

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, or a  
25 substantially similar offense in another jurisdiction  
26 committed before, on or after the effective date of

1 this amendatory Act of the 97th General Assembly 1997;

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

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

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

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

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

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

24 (3) an official of a foreign government or  
25 distinguished foreign visitor who has been so  
26 designated by the Department of State;

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

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

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

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

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

1 Card. No mental health care or treatment records may be  
2 requested. The information received shall be destroyed  
3 within one year of receipt.

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

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

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

23 (c) Upon such written consent, pursuant to Section 4,  
24 paragraph (a)(2)(i), the parent or legal guardian giving the  
25 consent shall be liable for any damages resulting from the  
26 applicant's use of firearms or firearm ammunition.

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

2 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

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

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

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

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

19 (d) A person addicted to narcotics;

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

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

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

4           (g) A person who is mentally retarded;

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

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

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

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

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

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

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

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

1 the Department of State;

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

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

8 (j) (Blank);

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

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

18 (m) (Blank) ~~A person who has been convicted within the past~~  
19 ~~5 years of domestic battery or a substantially similar offense~~  
20 ~~in another jurisdiction committed before January 1, 1998;~~

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

24 (o) A minor subject to a petition filed under Section 5-520  
25 of the Juvenile Court Act of 1987 alleging that the minor is a  
26 delinquent minor for the commission of an offense that if



1 committed by an adult would be a felony; or

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

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

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

8 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

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

23 (b) Remedies and standards. The remedies to be included in  
24 an order of protection shall be determined in accordance with

1 this Section and one of the following Sections, as appropriate:  
2 Section 112A-17 on emergency orders, Section 112A-18 on interim  
3 orders, and Section 112A-19 on plenary orders. The remedies  
4 listed in this subsection shall be in addition to other civil  
5 or criminal remedies available to petitioner.

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

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

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

1           authorizes that party's occupancy (e.g., a domestic  
2           violence shelter). Standards set forth in subparagraph  
3           (B) shall not preclude equitable relief.

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

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

1 motion, may order respondent to provide suitable,  
2 accessible, alternate housing for petitioner instead  
3 of excluding respondent from a mutual residence or  
4 household.

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

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

25 (4) Counseling. Require or recommend the respondent to  
26 undergo counseling for a specified duration with a social

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

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

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

26 (6) Temporary legal custody. Award temporary legal

1 custody to petitioner in accordance with this Section, the  
2 Illinois Marriage and Dissolution of Marriage Act, the  
3 Illinois Parentage Act of 1984, and this State's Uniform  
4 Child-Custody Jurisdiction and Enforcement Act.

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

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

1 order for visitation shall refer merely to the term  
2 "reasonable visitation".

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

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

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

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

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

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

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

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

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

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

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

26           (ii) the parties own the property jointly, and the



1 balance of hardships favors granting this remedy.

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

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

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

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

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

9 (13) Order for payment of losses. Order respondent to  
10 pay petitioner for losses suffered as a direct result of  
11 the abuse. Such losses shall include, but not be limited  
12 to, medical expenses, lost earnings or other support,  
13 repair or replacement of property damaged or taken,  
14 reasonable attorney's fees, court costs and moving or other  
15 travel expenses, including additional reasonable expenses  
16 for temporary shelter and 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 in the possession of the respondent, except as  
15           provided in subsection (b), shall be ordered by the  
16           court to be turned over to the local law enforcement  
17           agency for safekeeping. The court ~~If the court is~~  
18           ~~satisfied that there is any danger of the illegal use~~  
19           ~~of firearms, and the respondent is present in court, it~~  
20           shall issue an order that the respondent's Firearm  
21           Owner's Identification Card be turned over to the local  
22           law enforcement agency for safekeeping. ~~If the court is~~  
23           ~~satisfied that there is any danger of the illegal use~~  
24           ~~of firearms, and if the respondent is not present in~~  
25           ~~court, the court shall issue a warrant for seizure of~~  
26           ~~the respondent's Firearm Owner's Identification Card~~

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

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

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

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

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

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

21 (17) Order for injunctive relief. Enter injunctive  
22 relief necessary or appropriate to prevent further abuse of  
23 a family or household member or to effectuate one of the  
24 granted remedies, if supported by the balance of hardships.  
25 If the harm to be prevented by the injunction is abuse or  
26 any other harm that one of the remedies listed in

1 paragraphs (1) through (16) of this subsection is designed  
2 to prevent, no further evidence is necessary to establish  
3 that the harm is an irreparable injury.

4 (c) Relevant factors; findings.

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

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

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

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

26 (i) availability, accessibility, cost, safety,

1           adequacy, location and other characteristics of  
2           alternate housing for each party and any minor child or  
3           dependent adult in the party's care;

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

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

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

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

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

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

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

26                  When a verified petition for an emergency order of



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

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

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

1 shall be an official record or in writing.

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

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

7 (2) Respondent was voluntarily intoxicated;

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

12 (4) Petitioner did not act in self-defense or defense  
13 of another;

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

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

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

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

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

1 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

2 Sec. 214. Order of protection; remedies.

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

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 217 on emergency orders, Section 218 on interim orders,  
22 and Section 219 on plenary orders. The remedies listed in this  
23 subsection shall be in addition to other civil or criminal  
24 remedies available to petitioner.

25 (1) Prohibition of abuse, neglect, or exploitation.

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

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

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

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

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

1 household.

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

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

22 (4) Counseling. Require or recommend the respondent to  
23 undergo counseling for a specified duration with a social  
24 worker, psychologist, clinical psychologist, psychiatrist,  
25 family service agency, alcohol or substance abuse program,  
26 mental health center guidance counselor, agency providing

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

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

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

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

1 Child-Custody Jurisdiction and Enforcement Act.

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

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

26 Petitioner may deny respondent access to the minor



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

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

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

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

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

1 promptly make it available to petitioner, if:

2 (i) petitioner, but not respondent, owns the  
3 property; or

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

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

15 No order under this provision shall affect title to  
16 property.

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

21 (i) petitioner, but not respondent, owns the  
22 property; or

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

25 If petitioner's sole claim to ownership of the property  
26 is that it is marital property, the court may grant

1 petitioner relief under subparagraph (ii) of this  
2 paragraph only if a proper proceeding has been filed under  
3 the Illinois Marriage and Dissolution of Marriage Act, as  
4 now or hereafter amended.

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

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

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

1 custody of a child, or an order or agreement for physical  
2 care or custody, prior to entry of an order for legal  
3 custody. Such a support order shall expire upon entry of a  
4 valid order granting legal custody to another, unless  
5 otherwise provided in the custody order.

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

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

24 (ii) Recovery of expenses. In the case of an  
25 improper concealment or removal of a minor child, the  
26 court may order respondent to pay the reasonable

1 expenses incurred or to be incurred in the search for  
2 and recovery of the minor child, including but not  
3 limited to legal fees, court costs, private  
4 investigator fees, and travel costs.

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

10 (14.5) Prohibition of firearm possession.

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

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

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

23 (3)(i) includes a finding that such person  
24 represents a credible threat to the physical  
25 safety of such intimate partner or child; or (ii)  
26 by its terms explicitly prohibits the use,

1           attempted use, or threatened use of physical force  
2           against such intimate partner or child that would  
3           reasonably be expected to cause bodily injury.

4           ~~Any~~ When a complaint is made under a request for an  
5           ~~order of protection, that the respondent has~~  
6           ~~threatened or is likely to use firearms illegally~~  
7           ~~against the petitioner, the court shall examine on oath~~  
8           ~~the petitioner, and any witnesses who may be produced.~~  
9           ~~If the court is satisfied that there is any danger of~~  
10           ~~the illegal use of firearms, and the respondent is~~  
11           ~~present in court, it shall issue an order that any~~  
12           ~~firearms and any~~ Firearm Owner's Identification Card  
13           in the possession of the respondent, except as provided  
14           in subsection (b), shall be ordered by the court to be  
15           turned over to the local law enforcement agency for  
16           safekeeping. ~~The~~ ~~If the court is satisfied that there~~  
17           ~~is any danger of the illegal use of firearms, and if~~  
18           ~~the respondent is not present in court, the court shall~~  
19           issue a warrant for seizure of any firearm and Firearm  
20           Owner's Identification Card in the possession of the  
21           respondent, to be kept by the local law enforcement  
22           agency for safekeeping, except as provided in  
23           subsection (b). The period of safekeeping shall be for  
24           the duration of the order of protection ~~a stated period~~  
25           ~~of time not to exceed 2 years.~~ The firearm or firearms  
26           and Firearm Owner's Identification Card shall be

1 returned to the respondent at the end of ~~the stated~~  
2 ~~period or at expiration of~~ the order of protection,  
3 ~~whichever is sooner.~~

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

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

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

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

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

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

25 (c) Relevant factors; findings.

26 (1) In determining whether to grant a specific remedy,



1 other than payment of support, the court shall consider  
2 relevant factors, including but not limited to the  
3 following:

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

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

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

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

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

26 (iii) the effect on the relationship of the party,

1           and any minor child or dependent adult in the party's  
2           care, to family, school, church and community.

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

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

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

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

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

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

1 examination of petitioner that the averments are  
2 sufficient to indicate abuse by respondent and to support  
3 the granting of relief under the issuance of the emergency  
4 order of protection.

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

1 child, nor shall an order of payment for support of the  
2 minor child be entered.

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

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

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

17 (2) Respondent was voluntarily intoxicated;

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

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

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

26 (6) Petitioner did not leave the residence or household

1 to avoid further abuse, neglect, or exploitation by  
2 respondent;

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

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