



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3365

Introduced 2/24/2011, by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

430 ILCS 65/4	from Ch. 38, par. 83-4
430 ILCS 65/8	from Ch. 38, par. 83-8
725 ILCS 5/112A-14	from Ch. 38, par. 112A-14
750 ILCS 60/214	from Ch. 40, par. 2312-14

Amends the Firearm Owners Identification Card Act. Provides that a person who has been convicted of domestic battery, aggravated domestic battery, or violation of an order of protection shall not be able to obtain a Firearm Owner's Identification Card and any Card issued to such person shall be subject to revocation and seizure by the Department of State Police regardless of when the conviction occurred. Amends the Domestic Violence: Order of Protection Article of the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that a respondent against whom an order of protection was issued against shall not possess any firearms and shall surrender his or her Firearm Owner's Identification Card during the duration of the order where the order: (1) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; (2) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (3) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

LRB097 08563 RLC 50992 b

1 AN ACT concerning firearms.

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

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 4 and 8 as follows:

6 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

7 Sec. 4. (a) Each applicant for a Firearm Owner's
8 Identification Card must:

9 (1) Make application on blank forms prepared and
10 furnished at convenient locations throughout the State by
11 the Department of State Police, or by electronic means, if
12 and when made available by the Department of State Police;
13 and

14 (2) Submit evidence to the Department of State Police
15 that:

16 (i) He or she is 21 years of age or over, or if he
17 or she is under 21 years of age that he or she has the
18 written consent of his or her parent or legal guardian
19 to possess and acquire firearms and firearm ammunition
20 and that he or she has never been convicted of a
21 misdemeanor other than a traffic offense or adjudged
22 delinquent, provided, however, that such parent or
23 legal guardian is not an individual prohibited from

1 having a Firearm Owner's Identification Card and files
2 an affidavit with the Department as prescribed by the
3 Department stating that he or she is not an individual
4 prohibited from having a Card;

5 (ii) He or she has not been convicted of a felony
6 under the laws of this or any other jurisdiction;

7 (iii) He or she is not addicted to narcotics;

8 (iv) He or she has not been a patient in a mental
9 institution within the past 5 years and he or she has
10 not been adjudicated as a mental defective;

11 (v) He or she is not mentally retarded;

12 (vi) He or she is not an alien who is unlawfully
13 present in the United States under the laws of the
14 United States;

15 (vii) He or she is not subject to an existing order
16 of protection prohibiting him or her from possessing a
17 firearm;

18 (viii) He or she has not been convicted within the
19 past 5 years of battery, assault, aggravated assault,
20 violation of an order of protection, or a substantially
21 similar offense in another jurisdiction, in which a
22 firearm was used or possessed;

23 (ix) He or she has not been convicted of domestic
24 battery, aggravated domestic battery, violation of an
25 order of protection, or a substantially similar
26 offense in another jurisdiction committed before, on

1 or after the effective date of this amendatory Act of
2 the 97th General Assembly 1997;

3 (x) (Blank) ~~He or she has not been convicted within~~
4 ~~the past 5 years of domestic battery or a substantially~~
5 ~~similar offense in another jurisdiction committed~~
6 ~~before the effective date of this amendatory Act of~~
7 ~~1997;~~

8 (xi) He or she is not an alien who has been
9 admitted to the United States under a non-immigrant
10 visa (as that term is defined in Section 101(a)(26) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(26))), or that he or she is an alien who has
13 been lawfully admitted to the United States under a
14 non-immigrant visa if that alien is:

15 (1) admitted to the United States for lawful
16 hunting or sporting purposes;

17 (2) an official representative of a foreign
18 government who is:

19 (A) accredited to the United States
20 Government or the Government's mission to an
21 international organization having its
22 headquarters in the United States; or

23 (B) en route to or from another country to
24 which that alien is accredited;

25 (3) an official of a foreign government or
26 distinguished foreign visitor who has been so

1 designated by the Department of State;

2 (4) a foreign law enforcement officer of a
3 friendly foreign government entering the United
4 States on official business; or

5 (5) one who has received a waiver from the
6 Attorney General of the United States pursuant to
7 18 U.S.C. 922(y)(3);

8 (xii) He or she is not a minor subject to a
9 petition filed under Section 5-520 of the Juvenile
10 Court Act of 1987 alleging that the minor is a
11 delinquent minor for the commission of an offense that
12 if committed by an adult would be a felony; and

13 (xiii) He or she is not an adult who had been
14 adjudicated a delinquent minor under the Juvenile
15 Court Act of 1987 for the commission of an offense that
16 if committed by an adult would be a felony; and

17 (3) Upon request by the Department of State Police,
18 sign a release on a form prescribed by the Department of
19 State Police waiving any right to confidentiality and
20 requesting the disclosure to the Department of State Police
21 of limited mental health institution admission information
22 from another state, the District of Columbia, any other
23 territory of the United States, or a foreign nation
24 concerning the applicant for the sole purpose of
25 determining whether the applicant is or was a patient in a
26 mental health institution and disqualified because of that

1 status from receiving a Firearm Owner's Identification
2 Card. No mental health care or treatment records may be
3 requested. The information received shall be destroyed
4 within one year of receipt.

5 (a-5) Each applicant for a Firearm Owner's Identification
6 Card who is over the age of 18 shall furnish to the Department
7 of State Police either his or her driver's license number or
8 Illinois Identification Card number.

9 (a-10) Each applicant for a Firearm Owner's Identification
10 Card, who is employed as an armed security officer at a nuclear
11 energy, storage, weapons, or development facility regulated by
12 the Nuclear Regulatory Commission and who is not an Illinois
13 resident, shall furnish to the Department of State Police his
14 or her driver's license number or state identification card
15 number from his or her state of residence. The Department of
16 State Police may promulgate rules to enforce the provisions of
17 this subsection (a-10).

18 (b) Each application form shall include the following
19 statement printed in bold type: "Warning: Entering false
20 information on an application for a Firearm Owner's
21 Identification Card is punishable as a Class 2 felony in
22 accordance with subsection (d-5) of Section 14 of the Firearm
23 Owners Identification Card Act."

24 (c) Upon such written consent, pursuant to Section 4,
25 paragraph (a)(2)(i), the parent or legal guardian giving the
26 consent shall be liable for any damages resulting from the

1 applicant's use of firearms or firearm ammunition.

2 (Source: P.A. 95-581, eff. 6-1-08.)

3 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

4 Sec. 8. The Department of State Police has authority to
5 deny an application for or to revoke and seize a Firearm
6 Owner's Identification Card previously issued under this Act
7 only if the Department finds that the applicant or the person
8 to whom such card was issued is or was at the time of issuance:

9 (a) A person under 21 years of age who has been convicted
10 of a misdemeanor other than a traffic offense or adjudged
11 delinquent;

12 (b) A person under 21 years of age who does not have the
13 written consent of his parent or guardian to acquire and
14 possess firearms and firearm ammunition, or whose parent or
15 guardian has revoked such written consent, or where such parent
16 or guardian does not qualify to have a Firearm Owner's
17 Identification Card;

18 (c) A person convicted of a felony under the laws of this
19 or any other jurisdiction;

20 (d) A person addicted to narcotics;

21 (e) A person who has been a patient of a mental institution
22 within the past 5 years or has been adjudicated as a mental
23 defective;

24 (f) A person whose mental condition is of such a nature
25 that it poses a clear and present danger to the applicant, any

1 other person or persons or the community;

2 For the purposes of this Section, "mental condition" means
3 a state of mind manifested by violent, suicidal, threatening or
4 assaultive behavior.

5 (g) A person who is mentally retarded;

6 (h) A person who intentionally makes a false statement in
7 the Firearm Owner's Identification Card application;

8 (i) An alien who is unlawfully present in the United States
9 under the laws of the United States;

10 (i-5) An alien who has been admitted to the United States
11 under a non-immigrant visa (as that term is defined in Section
12 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.
13 1101(a)(26))), except that this subsection (i-5) does not apply
14 to any alien who has been lawfully admitted to the United
15 States under a non-immigrant visa if that alien is:

16 (1) admitted to the United States for lawful hunting or
17 sporting purposes;

18 (2) an official representative of a foreign government
19 who is:

20 (A) accredited to the United States Government or
21 the Government's mission to an international
22 organization having its headquarters in the United
23 States; or

24 (B) en route to or from another country to which
25 that alien is accredited;

26 (3) an official of a foreign government or

1 distinguished foreign visitor who has been so designated by
2 the Department of State;

3 (4) a foreign law enforcement officer of a friendly
4 foreign government entering the United States on official
5 business; or

6 (5) one who has received a waiver from the Attorney
7 General of the United States pursuant to 18 U.S.C.
8 922 (y) (3);

9 (j) (Blank);

10 (k) A person who has been convicted within the past 5 years
11 of battery, assault, aggravated assault, violation of an order
12 of protection, or a substantially similar offense in another
13 jurisdiction, in which a firearm was used or possessed;

14 (l) A person who has been convicted of domestic battery,
15 aggravated domestic battery, violation of an order of
16 protection, or a substantially similar offense in another
17 jurisdiction committed before, on or after the effective date
18 of this amendatory Act of the 97th General Assembly January 1,
19 1998;

20 (m) (Blank) ~~A person who has been convicted within the past~~
21 ~~5 years of domestic battery or a substantially similar offense~~
22 ~~in another jurisdiction committed before January 1, 1998;~~

23 (n) A person who is prohibited from acquiring or possessing
24 firearms or firearm ammunition by any Illinois State statute or
25 by federal law;

26 (o) A minor subject to a petition filed under Section 5-520

1 of the Juvenile Court Act of 1987 alleging that the minor is a
2 delinquent minor for the commission of an offense that if
3 committed by an adult would be a felony; or

4 (p) An adult who had been adjudicated a delinquent minor
5 under the Juvenile Court Act of 1987 for the commission of an
6 offense that if committed by an adult would be a felony.

7 (Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

8 Section 10. The Code of Criminal Procedure of 1963 is
9 amended by changing Section 112A-14 as follows:

10 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

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

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

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

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

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

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

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

22 The balance of hardships is presumed to favor
23 possession by petitioner unless the presumption is
24 rebutted by a preponderance of the evidence, showing
25 that the hardships to respondent substantially
26 outweigh the hardships to petitioner and any minor

1 child or dependent adult in petitioner's care. The
2 court, on the request of petitioner or on its own
3 motion, may order respondent to provide suitable,
4 accessible, alternate housing for petitioner instead
5 of excluding respondent from a mutual residence or
6 household.

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

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

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

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

23 If a court finds, after a hearing, that respondent has
24 committed abuse (as defined in Section 112A-3) of a minor
25 child, there shall be a rebuttable presumption that
26 awarding physical care to respondent would not be in the

1 minor child's best interest.

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

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

12 (7) Visitation. Determine the visitation rights, if
13 any, of respondent in any case in which the court awards
14 physical care or temporary legal custody of a minor child
15 to petitioner. The court shall restrict or deny
16 respondent's visitation with a minor child if the court
17 finds that respondent has done or is likely to do any of
18 the following: (i) abuse or endanger the minor child during
19 visitation; (ii) use the visitation as an opportunity to
20 abuse or harass petitioner or petitioner's family or
21 household members; (iii) improperly conceal or detain the
22 minor child; or (iv) otherwise act in a manner that is not
23 in the best interests of the minor child. The court shall
24 not be limited by the standards set forth in Section 607.1
25 of the Illinois Marriage and Dissolution of Marriage Act.
26 If the court grants visitation, the order shall specify

1 dates and times for the visitation to take place or other
2 specific parameters or conditions that are appropriate. No
3 order for visitation shall refer merely to the term
4 "reasonable visitation".

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

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

20 (8) Removal or concealment of minor child. Prohibit
21 respondent from removing a minor child from the State or
22 concealing the child within the State.

23 (9) Order to appear. Order the respondent to appear in
24 court, alone or with a minor child, to prevent abuse,
25 neglect, removal or concealment of the child, to return the
26 child to the custody or care of the petitioner or to permit

1 any court-ordered interview or examination of the child or
2 the respondent.

3 (10) Possession of personal property. Grant petitioner
4 exclusive possession of personal property and, if
5 respondent has possession or control, direct respondent to
6 promptly make it available to petitioner, if:

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

9 (ii) the parties own the property jointly; sharing
10 it would risk abuse of petitioner by respondent or is
11 impracticable; and the balance of hardships favors
12 temporary possession by petitioner.

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

20 No order under this provision shall affect title to
21 property.

22 (11) Protection of property. Forbid the respondent
23 from taking, transferring, encumbering, concealing,
24 damaging or otherwise disposing of any real or personal
25 property, except as explicitly authorized by the court, if:

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

1 property; or

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

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

10 The court may further prohibit respondent from
11 improperly using the financial or other resources of an
12 aged member of the family or household for the profit or
13 advantage of respondent or of any other person.

14 (11.5) Protection of animals. Grant the petitioner the
15 exclusive care, custody, or control of any animal owned,
16 possessed, leased, kept, or held by either the petitioner
17 or the respondent or a minor child residing in the
18 residence or household of either the petitioner or the
19 respondent and order the respondent to stay away from the
20 animal and forbid the respondent from taking,
21 transferring, encumbering, concealing, harming, or
22 otherwise disposing of the animal.

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

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

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

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

1 subsection (a) (3) of Section 501 of that Act.

2 (ii) Recovery of expenses. In the case of an
3 improper concealment or removal of a minor child, the
4 court may order respondent to pay the reasonable
5 expenses incurred or to be incurred in the search for
6 and recovery of the minor child, including but not
7 limited to legal fees, court costs, private
8 investigator fees, and travel costs.

9 (14) Prohibition of entry. Prohibit the respondent
10 from entering or remaining in the residence or household
11 while the respondent is under the influence of alcohol or
12 drugs and constitutes a threat to the safety and well-being
13 of the petitioner or the petitioner's children.

14 (14.5) Prohibition of firearm possession.

15 (a) Prohibit a respondent against whom an order of
16 protection was issued from possessing any firearms
17 during the duration of the order if the order:

18 (1) was issued after a hearing of which such
19 person received actual notice, and at which such
20 person had an opportunity to participate;

21 (2) restrains such person from harassing,
22 stalking, or threatening an intimate partner of
23 such person or child of such intimate partner or
24 person, or engaging in other conduct that would
25 place an intimate partner in reasonable fear of
26 bodily injury to the partner or child; and

1 (3)(i) includes a finding that such person
2 represents a credible threat to the physical
3 safety of such intimate partner or child; or (ii)
4 by its terms explicitly prohibits the use,
5 attempted use, or threatened use of physical force
6 against such intimate partner or child that would
7 reasonably be expected to cause bodily injury.

8 ~~Any~~ ~~When a complaint is made under a request for an~~
9 ~~order of protection, that the respondent has~~
10 ~~threatened or is likely to use firearms illegally~~
11 ~~against the petitioner, the court shall examine on oath~~
12 ~~the petitioner, and any witnesses who may be produced.~~
13 ~~If the court is satisfied that there is any danger of~~
14 ~~the illegal use of firearms, and the respondent is~~
15 ~~present in court, it shall issue an order that any~~
16 firearms in the possession of the respondent, except as
17 provided in subsection (b), shall be ordered by the
18 court to be turned over to the local law enforcement
19 agency for safekeeping. The court ~~If the court is~~
20 ~~satisfied that there is any danger of the illegal use~~
21 ~~of firearms, and the respondent is present in court, it~~
22 shall issue an order that the respondent's Firearm
23 Owner's Identification Card be turned over to the local
24 law enforcement agency for safekeeping. ~~If the court is~~
25 ~~satisfied that there is any danger of the illegal use~~
26 ~~of firearms, and if the respondent is not present in~~

1 ~~court, the court shall issue a warrant for seizure of~~
2 ~~the respondent's Firearm Owner's Identification Card~~
3 ~~and any firearm in the possession of the respondent,~~
4 ~~except as provided in subsection (b), be turned over to~~
5 ~~the local law enforcement agency for safekeeping. The~~
6 period of safekeeping shall be for the duration of the
7 order of protection ~~a stated period of time not to~~
8 ~~exceed 2 years.~~ The firearm or firearms shall be
9 returned to the respondent ~~at the end of the stated~~
10 ~~period or~~ at expiration of the order of protection,
11 ~~whichever is sooner.~~

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

21 (c) Upon expiration of the period of safekeeping,
22 if the firearms or Firearm Owner's Identification Card
23 cannot be returned to respondent because respondent
24 cannot be located, fails to respond to requests to
25 retrieve the firearms, or is not lawfully eligible to
26 possess a firearm, upon petition from the local law

1 enforcement agency, the court may order the local law
2 enforcement agency to destroy the firearms, use the
3 firearms for training purposes, or for any other
4 application as deemed appropriate by the local law
5 enforcement agency; or that the firearms be turned over
6 to a third party who is lawfully eligible to possess
7 firearms, and who does not reside with respondent.

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

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

23 (17) Order for injunctive relief. Enter injunctive
24 relief necessary or appropriate to prevent further abuse of
25 a family or household member or to effectuate one of the
26 granted remedies, if supported by the balance of hardships.

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

6 (c) Relevant factors; findings.

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

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

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

24 (2) In comparing relative hardships resulting to the
25 parties from loss of possession of the family home, the
26 court shall consider relevant factors, including but not

1 limited to the following:

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

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

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

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

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

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

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

23 (4) For purposes of issuing an ex parte emergency order
24 of protection, the court, as an alternative to or as a
25 supplement to making the findings described in paragraphs
26 (c) (3) (i) through (c) (3) (iii) of this subsection, may use

1 the following procedure:

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

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

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

1 in hardship to respondent that would substantially outweigh the
2 hardship to petitioner from denial of the remedy. The findings
3 shall be an official record or in writing.

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

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

9 (2) Respondent was voluntarily intoxicated;

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

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

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

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

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

24 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09; 96-701,
25 eff. 1-1-10; 96-1239, eff. 1-1-11.)

1 Section 15. The Illinois Domestic Violence Act of 1986 is
2 amended by changing Section 214 as follows:

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

4 Sec. 214. Order of protection; remedies.

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

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

1 remedies available to petitioner.

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

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

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

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

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

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

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

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

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

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

1 family service agency, alcohol or substance abuse program,
2 mental health center guidance counselor, agency providing
3 services to elders, program designed for domestic violence
4 abusers or any other guidance service the court deems
5 appropriate. The Court may order the respondent in any
6 intimate partner relationship to report to an Illinois
7 Department of Human Services protocol approved partner
8 abuse intervention program for an assessment and to follow
9 all recommended treatment.

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

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

25 (6) Temporary legal custody. Award temporary legal
26 custody to petitioner in accordance with this Section, the

1 Illinois Marriage and Dissolution of Marriage Act, the
2 Illinois Parentage Act of 1984, and this State's Uniform
3 Child-Custody Jurisdiction and Enforcement Act.

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

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

1 "reasonable visitation".

2 Petitioner may deny respondent access to the minor
3 child if, when respondent arrives for visitation,
4 respondent is under the influence of drugs or alcohol and
5 constitutes a threat to the safety and well-being of
6 petitioner or petitioner's minor children or is behaving in
7 a violent or abusive manner.

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

17 (8) Removal or concealment of minor child. Prohibit
18 respondent from removing a minor child from the State or
19 concealing the child within the State.

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

26 (10) Possession of personal property. Grant petitioner

1 exclusive possession of personal property and, if
2 respondent has possession or control, direct respondent to
3 promptly make it available to petitioner, if:

4 (i) petitioner, but not respondent, owns the
5 property; or

6 (ii) the parties own the property jointly; sharing
7 it would risk abuse of petitioner by respondent or is
8 impracticable; and the balance of hardships favors
9 temporary possession by petitioner.

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

17 No order under this provision shall affect title to
18 property.

19 (11) Protection of property. Forbid the respondent
20 from taking, transferring, encumbering, concealing,
21 damaging or otherwise disposing of any real or personal
22 property, except as explicitly authorized by the court, if:

23 (i) petitioner, but not respondent, owns the
24 property; or

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

1 If petitioner's sole claim to ownership of the property
2 is that it is marital property, the court may grant
3 petitioner relief under subparagraph (ii) of this
4 paragraph only if a proper proceeding has been filed under
5 the Illinois Marriage and Dissolution of Marriage Act, as
6 now or hereafter amended.

7 The court may further prohibit respondent from
8 improperly using the financial or other resources of an
9 aged member of the family or household for the profit or
10 advantage of respondent or of any other person.

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

20 (12) Order for payment of support. Order respondent to
21 pay temporary support for the petitioner or any child in
22 the petitioner's care or custody, when the respondent has a
23 legal obligation to support that person, in accordance with
24 the Illinois Marriage and Dissolution of Marriage Act,
25 which shall govern, among other matters, the amount of
26 support, payment through the clerk and withholding of

1 income to secure payment. An order for child support may be
2 granted to a petitioner with lawful physical care or
3 custody of a child, or an order or agreement for physical
4 care or custody, prior to entry of an order for legal
5 custody. Such a support order shall expire upon entry of a
6 valid order granting legal custody to another, unless
7 otherwise provided in the custody order.

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

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

26 (ii) Recovery of expenses. In the case of an

1 improper concealment or removal of a minor child, the
2 court may order respondent to pay the reasonable
3 expenses incurred or to be incurred in the search for
4 and recovery of the minor child, including but not
5 limited to legal fees, court costs, private
6 investigator fees, and travel costs.

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

12 (14.5) Prohibition of firearm possession.

13 (a) Prohibit a respondent against whom an order of
14 protection was issued from possessing any firearms
15 during the duration of the order if the order:

16 (1) was issued after a hearing of which such
17 person received actual notice, and at which such
18 person had an opportunity to participate;

19 (2) restrains such person from harassing,
20 stalking, or threatening an intimate partner of
21 such person or child of such intimate partner or
22 person, or engaging in other conduct that would
23 place an intimate partner in reasonable fear of
24 bodily injury to the partner or child; and

25 (3)(i) includes a finding that such person
26 represents a credible threat to the physical

1 safety of such intimate partner or child; or (ii)
2 by its terms explicitly prohibits the use,
3 attempted use, or threatened use of physical force
4 against such intimate partner or child that would
5 reasonably be expected to cause bodily injury.

6 ~~Any~~ ~~When a complaint is made under a request for an~~
7 ~~order of protection, that the respondent has~~
8 ~~threatened or is likely to use firearms illegally~~
9 ~~against the petitioner, the court shall examine on oath~~
10 ~~the petitioner, and any witnesses who may be produced.~~
11 ~~If the court is satisfied that there is any danger of~~
12 ~~the illegal use of firearms, and the respondent is~~
13 ~~present in court, it shall issue an order that any~~
14 ~~firearms and any~~ Firearm Owner's Identification Card
15 in the possession of the respondent, except as provided
16 in subsection (b), shall be ordered by the court to be
17 turned over to the local law enforcement agency for
18 safekeeping. ~~The~~ ~~If the court is satisfied that there~~
19 ~~is any danger of the illegal use of firearms, and if~~
20 ~~the respondent is not present in court, the court shall~~
21 issue a warrant for seizure of any firearm and Firearm
22 Owner's Identification Card in the possession of the
23 respondent, to be kept by the local law enforcement
24 agency for safekeeping, except as provided in
25 subsection (b). The period of safekeeping shall be for
26 the duration of the order of protection ~~a stated period~~

1 ~~of time not to exceed 2 years.~~ The firearm or firearms
2 and Firearm Owner's Identification Card shall be
3 returned to the respondent at the end of ~~the stated~~
4 ~~period or at expiration of~~ the order of protection,
5 ~~whichever is sooner.~~

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

15 (c) Upon expiration of the period of safekeeping,
16 if the firearms or Firearm Owner's Identification Card
17 cannot be returned to respondent because respondent
18 cannot be located, fails to respond to requests to
19 retrieve the firearms, or is not lawfully eligible to
20 possess a firearm, upon petition from the local law
21 enforcement agency, the court may order the local law
22 enforcement agency to destroy the firearms, use the
23 firearms for training purposes, or for any other
24 application as deemed appropriate by the local law
25 enforcement agency; or that the firearms be turned over
26 to a third party who is lawfully eligible to possess

1 firearms, and who does not reside with respondent.

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

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

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

1 (c) Relevant factors; findings.

2 (1) In determining whether to grant a specific remedy,
3 other than payment of support, the court shall consider
4 relevant factors, including but not limited to the
5 following:

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

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

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

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of
24 protection in accordance with the requirements of Sections
25 203 and 217 is presented to the court, the court shall
26 examine petitioner on oath or affirmation. An emergency

1 order of protection shall be issued by the court if it
2 appears from the contents of the petition and the
3 examination of petitioner that the averments are
4 sufficient to indicate abuse by respondent and to support
5 the granting of relief under the issuance of the emergency
6 order of protection.

7 (5) Never married parties. No rights or
8 responsibilities for a minor child born outside of marriage
9 attach to a putative father until a father and child
10 relationship has been established under the Illinois
11 Parentage Act of 1984, the Illinois Public Aid Code,
12 Section 12 of the Vital Records Act, the Juvenile Court Act
13 of 1987, the Probate Act of 1985, the Revised Uniform
14 Reciprocal Enforcement of Support Act, the Uniform
15 Interstate Family Support Act, the Expedited Child Support
16 Act of 1990, any judicial, administrative, or other act of
17 another state or territory, any other Illinois statute, or
18 by any foreign nation establishing the father and child
19 relationship, any other proceeding substantially in
20 conformity with the Personal Responsibility and Work
21 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
22 or where both parties appeared in open court or at an
23 administrative hearing acknowledging under oath or
24 admitting by affirmation the existence of a father and
25 child relationship. Absent such an adjudication, finding,
26 or acknowledgement, no putative father shall be granted

1 temporary custody of the minor child, visitation with the
2 minor child, or physical care and possession of the minor
3 child, nor shall an order of payment for support of the
4 minor child be entered.

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

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

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

19 (2) Respondent was voluntarily intoxicated;

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

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

26 (5) Petitioner left the residence or household to avoid

1 further abuse, neglect, or exploitation by respondent;

2 (6) Petitioner did not leave the residence or household
3 to avoid further abuse, neglect, or exploitation by
4 respondent;

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

10 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09; 96-701,
11 eff. 1-1-10; 96-1239, eff. 1-1-11.)