoxicating compound
4 or compounds, or any combination thereof as defined in
5 subparagraph (F) of paragraph (1) of subsection (d) of
6 Section 11-501 of the Illinois Vehicle Code, shall receive
7 no more than 4.5 days of good conduct credit for each month
8 of his or her sentence of imprisonment.

9 (2.4) The rules and regulations on early release shall
10 provide with respect to the offenses of aggravated battery
11 with a machine gun or a firearm equipped with any device or
12 attachment designed or used for silencing the report of a
13 firearm or aggravated discharge of a machine gun or a
14 firearm equipped with any device or attachment designed or
15 used for silencing the report of a firearm, committed on or
16 after July 15, 1999 (the effective date of Public Act
17 91-121), that a prisoner serving a sentence for any of
18 these offenses shall receive no more than 4.5 days of good
19 conduct credit for each month of his or her sentence of
20 imprisonment.

21 (2.5) The rules and regulations on early release shall
22 provide that a prisoner who is serving a sentence for
23 aggravated arson committed on or after July 27, 2001 (the
24 effective date of Public Act 92-176) shall receive no more
25 than 4.5 days of good conduct credit for each month of his
26 or her sentence of imprisonment.

1 (3) The rules and regulations shall also provide that
2 the Director may award up to 180 days additional good
3 conduct credit for meritorious service in specific
4 instances as the Director deems proper; except that no more
5 than 90 days of good conduct credit for meritorious service
6 shall be awarded to any prisoner who is serving a sentence
7 for conviction of first degree murder, reckless homicide
8 while under the influence of alcohol or any other drug, or
9 aggravated driving under the influence of alcohol, other
10 drug or drugs, or intoxicating compound or compounds, or
11 any combination thereof as defined in subparagraph (F) of
12 paragraph (1) of subsection (d) of Section 11-501 of the
13 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
14 predatory criminal sexual assault of a child, aggravated
15 criminal sexual assault, criminal sexual assault, deviate
16 sexual assault, aggravated criminal sexual abuse,
17 aggravated indecent liberties with a child, indecent
18 liberties with a child, child pornography, heinous
19 battery, aggravated battery of a spouse, aggravated
20 battery of a spouse with a firearm, stalking, aggravated
21 stalking, aggravated battery of a child, endangering the
22 life or health of a child, or cruelty to a child.
23 Notwithstanding the foregoing, good conduct credit for
24 meritorious service shall not be awarded on a sentence of
25 imprisonment imposed for conviction of: (i) one of the
26 offenses enumerated in subdivision (a)(2)(i), (ii), or

1 (iii) when the offense is committed on or after June 19,
2 1998 or subdivision (a)(2)(iv) when the offense is
3 committed on or after June 23, 2005 (the effective date of
4 Public Act 94-71) or subdivision (a)(2)(v) when the offense
5 is committed on or after August 13, 2007 (the effective
6 date of Public Act 95-134) ~~this amendatory Act of the 95th~~
7 ~~General Assembly~~ or subdivision (a)(2)(vi) ~~(v)~~ when the
8 offense is committed on or after June 1, 2008 (the
9 effective date of Public Act 95-625) ~~this amendatory Act of~~
10 ~~the 95th General Assembly~~, (ii) reckless homicide as
11 defined in subsection (e) of Section 9-3 of the Criminal
12 Code of 1961 when the offense is committed on or after
13 January 1, 1999, or aggravated driving under the influence
14 of alcohol, other drug or drugs, or intoxicating compound
15 or compounds, or any combination thereof as defined in
16 subparagraph (F) of paragraph (1) of subsection (d) of
17 Section 11-501 of the Illinois Vehicle Code, (iii) one of
18 the offenses enumerated in subdivision (a)(2.4) when the
19 offense is committed on or after July 15, 1999 (the
20 effective date of Public Act 91-121), or (iv) aggravated
21 arson when the offense is committed on or after July 27,
22 2001 (the effective date of Public Act 92-176).

23 (4) The rules and regulations shall also provide that
24 the good conduct credit accumulated and retained under
25 paragraph (2.1) of subsection (a) of this Section by any
26 inmate during specific periods of time in which such inmate

1 is engaged full-time in substance abuse programs,
2 correctional industry assignments, or educational programs
3 provided by the Department under this paragraph (4) and
4 satisfactorily completes the assigned program as
5 determined by the standards of the Department, shall be
6 multiplied by a factor of 1.25 for program participation
7 before August 11, 1993 and 1.50 for program participation
8 on or after that date. However, no inmate shall be eligible
9 for the additional good conduct credit under this paragraph
10 (4) or (4.1) of this subsection (a) while assigned to a
11 boot camp or electronic detention, or if convicted of an
12 offense enumerated in subdivision (a)(2)(i), (ii), or
13 (iii) of this Section that is committed on or after June
14 19, 1998 or subdivision (a)(2)(iv) of this Section that is
15 committed on or after June 23, 2005 (the effective date of
16 Public Act 94-71) or subdivision (a)(2)(v) of this Section
17 that is committed on or after August 13, 2007 (the
18 effective date of Public Act 95-134) ~~this amendatory Act of~~
19 ~~the 95th General Assembly~~ or subdivision (a)(2)(vi)(~~v~~)
20 when the offense is committed on or after June 1, 2008 (the
21 effective date of Public Act 95-625) ~~this amendatory Act of~~
22 ~~the 95th General Assembly~~, or if convicted of reckless
23 homicide as defined in subsection (e) of Section 9-3 of the
24 Criminal Code of 1961 if the offense is committed on or
25 after January 1, 1999, or aggravated driving under the
26 influence of alcohol, other drug or drugs, or intoxicating

1 compound or compounds, or any combination thereof as
2 defined in subparagraph (F) of paragraph (1) of subsection
3 (d) of Section 11-501 of the Illinois Vehicle Code, or if
4 convicted of an offense enumerated in paragraph (a) (2.4) of
5 this Section that is committed on or after July 15, 1999
6 (the effective date of Public Act 91-121), or first degree
7 murder, a Class X felony, criminal sexual assault, felony
8 criminal sexual abuse, aggravated criminal sexual abuse,
9 aggravated battery with a firearm, or any predecessor or
10 successor offenses with the same or substantially the same
11 elements, or any inchoate offenses relating to the
12 foregoing offenses. No inmate shall be eligible for the
13 additional good conduct credit under this paragraph (4) who
14 (i) has previously received increased good conduct credit
15 under this paragraph (4) and has subsequently been
16 convicted of a felony, or (ii) has previously served more
17 than one prior sentence of imprisonment for a felony in an
18 adult correctional facility.

19 Educational, vocational, substance abuse and
20 correctional industry programs under which good conduct
21 credit may be increased under this paragraph (4) and
22 paragraph (4.1) of this subsection (a) shall be evaluated
23 by the Department on the basis of documented standards. The
24 Department shall report the results of these evaluations to
25 the Governor and the General Assembly by September 30th of
26 each year. The reports shall include data relating to the

1 recidivism rate among program participants.

2 Availability of these programs shall be subject to the
3 limits of fiscal resources appropriated by the General
4 Assembly for these purposes. Eligible inmates who are
5 denied immediate admission shall be placed on a waiting
6 list under criteria established by the Department. The
7 inability of any inmate to become engaged in any such
8 programs by reason of insufficient program resources or for
9 any other reason established under the rules and
10 regulations of the Department shall not be deemed a cause
11 of action under which the Department or any employee or
12 agent of the Department shall be liable for damages to the
13 inmate.

14 (4.1) The rules and regulations shall also provide that
15 an additional 60 days of good conduct credit shall be
16 awarded to any prisoner who passes the high school level
17 Test of General Educational Development (GED) while the
18 prisoner is incarcerated. The good conduct credit awarded
19 under this paragraph (4.1) shall be in addition to, and
20 shall not affect, the award of good conduct under any other
21 paragraph of this Section, but shall also be pursuant to
22 the guidelines and restrictions set forth in paragraph (4)
23 of subsection (a) of this Section. The good conduct credit
24 provided for in this paragraph shall be available only to
25 those prisoners who have not previously earned a high
26 school diploma or a GED. If, after an award of the GED good

1 conduct credit has been made and the Department determines
2 that the prisoner was not eligible, then the award shall be
3 revoked.

4 (4.5) The rules and regulations on early release shall
5 also provide that when the court's sentencing order
6 recommends a prisoner for substance abuse treatment and the
7 crime was committed on or after September 1, 2003 (the
8 effective date of Public Act 93-354), the prisoner shall
9 receive no good conduct credit awarded under clause (3) of
10 this subsection (a) unless he or she participates in and
11 completes a substance abuse treatment program. The
12 Director may waive the requirement to participate in or
13 complete a substance abuse treatment program and award the
14 good conduct credit in specific instances if the prisoner
15 is not a good candidate for a substance abuse treatment
16 program for medical, programming, or operational reasons.
17 Availability of substance abuse treatment shall be subject
18 to the limits of fiscal resources appropriated by the
19 General Assembly for these purposes. If treatment is not
20 available and the requirement to participate and complete
21 the treatment has not been waived by the Director, the
22 prisoner shall be placed on a waiting list under criteria
23 established by the Department. The Director may allow a
24 prisoner placed on a waiting list to participate in and
25 complete a substance abuse education class or attend
26 substance abuse self-help meetings in lieu of a substance

1 abuse treatment program. A prisoner on a waiting list who
2 is not placed in a substance abuse program prior to release
3 may be eligible for a waiver and receive good conduct
4 credit under clause (3) of this subsection (a) at the
5 discretion of the Director.

6 (4.6) The rules and regulations on early release shall
7 also provide that a prisoner who has been convicted of a
8 sex offense as defined in Section 2 of the Sex Offender
9 Registration Act shall receive no good conduct credit
10 unless he or she either has successfully completed or is
11 participating in sex offender treatment as defined by the
12 Sex Offender Management Board. However, prisoners who are
13 waiting to receive such treatment, but who are unable to do
14 so due solely to the lack of resources on the part of the
15 Department, may, at the Director's sole discretion, be
16 awarded good conduct credit at such rate as the Director
17 shall determine.

18 (5) Whenever the Department is to release any inmate
19 earlier than it otherwise would because of a grant of good
20 conduct credit for meritorious service given at any time
21 during the term, the Department shall give reasonable
22 advance notice of the impending release to the State's
23 Attorney of the county where the prosecution of the inmate
24 took place.

25 (b) Whenever a person is or has been committed under
26 several convictions, with separate sentences, the sentences

1 shall be construed under Section 5-8-4 in granting and
2 forfeiting of good time.

3 (c) The Department shall prescribe rules and regulations
4 for revoking good conduct credit, or suspending or reducing the
5 rate of accumulation of good conduct credit for specific rule
6 violations, during imprisonment. These rules and regulations
7 shall provide that no inmate may be penalized more than one
8 year of good conduct credit for any one infraction.

9 When the Department seeks to revoke, suspend or reduce the
10 rate of accumulation of any good conduct credits for an alleged
11 infraction of its rules, it shall bring charges therefor
12 against the prisoner sought to be so deprived of good conduct
13 credits before the Prisoner Review Board as provided in
14 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
15 amount of credit at issue exceeds 30 days or when during any 12
16 month period, the cumulative amount of credit revoked exceeds
17 30 days except where the infraction is committed or discovered
18 within 60 days of scheduled release. In those cases, the
19 Department of Corrections may revoke up to 30 days of good
20 conduct credit. The Board may subsequently approve the
21 revocation of additional good conduct credit, if the Department
22 seeks to revoke good conduct credit in excess of 30 days.
23 However, the Board shall not be empowered to review the
24 Department's decision with respect to the loss of 30 days of
25 good conduct credit within any calendar year for any prisoner
26 or to increase any penalty beyond the length requested by the

1 Department.

2 The Director of the Department of Corrections, in
3 appropriate cases, may restore up to 30 days good conduct
4 credits which have been revoked, suspended or reduced. Any
5 restoration of good conduct credits in excess of 30 days shall
6 be subject to review by the Prisoner Review Board. However, the
7 Board may not restore good conduct credit in excess of the
8 amount requested by the Director.

9 Nothing contained in this Section shall prohibit the
10 Prisoner Review Board from ordering, pursuant to Section
11 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
12 sentence imposed by the court that was not served due to the
13 accumulation of good conduct credit.

14 (d) If a lawsuit is filed by a prisoner in an Illinois or
15 federal court against the State, the Department of Corrections,
16 or the Prisoner Review Board, or against any of their officers
17 or employees, and the court makes a specific finding that a
18 pleading, motion, or other paper filed by the prisoner is
19 frivolous, the Department of Corrections shall conduct a
20 hearing to revoke up to 180 days of good conduct credit by
21 bringing charges against the prisoner sought to be deprived of
22 the good conduct credits before the Prisoner Review Board as
23 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.
24 If the prisoner has not accumulated 180 days of good conduct
25 credit at the time of the finding, then the Prisoner Review
26 Board may revoke all good conduct credit accumulated by the

1 prisoner.

2 For purposes of this subsection (d):

3 (1) "Frivolous" means that a pleading, motion, or other
4 filing which purports to be a legal document filed by a
5 prisoner in his or her lawsuit meets any or all of the
6 following criteria:

7 (A) it lacks an arguable basis either in law or in
8 fact;

9 (B) it is being presented for any improper purpose,
10 such as to harass or to cause unnecessary delay or
11 needless increase in the cost of litigation;

12 (C) the claims, defenses, and other legal
13 contentions therein are not warranted by existing law
14 or by a nonfrivolous argument for the extension,
15 modification, or reversal of existing law or the
16 establishment of new law;

17 (D) the allegations and other factual contentions
18 do not have evidentiary support or, if specifically so
19 identified, are not likely to have evidentiary support
20 after a reasonable opportunity for further
21 investigation or discovery; or

22 (E) the denials of factual contentions are not
23 warranted on the evidence, or if specifically so
24 identified, are not reasonably based on a lack of
25 information or belief.

26 (2) "Lawsuit" means a motion pursuant to Section 116-3

1 of the Code of Criminal Procedure of 1963, a habeas corpus
2 action under Article X of the Code of Civil Procedure or
3 under federal law (28 U.S.C. 2254), a petition for claim
4 under the Court of Claims Act, an action under the federal
5 Civil Rights Act (42 U.S.C. 1983), or a second or
6 subsequent petition for post-conviction relief under
7 Article 122 of the Code of Criminal Procedure of 1963
8 whether filed with or without leave of court or a second or
9 subsequent petition for relief from judgment under Section
10 2-1401 of the Code of Civil Procedure.

11 (e) Nothing in Public Act 90-592 or 90-593 affects the
12 validity of Public Act 89-404.

13 (f) Whenever the Department is to release any inmate who
14 has been convicted of a violation of an order of protection
15 under Section 12-30 of the Criminal Code of 1961, earlier than
16 it otherwise would because of a grant of good conduct credit,
17 the Department, as a condition of such early release, shall
18 require that the person, upon release, be placed under
19 electronic surveillance as provided in Section 5-8A-7 of this
20 Code.

21 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
22 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,
23 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
24 eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

25 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

1 (Text of Section after amendment by P.A. 95-464, 95-578,
2 and 95-696)

3 Sec. 5-6-3. Conditions of Probation and of Conditional
4 Discharge.

5 (a) The conditions of probation and of conditional
6 discharge shall be that the person:

7 (1) not violate any criminal statute of any
8 jurisdiction;

9 (2) report to or appear in person before such person or
10 agency as directed by the court;

11 (3) refrain from possessing a firearm or other
12 dangerous weapon;

13 (4) not leave the State without the consent of the
14 court or, in circumstances in which the reason for the
15 absence is of such an emergency nature that prior consent
16 by the court is not possible, without the prior
17 notification and approval of the person's probation
18 officer. Transfer of a person's probation or conditional
19 discharge supervision to another state is subject to
20 acceptance by the other state pursuant to the Interstate
21 Compact for Adult Offender Supervision;

22 (5) permit the probation officer to visit him at his
23 home or elsewhere to the extent necessary to discharge his
24 duties;

25 (6) perform no less than 30 hours of community service
26 and not more than 120 hours of community service, if

1 community service is available in the jurisdiction and is
2 funded and approved by the county board where the offense
3 was committed, where the offense was related to or in
4 furtherance of the criminal activities of an organized gang
5 and was motivated by the offender's membership in or
6 allegiance to an organized gang. The community service
7 shall include, but not be limited to, the cleanup and
8 repair of any damage caused by a violation of Section
9 21-1.3 of the Criminal Code of 1961 and similar damage to
10 property located within the municipality or county in which
11 the violation occurred. When possible and reasonable, the
12 community service should be performed in the offender's
13 neighborhood. For purposes of this Section, "organized
14 gang" has the meaning ascribed to it in Section 10 of the
15 Illinois Streetgang Terrorism Omnibus Prevention Act;

16 (7) if he or she is at least 17 years of age and has
17 been sentenced to probation or conditional discharge for a
18 misdemeanor or felony in a county of 3,000,000 or more
19 inhabitants and has not been previously convicted of a
20 misdemeanor or felony, may be required by the sentencing
21 court to attend educational courses designed to prepare the
22 defendant for a high school diploma and to work toward a
23 high school diploma or to work toward passing the high
24 school level Test of General Educational Development (GED)
25 or to work toward completing a vocational training program
26 approved by the court. The person on probation or

1 conditional discharge must attend a public institution of
2 education to obtain the educational or vocational training
3 required by this clause (7). The court shall revoke the
4 probation or conditional discharge of a person who wilfully
5 fails to comply with this clause (7). The person on
6 probation or conditional discharge shall be required to pay
7 for the cost of the educational courses or GED test, if a
8 fee is charged for those courses or test. The court shall
9 resentence the offender whose probation or conditional
10 discharge has been revoked as provided in Section 5-6-4.
11 This clause (7) does not apply to a person who has a high
12 school diploma or has successfully passed the GED test.
13 This clause (7) does not apply to a person who is
14 determined by the court to be developmentally disabled or
15 otherwise mentally incapable of completing the educational
16 or vocational program;

17 (8) if convicted of possession of a substance
18 prohibited by the Cannabis Control Act, the Illinois
19 Controlled Substances Act, or the Methamphetamine Control
20 and Community Protection Act after a previous conviction or
21 disposition of supervision for possession of a substance
22 prohibited by the Cannabis Control Act or Illinois
23 Controlled Substances Act or after a sentence of probation
24 under Section 10 of the Cannabis Control Act, Section 410
25 of the Illinois Controlled Substances Act, or Section 70 of
26 the Methamphetamine Control and Community Protection Act

1 and upon a finding by the court that the person is
2 addicted, undergo treatment at a substance abuse program
3 approved by the court;

4 (8.5) if convicted of a felony sex offense as defined
5 in the Sex Offender Management Board Act, the person shall
6 undergo and successfully complete sex offender treatment
7 by a treatment provider approved by the Board and conducted
8 in conformance with the standards developed under the Sex
9 Offender Management Board Act;

10 (8.6) if convicted of a sex offense as defined in the
11 Sex Offender Management Board Act, refrain from residing at
12 the same address or in the same condominium unit or
13 apartment unit or in the same condominium complex or
14 apartment complex with another person he or she knows or
15 reasonably should know is a convicted sex offender or has
16 been placed on supervision for a sex offense; the
17 provisions of this paragraph do not apply to a person
18 convicted of a sex offense who is placed in a Department of
19 Corrections licensed transitional housing facility for sex
20 offenders;

21 (8.7) if convicted for an offense committed on or after
22 the effective date of this amendatory Act of the 95th
23 General Assembly that would qualify the accused as a child
24 sex offender as defined in Section 11-9.3 or 11-9.4 of the
25 Criminal Code of 1961, refrain from communicating with or
26 contacting, by means of the Internet, a person who is not

1 related to the accused and whom the accused reasonably
2 believes to be under 18 years of age; for purposes of this
3 paragraph (8.7), "Internet" has the meaning ascribed to it
4 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
5 ~~Public Act 94-179~~; and a person is not related to the
6 accused if the person is not: (i) the spouse, brother, or
7 sister of the accused; (ii) a descendant of the accused;
8 (iii) a first or second cousin of the accused; or (iv) a
9 step-child or adopted child of the accused;

10 (9) if convicted of a felony, physically surrender at a
11 time and place designated by the court, his or her Firearm
12 Owner's Identification Card and any and all firearms in his
13 or her possession; and

14 (10) if convicted of a sex offense as defined in
15 subsection (a-5) of Section 3-1-2 of this Code, unless the
16 offender is a parent or guardian of the person under 18
17 years of age present in the home and no non-familial minors
18 are present, not participate in a holiday event involving
19 children under 18 years of age, such as distributing candy
20 or other items to children on Halloween, wearing a Santa
21 Claus costume on or preceding Christmas, being employed as
22 a department store Santa Claus, or wearing an Easter Bunny
23 costume on or preceding Easter.

24 (b) The Court may in addition to other reasonable
25 conditions relating to the nature of the offense or the
26 rehabilitation of the defendant as determined for each

1 defendant in the proper discretion of the Court require that
2 the person:

3 (1) serve a term of periodic imprisonment under Article
4 7 for a period not to exceed that specified in paragraph
5 (d) of Section 5-7-1;

6 (2) pay a fine and costs;

7 (3) work or pursue a course of study or vocational
8 training;

9 (4) undergo medical, psychological or psychiatric
10 treatment; or treatment for drug addiction or alcoholism;

11 (5) attend or reside in a facility established for the
12 instruction or residence of defendants on probation;

13 (6) support his dependents;

14 (7) and in addition, if a minor:

15 (i) reside with his parents or in a foster home;

16 (ii) attend school;

17 (iii) attend a non-residential program for youth;

18 (iv) contribute to his own support at home or in a
19 foster home;

20 (v) with the consent of the superintendent of the
21 facility, attend an educational program at a facility
22 other than the school in which the offense was
23 committed if he or she is convicted of a crime of
24 violence as defined in Section 2 of the Crime Victims
25 Compensation Act committed in a school, on the real
26 property comprising a school, or within 1,000 feet of

1 the real property comprising a school;

2 (8) make restitution as provided in Section 5-5-6 of
3 this Code;

4 (9) perform some reasonable public or community
5 service;

6 (10) serve a term of home confinement. In addition to
7 any other applicable condition of probation or conditional
8 discharge, the conditions of home confinement shall be that
9 the offender:

10 (i) remain within the interior premises of the
11 place designated for his confinement during the hours
12 designated by the court;

13 (ii) admit any person or agent designated by the
14 court into the offender's place of confinement at any
15 time for purposes of verifying the offender's
16 compliance with the conditions of his confinement; and

17 (iii) if further deemed necessary by the court or
18 the Probation or Court Services Department, be placed
19 on an approved electronic monitoring device, subject
20 to Article 8A of Chapter V;

21 (iv) for persons convicted of any alcohol,
22 cannabis or controlled substance violation who are
23 placed on an approved monitoring device as a condition
24 of probation or conditional discharge, the court shall
25 impose a reasonable fee for each day of the use of the
26 device, as established by the county board in

1 subsection (g) of this Section, unless after
2 determining the inability of the offender to pay the
3 fee, the court assesses a lesser fee or no fee as the
4 case may be. This fee shall be imposed in addition to
5 the fees imposed under subsections (g) and (i) of this
6 Section. The fee shall be collected by the clerk of the
7 circuit court. The clerk of the circuit court shall pay
8 all monies collected from this fee to the county
9 treasurer for deposit in the substance abuse services
10 fund under Section 5-1086.1 of the Counties Code; and

11 (v) for persons convicted of offenses other than
12 those referenced in clause (iv) above and who are
13 placed on an approved monitoring device as a condition
14 of probation or conditional discharge, the court shall
15 impose a reasonable fee for each day of the use of the
16 device, as established by the county board in
17 subsection (g) of this Section, unless after
18 determining the inability of the defendant to pay the
19 fee, the court assesses a lesser fee or no fee as the
20 case may be. This fee shall be imposed in addition to
21 the fees imposed under subsections (g) and (i) of this
22 Section. The fee shall be collected by the clerk of the
23 circuit court. The clerk of the circuit court shall pay
24 all monies collected from this fee to the county
25 treasurer who shall use the monies collected to defray
26 the costs of corrections. The county treasurer shall

1 deposit the fee collected in the county working cash
2 fund under Section 6-27001 or Section 6-29002 of the
3 Counties Code, as the case may be.

4 (11) comply with the terms and conditions of an order
5 of protection issued by the court pursuant to the Illinois
6 Domestic Violence Act of 1986, as now or hereafter amended,
7 or an order of protection issued by the court of another
8 state, tribe, or United States territory. A copy of the
9 order of protection shall be transmitted to the probation
10 officer or agency having responsibility for the case;

11 (12) reimburse any "local anti-crime program" as
12 defined in Section 7 of the Anti-Crime Advisory Council Act
13 for any reasonable expenses incurred by the program on the
14 offender's case, not to exceed the maximum amount of the
15 fine authorized for the offense for which the defendant was
16 sentenced;

17 (13) contribute a reasonable sum of money, not to
18 exceed the maximum amount of the fine authorized for the
19 offense for which the defendant was sentenced, (i) to a
20 "local anti-crime program", as defined in Section 7 of the
21 Anti-Crime Advisory Council Act, or (ii) for offenses under
22 the jurisdiction of the Department of Natural Resources, to
23 the fund established by the Department of Natural Resources
24 for the purchase of evidence for investigation purposes and
25 to conduct investigations as outlined in Section 805-105 of
26 the Department of Natural Resources (Conservation) Law;

1 (14) refrain from entering into a designated
2 geographic area except upon such terms as the court finds
3 appropriate. Such terms may include consideration of the
4 purpose of the entry, the time of day, other persons
5 accompanying the defendant, and advance approval by a
6 probation officer, if the defendant has been placed on
7 probation or advance approval by the court, if the
8 defendant was placed on conditional discharge;

9 (15) refrain from having any contact, directly or
10 indirectly, with certain specified persons or particular
11 types of persons, including but not limited to members of
12 street gangs and drug users or dealers;

13 (16) refrain from having in his or her body the
14 presence of any illicit drug prohibited by the Cannabis
15 Control Act, the Illinois Controlled Substances Act, or the
16 Methamphetamine Control and Community Protection Act,
17 unless prescribed by a physician, and submit samples of his
18 or her blood or urine or both for tests to determine the
19 presence of any illicit drug; and

20 (17) if convicted for an offense committed on or after
21 the effective date of this amendatory Act of the 95th
22 General Assembly that would qualify the accused as a child
23 sex offender as defined in Section 11-9.3 or 11-9.4 of the
24 Criminal Code of 1961, refrain from communicating with or
25 contacting, by means of the Internet, a person who is
26 related to the accused and whom the accused reasonably

1 believes to be under 18 years of age; for purposes of this
2 paragraph (17), "Internet" has the meaning ascribed to it
3 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
4 ~~Public Act 94-179~~; and a person is related to the accused
5 if the person is: (i) the spouse, brother, or sister of the
6 accused; (ii) a descendant of the accused; (iii) a first or
7 second cousin of the accused; or (iv) a step-child or
8 adopted child of the accused.

9 (c) The court may as a condition of probation or of
10 conditional discharge require that a person under 18 years of
11 age found guilty of any alcohol, cannabis or controlled
12 substance violation, refrain from acquiring a driver's license
13 during the period of probation or conditional discharge. If
14 such person is in possession of a permit or license, the court
15 may require that the minor refrain from driving or operating
16 any motor vehicle during the period of probation or conditional
17 discharge, except as may be necessary in the course of the
18 minor's lawful employment.

19 (d) An offender sentenced to probation or to conditional
20 discharge shall be given a certificate setting forth the
21 conditions thereof.

22 (e) Except where the offender has committed a fourth or
23 subsequent violation of subsection (c) of Section 6-303 of the
24 Illinois Vehicle Code, the court shall not require as a
25 condition of the sentence of probation or conditional discharge
26 that the offender be committed to a period of imprisonment in

1 excess of 6 months. This 6 month limit shall not include
2 periods of confinement given pursuant to a sentence of county
3 impact incarceration under Section 5-8-1.2.

4 Persons committed to imprisonment as a condition of
5 probation or conditional discharge shall not be committed to
6 the Department of Corrections.

7 (f) The court may combine a sentence of periodic
8 imprisonment under Article 7 or a sentence to a county impact
9 incarceration program under Article 8 with a sentence of
10 probation or conditional discharge.

11 (g) An offender sentenced to probation or to conditional
12 discharge and who during the term of either undergoes mandatory
13 drug or alcohol testing, or both, or is assigned to be placed
14 on an approved electronic monitoring device, shall be ordered
15 to pay all costs incidental to such mandatory drug or alcohol
16 testing, or both, and all costs incidental to such approved
17 electronic monitoring in accordance with the defendant's
18 ability to pay those costs. The county board with the
19 concurrence of the Chief Judge of the judicial circuit in which
20 the county is located shall establish reasonable fees for the
21 cost of maintenance, testing, and incidental expenses related
22 to the mandatory drug or alcohol testing, or both, and all
23 costs incidental to approved electronic monitoring, involved
24 in a successful probation program for the county. The
25 concurrence of the Chief Judge shall be in the form of an
26 administrative order. The fees shall be collected by the clerk

1 of the circuit court. The clerk of the circuit court shall pay
2 all moneys collected from these fees to the county treasurer
3 who shall use the moneys collected to defray the costs of drug
4 testing, alcohol testing, and electronic monitoring. The
5 county treasurer shall deposit the fees collected in the county
6 working cash fund under Section 6-27001 or Section 6-29002 of
7 the Counties Code, as the case may be.

8 (h) Jurisdiction over an offender may be transferred from
9 the sentencing court to the court of another circuit with the
10 concurrence of both courts. Further transfers or retransfers of
11 jurisdiction are also authorized in the same manner. The court
12 to which jurisdiction has been transferred shall have the same
13 powers as the sentencing court.

14 (i) The court shall impose upon an offender sentenced to
15 probation after January 1, 1989 or to conditional discharge
16 after January 1, 1992 or to community service under the
17 supervision of a probation or court services department after
18 January 1, 2004, as a condition of such probation or
19 conditional discharge or supervised community service, a fee of
20 \$50 for each month of probation or conditional discharge
21 supervision or supervised community service ordered by the
22 court, unless after determining the inability of the person
23 sentenced to probation or conditional discharge or supervised
24 community service to pay the fee, the court assesses a lesser
25 fee. The court may not impose the fee on a minor who is made a
26 ward of the State under the Juvenile Court Act of 1987 while

1 the minor is in placement. The fee shall be imposed only upon
2 an offender who is actively supervised by the probation and
3 court services department. The fee shall be collected by the
4 clerk of the circuit court. The clerk of the circuit court
5 shall pay all monies collected from this fee to the county
6 treasurer for deposit in the probation and court services fund
7 under Section 15.1 of the Probation and Probation Officers Act.

8 A circuit court may not impose a probation fee under this
9 subsection (i) in excess of \$25 per month unless: (1) the
10 circuit court has adopted, by administrative order issued by
11 the chief judge, a standard probation fee guide determining an
12 offender's ability to pay, under guidelines developed by the
13 Administrative Office of the Illinois Courts; and (2) the
14 circuit court has authorized, by administrative order issued by
15 the chief judge, the creation of a Crime Victim's Services
16 Fund, to be administered by the Chief Judge or his or her
17 designee, for services to crime victims and their families. Of
18 the amount collected as a probation fee, up to \$5 of that fee
19 collected per month may be used to provide services to crime
20 victims and their families.

21 This amendatory Act of the 93rd General Assembly deletes
22 the \$10 increase in the fee under this subsection that was
23 imposed by Public Act 93-616. This deletion is intended to
24 control over any other Act of the 93rd General Assembly that
25 retains or incorporates that fee increase.

26 (i-5) In addition to the fees imposed under subsection (i)

1 of this Section, in the case of an offender convicted of a
2 felony sex offense (as defined in the Sex Offender Management
3 Board Act) or an offense that the court or probation department
4 has determined to be sexually motivated (as defined in the Sex
5 Offender Management Board Act), the court or the probation
6 department shall assess additional fees to pay for all costs of
7 treatment, assessment, evaluation for risk and treatment, and
8 monitoring the offender, based on that offender's ability to
9 pay those costs either as they occur or under a payment plan.

10 (j) All fines and costs imposed under this Section for any
11 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle
12 Code, or a similar provision of a local ordinance, and any
13 violation of the Child Passenger Protection Act, or a similar
14 provision of a local ordinance, shall be collected and
15 disbursed by the circuit clerk as provided under Section 27.5
16 of the Clerks of Courts Act.

17 (k) Any offender who is sentenced to probation or
18 conditional discharge for a felony sex offense as defined in
19 the Sex Offender Management Board Act or any offense that the
20 court or probation department has determined to be sexually
21 motivated as defined in the Sex Offender Management Board Act
22 shall be required to refrain from any contact, directly or
23 indirectly, with any persons specified by the court and shall
24 be available for all evaluations and treatment programs
25 required by the court or the probation department.

26 (l) The court may order an offender who is sentenced to

1 probation or conditional discharge for a violation of an order
2 of protection be placed under electronic surveillance as
3 provided in Section 5-8A-7 of this Code.

4 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
5 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff.
6 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; revised
7 12-26-07.)

8 (730 ILCS 5/5-8A-7 new)

9 Sec. 5-8A-7. Domestic violence surveillance program. If
10 the Prisoner Review Board, Department of Corrections, or court
11 (the supervising authority) orders electronic surveillance as
12 a condition of parole, mandatory supervised release, early
13 release, probation, or conditional discharge for a violation of
14 an order of protection or as a condition of bail for a person
15 charged with a violation of an order of protection, the
16 supervising authority shall use the best available global
17 positioning technology to track domestic violence offenders.
18 Such capabilities should include technology that (1)
19 immediately notifies law enforcement or other monitors of any
20 breach of the court ordered inclusion zone boundaries; (2)
21 notifies the victim in near-real time of any breach; (3) allows
22 monitors to speak to the offender through a cell phone
23 implanted in the bracelet device; and (4) has a loud alarm that
24 can be activated to warn the potential victim of the offender's
25 presence in a forbidden zone.

1 (730 ILCS 5/5-9-1.16 new)

2 Sec. 5-9-1.16. Protective order violation fines.

3 (a) There shall be added to every penalty imposed in
4 sentencing for a violation of an order of protection under
5 Section 12-30 of the Criminal Code of 1961 an additional fine
6 to be set in an amount not less than \$200 to be imposed upon a
7 plea of guilty or finding of guilty resulting in a judgment of
8 conviction.

9 (b) Such additional amount shall be assessed by the court
10 imposing sentence and shall be collected by the Circuit Clerk
11 in addition to the fine, if any, and costs in the case to be
12 used by the supervising authority in implementing the domestic
13 violence surveillance program. Each such additional penalty
14 shall be remitted by the Circuit Clerk within one month after
15 receipt to the State Treasurer for deposit into the Domestic
16 Violence Surveillance Fund. The Circuit Clerk shall retain 10%
17 of such penalty and deposit that percentage into the Circuit
18 Court Clerk Operation and Administrative Fund to cover the
19 costs incurred in administering and enforcing this Section.
20 Such additional penalty shall not be considered a part of the
21 fine for purposes of any reduction in the fine for time served
22 either before or after sentencing.

23 (c) Not later than March 1 of each year the Clerk of the
24 Circuit Court shall submit to the State Comptroller a report of
25 the amount of funds remitted by him or her to the State

1 Treasurer under this Section during the preceding calendar
2 year.

3 (d) Moneys in the Domestic Violence Surveillance Fund shall
4 be used by the supervising authority of a respondent ordered to
5 carry or wear a global positioning system device for a
6 violation of an order of protection under Section 12-30 of the
7 Criminal Code of 1961 to offset the costs of such surveillance
8 of the respondent.

9 (e) For purposes of this Section "fees of the Circuit
10 Clerk" shall include, if applicable, the fee provided for under
11 Section 27.3a of the Clerks of Courts Act and the fee, if
12 applicable, payable to the county in which the violation
13 occurred under Section 5-1101 of the Counties Code.

14 Section 26. The Probation and Probation Officers Act is
15 amended by changing Section 15 as follows:

16 (730 ILCS 110/15) (from Ch. 38, par. 204-7)

17 Sec. 15. (1) The Supreme Court of Illinois may establish a
18 Division of Probation Services whose purpose shall be the
19 development, establishment, promulgation, and enforcement of
20 uniform standards for probation services in this State, and to
21 otherwise carry out the intent of this Act. The Division may:

22 (a) establish qualifications for chief probation
23 officers and other probation and court services personnel
24 as to hiring, promotion, and training.

1 (b) make available, on a timely basis, lists of those
2 applicants whose qualifications meet the regulations
3 referred to herein, including on said lists all candidates
4 found qualified.

5 (c) establish a means of verifying the conditions for
6 reimbursement under this Act and develop criteria for
7 approved costs for reimbursement.

8 (d) develop standards and approve employee
9 compensation schedules for probation and court services
10 departments.

11 (e) employ sufficient personnel in the Division to
12 carry out the functions of the Division.

13 (f) establish a system of training and establish
14 standards for personnel orientation and training.

15 (g) develop standards for a system of record keeping
16 for cases and programs, gather statistics, establish a
17 system of uniform forms, and develop research for planning
18 of Probation Services.

19 (h) develop standards to assure adequate support
20 personnel, office space, equipment and supplies, travel
21 expenses, and other essential items necessary for
22 Probation and Court Services Departments to carry out their
23 duties.

24 (i) review and approve annual plans submitted by
25 Probation and Court Services Departments.

26 (j) monitor and evaluate all programs operated by

1 Probation and Court Services Departments, and may include
2 in the program evaluation criteria such factors as the
3 percentage of Probation sentences for felons convicted of
4 Probationable offenses.

5 (k) seek the cooperation of local and State government
6 and private agencies to improve the quality of probation
7 and court services.

8 (l) where appropriate, establish programs and
9 corresponding standards designed to generally improve the
10 quality of probation and court services and reduce the rate
11 of adult or juvenile offenders committed to the Department
12 of Corrections.

13 (m) establish such other standards and regulations and
14 do all acts necessary to carry out the intent and purposes
15 of this Act.

16 (n) develop standards to implement the Domestic
17 Violence Surveillance Program established under Section
18 5-8A-7 of the Unified Code of Corrections including (i)
19 procurement of equipment and other services necessary to
20 implement the program and (ii) development of uniform
21 standards for the delivery of the program through county
22 probation departments.

23 The Division shall establish a model list of structured
24 intermediate sanctions that may be imposed by a probation
25 agency for violations of terms and conditions of a sentence of
26 probation, conditional discharge, or supervision.

1 The State of Illinois shall provide for the costs of
2 personnel, travel, equipment, telecommunications, postage,
3 commodities, printing, space, contractual services and other
4 related costs necessary to carry out the intent of this Act.

5 (2) (a) The chief judge of each circuit shall provide
6 full-time probation services for all counties within the
7 circuit, in a manner consistent with the annual probation plan,
8 the standards, policies, and regulations established by the
9 Supreme Court. A probation district of two or more counties
10 within a circuit may be created for the purposes of providing
11 full-time probation services. Every county or group of counties
12 within a circuit shall maintain a probation department which
13 shall be under the authority of the Chief Judge of the circuit
14 or some other judge designated by the Chief Judge. The Chief
15 Judge, through the Probation and Court Services Department
16 shall submit annual plans to the Division for probation and
17 related services.

18 (b) The Chief Judge of each circuit shall appoint the Chief
19 Probation Officer and all other probation officers for his or
20 her circuit from lists of qualified applicants supplied by the
21 Supreme Court. Candidates for chief managing officer and other
22 probation officer positions must apply with both the Chief
23 Judge of the circuit and the Supreme Court.

24 (3) A Probation and Court Service Department shall apply to
25 the Supreme Court for funds for basic services, and may apply
26 for funds for new and expanded programs or Individualized

1 Services and Programs. Costs shall be reimbursed monthly based
2 on a plan and budget approved by the Supreme Court. No
3 Department may be reimbursed for costs which exceed or are not
4 provided for in the approved annual plan and budget. After the
5 effective date of this amendatory Act of 1985, each county must
6 provide basic services in accordance with the annual plan and
7 standards created by the division. No department may receive
8 funds for new or expanded programs or individualized services
9 and programs unless they are in compliance with standards as
10 enumerated in paragraph (h) of subsection (1) of this Section,
11 the annual plan, and standards for basic services.

12 (4) The Division shall reimburse the county or counties for
13 probation services as follows:

14 (a) 100% of the salary of all chief managing officers
15 designated as such by the Chief Judge and the division.

16 (b) 100% of the salary for all probation officer and
17 supervisor positions approved for reimbursement by the
18 division after April 1, 1984, to meet workload standards
19 and to implement intensive sanction and probation
20 supervision programs and other basic services as defined in
21 this Act.

22 (c) 100% of the salary for all secure detention
23 personnel and non-secure group home personnel approved for
24 reimbursement after December 1, 1990. For all such
25 positions approved for reimbursement before December 1,
26 1990, the counties shall be reimbursed \$1,250 per month

1 beginning July 1, 1995, and an additional \$250 per month
2 beginning each July 1st thereafter until the positions
3 receive 100% salary reimbursement. Allocation of such
4 positions will be based on comparative need considering
5 capacity, staff/resident ratio, physical plant and
6 program.

7 (d) \$1,000 per month for salaries for the remaining
8 probation officer positions engaged in basic services and
9 new or expanded services. All such positions shall be
10 approved by the division in accordance with this Act and
11 division standards.

12 (e) 100% of the travel expenses in accordance with
13 Division standards for all Probation positions approved
14 under paragraph (b) of subsection 4 of this Section.

15 (f) If the amount of funds reimbursed to the county
16 under paragraphs (a) through (e) of subsection 4 of this
17 Section on an annual basis is less than the amount the
18 county had received during the 12 month period immediately
19 prior to the effective date of this amendatory Act of 1985,
20 then the Division shall reimburse the amount of the
21 difference to the county. The effect of paragraph (b) of
22 subsection 7 of this Section shall be considered in
23 implementing this supplemental reimbursement provision.

24 (5) The Division shall provide funds beginning on April 1,
25 1987 for the counties to provide Individualized Services and
26 Programs as provided in Section 16 of this Act.

1 (6) A Probation and Court Services Department in order to
2 be eligible for the reimbursement must submit to the Supreme
3 Court an application containing such information and in such a
4 form and by such dates as the Supreme Court may require.
5 Departments to be eligible for funding must satisfy the
6 following conditions:

7 (a) The Department shall have on file with the Supreme
8 Court an annual Probation plan for continuing, improved,
9 and new Probation and Court Services Programs approved by
10 the Supreme Court or its designee. This plan shall indicate
11 the manner in which Probation and Court Services will be
12 delivered and improved, consistent with the minimum
13 standards and regulations for Probation and Court
14 Services, as established by the Supreme Court. In counties
15 with more than one Probation and Court Services Department
16 eligible to receive funds, all Departments within that
17 county must submit plans which are approved by the Supreme
18 Court.

19 (b) The annual probation plan shall seek to generally
20 improve the quality of probation services and to reduce the
21 commitment of adult offenders to the Department of
22 Corrections and to reduce the commitment of juvenile
23 offenders to the Department of Juvenile Justice and shall
24 require, when appropriate, coordination with the
25 Department of Corrections, the Department of Juvenile
26 Justice, and the Department of Children and Family Services

1 in the development and use of community resources,
2 information systems, case review and permanency planning
3 systems to avoid the duplication of services.

4 (c) The Department shall be in compliance with
5 standards developed by the Supreme Court for basic, new and
6 expanded services, training, personnel hiring and
7 promotion.

8 (d) The Department shall in its annual plan indicate
9 the manner in which it will support the rights of crime
10 victims and in which manner it will implement Article I,
11 Section 8.1 of the Illinois Constitution and in what manner
12 it will coordinate crime victims' support services with
13 other criminal justice agencies within its jurisdiction,
14 including but not limited to, the State's Attorney, the
15 Sheriff and any municipal police department.

16 (7) No statement shall be verified by the Supreme Court or
17 its designee or vouchered by the Comptroller unless each of the
18 following conditions have been met:

19 (a) The probation officer is a full-time employee
20 appointed by the Chief Judge to provide probation services.

21 (b) The probation officer, in order to be eligible for
22 State reimbursement, is receiving a salary of at least
23 \$17,000 per year.

24 (c) The probation officer is appointed or was
25 reappointed in accordance with minimum qualifications or
26 criteria established by the Supreme Court; however, all

1 probation officers appointed prior to January 1, 1978,
2 shall be exempted from the minimum requirements
3 established by the Supreme Court. Payments shall be made to
4 counties employing these exempted probation officers as
5 long as they are employed in the position held on the
6 effective date of this amendatory Act of 1985. Promotions
7 shall be governed by minimum qualifications established by
8 the Supreme Court.

9 (d) The Department has an established compensation
10 schedule approved by the Supreme Court. The compensation
11 schedule shall include salary ranges with necessary
12 increments to compensate each employee. The increments
13 shall, within the salary ranges, be based on such factors
14 as bona fide occupational qualifications, performance, and
15 length of service. Each position in the Department shall be
16 placed on the compensation schedule according to job duties
17 and responsibilities of such position. The policy and
18 procedures of the compensation schedule shall be made
19 available to each employee.

20 (8) In order to obtain full reimbursement of all approved
21 costs, each Department must continue to employ at least the
22 same number of probation officers and probation managers as
23 were authorized for employment for the fiscal year which
24 includes January 1, 1985. This number shall be designated as
25 the base amount of the Department. No positions approved by the
26 Division under paragraph (b) of subsection 4 will be included

1 in the base amount. In the event that the Department employs
2 fewer Probation officers and Probation managers than the base
3 amount for a period of 90 days, funding received by the
4 Department under subsection 4 of this Section may be reduced on
5 a monthly basis by the amount of the current salaries of any
6 positions below the base amount.

7 (9) Before the 15th day of each month, the treasurer of any
8 county which has a Probation and Court Services Department, or
9 the treasurer of the most populous county, in the case of a
10 Probation or Court Services Department funded by more than one
11 county, shall submit an itemized statement of all approved
12 costs incurred in the delivery of Basic Probation and Court
13 Services under this Act to the Supreme Court. The treasurer may
14 also submit an itemized statement of all approved costs
15 incurred in the delivery of new and expanded Probation and
16 Court Services as well as Individualized Services and Programs.
17 The Supreme Court or its designee shall verify compliance with
18 this Section and shall examine and audit the monthly statement
19 and, upon finding them to be correct, shall forward them to the
20 Comptroller for payment to the county treasurer. In the case of
21 payment to a treasurer of a county which is the most populous
22 of counties sharing the salary and expenses of a Probation and
23 Court Services Department, the treasurer shall divide the money
24 between the counties in a manner that reflects each county's
25 share of the cost incurred by the Department.

26 (10) The county treasurer must certify that funds received

1 under this Section shall be used solely to maintain and improve
2 Probation and Court Services. The county or circuit shall
3 remain in compliance with all standards, policies and
4 regulations established by the Supreme Court. If at any time
5 the Supreme Court determines that a county or circuit is not in
6 compliance, the Supreme Court shall immediately notify the
7 Chief Judge, county board chairman and the Director of Court
8 Services Chief Probation Officer. If after 90 days of written
9 notice the noncompliance still exists, the Supreme Court shall
10 be required to reduce the amount of monthly reimbursement by
11 10%. An additional 10% reduction of monthly reimbursement shall
12 occur for each consecutive month of noncompliance. Except as
13 provided in subsection 5 of Section 15, funding to counties
14 shall commence on April 1, 1986. Funds received under this Act
15 shall be used to provide for Probation Department expenses
16 including those required under Section 13 of this Act. The
17 Mandatory Arbitration Fund may be used to provide for Probation
18 Department expenses, including those required under Section 13
19 of this Act.

20 (11) The respective counties shall be responsible for
21 capital and space costs, fringe benefits, clerical costs,
22 equipment, telecommunications, postage, commodities and
23 printing.

24 (12) For purposes of this Act only, probation officers
25 shall be considered peace officers. In the exercise of their
26 official duties, probation officers, sheriffs, and police

1 officers may, anywhere within the State, arrest any probationer
2 who is in violation of any of the conditions of his or her
3 probation, conditional discharge, or supervision, and it shall
4 be the duty of the officer making the arrest to take the
5 probationer before the Court having jurisdiction over the
6 probationer for further order.

7 (Source: P.A. 94-91, eff. 7-1-05; 94-696, eff. 6-1-06; 94-839,
8 eff. 6-6-06; 95-707, eff. 1-11-08.)

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

11 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

12 Sec. 214. Order of protection; remedies.

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

1 on the person of the victim. Modification and extension of
2 prior orders of protection shall be in accordance with this
3 Act.

4 (b) Remedies and standards. The remedies to be included in
5 an order of protection shall be determined in accordance with
6 this Section and one of the following Sections, as appropriate:
7 Section 217 on emergency orders, Section 218 on interim orders,
8 and Section 219 on plenary orders. The remedies listed in this
9 subsection shall be in addition to other civil or criminal
10 remedies available to petitioner.

11 (1) Prohibition of abuse, neglect, or exploitation.
12 Prohibit respondent's harassment, interference with
13 personal liberty, intimidation of a dependent, physical
14 abuse, or willful deprivation, neglect or exploitation, as
15 defined in this Act, or stalking of the petitioner, as
16 defined in Section 12-7.3 of the Criminal Code of 1961, if
17 such abuse, neglect, exploitation, or stalking has
18 occurred or otherwise appears likely to occur if not
19 prohibited.

20 (2) Grant of exclusive possession of residence.
21 Prohibit respondent from entering or remaining in any
22 residence or household of the petitioner, including one
23 owned or leased by respondent, if petitioner has a right to
24 occupancy thereof. The grant of exclusive possession of the
25 residence shall not affect title to real property, nor
26 shall the court be limited by the standard set forth in

1 Section 701 of the Illinois Marriage and Dissolution of
2 Marriage Act.

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

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

1 have a right to occupancy.

2 The balance of hardships is presumed to favor
3 possession by petitioner unless the presumption is
4 rebutted by a preponderance of the evidence, showing
5 that the hardships to respondent substantially
6 outweigh the hardships to petitioner and any minor
7 child or dependent adult in petitioner's care. The
8 court, on the request of petitioner or on its own
9 motion, may order respondent to provide suitable,
10 accessible, alternate housing for petitioner instead
11 of excluding respondent from a mutual residence or
12 household.

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

23 If an order of protection grants petitioner exclusive
24 possession of the residence, or prohibits respondent from
25 entering the residence, or orders respondent to stay away
26 from petitioner or other protected persons, then the court

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

7 (4) Counseling. Require or recommend the respondent to
8 undergo counseling for a specified duration with a social
9 worker, psychologist, clinical psychologist, psychiatrist,
10 family service agency, alcohol or substance abuse program,
11 mental health center guidance counselor, agency providing
12 services to elders, program designed for domestic violence
13 abusers or any other guidance service the court deems
14 appropriate. The Court may order the respondent in any
15 intimate partner relationship to report to an Illinois
16 Department of Human Services protocol approved partner
17 abuse intervention program for an assessment and to follow
18 all recommended treatment.

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

1 a minor child from, the physical care of a parent or person
2 in loco parentis.

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

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

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

18 (7) Visitation. Determine the visitation rights, if
19 any, of respondent in any case in which the court awards
20 physical care or temporary legal custody of a minor child
21 to petitioner. The court shall restrict or deny
22 respondent's visitation with a minor child if the court
23 finds that respondent has done or is likely to do any of
24 the following: (i) abuse or endanger the minor child during
25 visitation; (ii) use the visitation as an opportunity to
26 abuse or harass petitioner or petitioner's family or

1 household members; (iii) improperly conceal or detain the
2 minor child; or (iv) otherwise act in a manner that is not
3 in the best interests of the minor child. The court shall
4 not be limited by the standards set forth in Section 607.1
5 of the Illinois Marriage and Dissolution of Marriage Act.
6 If the court grants visitation, the order shall specify
7 dates and times for the visitation to take place or other
8 specific parameters or conditions that are appropriate. No
9 order for visitation shall refer merely to the term
10 "reasonable visitation".

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

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

26 (8) Removal or concealment of minor child. Prohibit

1 respondent from removing a minor child from the State or
2 concealing the child within the State.

3 (9) Order to appear. Order the respondent to appear in
4 court, alone or with a minor child, to prevent abuse,
5 neglect, removal or concealment of the child, to return the
6 child to the custody or care of the petitioner or to permit
7 any court-ordered interview or examination of the child or
8 the respondent.

9 (10) Possession of personal property. Grant petitioner
10 exclusive possession of personal property and, if
11 respondent has possession or control, direct respondent to
12 promptly make it available to petitioner, if:

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

15 (ii) the parties own the property jointly; sharing
16 it would risk abuse of petitioner by respondent or is
17 impracticable; and the balance of hardships favors
18 temporary possession by petitioner.

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

26 No order under this provision shall affect title to

1 property.

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

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

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

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

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

20 (11.5) Protection of animals. Grant the petitioner the
21 exclusive care, custody, or control of any animal owned,
22 possessed, leased, kept, or held by either the petitioner
23 or the respondent or a minor child residing in the
24 residence or household of either the petitioner or the
25 respondent and order the respondent to stay away from the
26 animal and forbid the respondent from taking,

1 transferring, encumbering, concealing, harming, or
2 otherwise disposing of the animal.

3 (12) Order for payment of support. Order respondent to
4 pay temporary support for the petitioner or any child in
5 the petitioner's care or custody, when the respondent has a
6 legal obligation to support that person, in accordance with
7 the Illinois Marriage and Dissolution of Marriage Act,
8 which shall govern, among other matters, the amount of
9 support, payment through the clerk and withholding of
10 income to secure payment. An order for child support may be
11 granted to a petitioner with lawful physical care or
12 custody of a child, or an order or agreement for physical
13 care or custody, prior to entry of an order for legal
14 custody. Such a support order shall expire upon entry of a
15 valid order granting legal custody to another, unless
16 otherwise provided in the custody order.

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

26 (i) Losses affecting family needs. If a party is

1 entitled to seek maintenance, child support or
2 property distribution from the other party under the
3 Illinois Marriage and Dissolution of Marriage Act, as
4 now or hereafter amended, the court may order
5 respondent to reimburse petitioner's actual losses, to
6 the extent that such reimbursement would be
7 "appropriate temporary relief", as authorized by
8 subsection (a) (3) of Section 501 of that Act.

9 (ii) Recovery of expenses. In the case of an
10 improper concealment or removal of a minor child, the
11 court may order respondent to pay the reasonable
12 expenses incurred or to be incurred in the search for
13 and recovery of the minor child, including but not
14 limited to legal fees, court costs, private
15 investigator fees, and travel costs.

16 (14) Prohibition of entry. Prohibit the respondent
17 from entering or remaining in the residence or household
18 while the respondent is under the influence of alcohol or
19 drugs and constitutes a threat to the safety and well-being
20 of the petitioner or the petitioner's children.

21 (14.5) Prohibition of firearm possession.

22 (a) When a complaint is made under a request for an
23 order of protection, that the respondent has
24 threatened or is likely to use firearms illegally
25 against the petitioner, and the respondent is present
26 in court, or has failed to appear after receiving

1 actual notice, the court shall examine on oath the
2 petitioner, and any witnesses who may be produced. If
3 the court is satisfied that there is any danger of the
4 illegal use of firearms, it shall issue an order that
5 any firearms in the possession of the respondent,
6 except as provided in subsection (b), be turned over to
7 the local law enforcement agency for safekeeping. If
8 the respondent has failed to appear, the court shall
9 issue a warrant for seizure of any firearm in the
10 possession of the respondent. The period of
11 safekeeping shall be for a stated period of time not to
12 exceed 2 years. The firearm or firearms shall be
13 returned to the respondent at the end of the stated
14 period or at expiration of the order of protection,
15 whichever is sooner.

16 (b) If the respondent is a peace officer as defined
17 in Section 2-13 of the Criminal Code of 1961, the court
18 shall order that any firearms used by the respondent in
19 the performance of his or her duties as a peace officer
20 be surrendered to the chief law enforcement executive
21 of the agency in which the respondent is employed, who
22 shall retain the firearms for safekeeping for the
23 stated period not to exceed 2 years as set forth in the
24 court order.

25 (15) Prohibition of access to records. If an order of
26 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

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

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

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

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

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

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

25 (iii) the effect on the relationship of the party,
26 and any minor child or dependent adult in the party's

1 care, to family, school, church and community.

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

6 (i) That the court has considered the applicable
7 relevant factors described in paragraphs (1) and (2) of
8 this subsection.

9 (ii) Whether the conduct or actions of respondent,
10 unless prohibited, will likely cause irreparable harm
11 or continued abuse.

12 (iii) Whether it is necessary to grant the
13 requested relief in order to protect petitioner or
14 other alleged abused persons.

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

20 When a verified petition for an emergency order of
21 protection in accordance with the requirements of Sections
22 203 and 217 is presented to the court, the court shall
23 examine petitioner on oath or affirmation. An emergency
24 order of protection shall be issued by the court if it
25 appears from the contents of the petition and the
26 examination of petitioner that the averments are

1 sufficient to indicate abuse by respondent and to support
2 the granting of relief under the issuance of the emergency
3 order of protection.

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

1 minor child be entered.

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

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

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

16 (2) Respondent was voluntarily intoxicated;

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

21 (4) Petitioner did not act in self-defense or defense
22 of another;

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

25 (6) Petitioner did not leave the residence or household
26 to avoid further abuse, neglect, or exploitation by

1 respondent;

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

7 (Source: P.A. 95-234, eff. 1-1-08.)".