



Rep. Natalie A. Manley

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1 AMENDMENT TO HOUSE BILL 3269

2 AMENDMENT NO. _____. Amend House Bill 3269 by replacing
3 everything after the enacting clause with the following:

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

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

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

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

1 not to issue an order of protection, shall not require physical
2 manifestations of abuse on the person of the victim.
3 Modification and extension of prior orders of protection shall
4 be in accordance with this Article.

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

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

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

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

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

26 The balance of hardships is presumed to favor

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

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

21 If an order of protection grants petitioner exclusive
22 possession of the residence, or prohibits respondent from
23 entering the residence, or orders respondent to stay away
24 from petitioner or other protected persons, then the court
25 may allow respondent access to the residence to remove
26 items of clothing and personal adornment used exclusively

1 by respondent, medications, and other items as the court
2 directs. The right to access shall be exercised on only one
3 occasion as the court directs and in the presence of an
4 agreed-upon adult third party or law enforcement officer.

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

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

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

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

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

16 (7) Visitation. Determine the visitation rights, if
17 any, of respondent in any case in which the court awards
18 physical care or temporary legal custody of a minor child
19 to petitioner. The court shall restrict or deny
20 respondent's visitation with a minor child if the court
21 finds that respondent has done or is likely to do any of
22 the following: (i) abuse or endanger the minor child during
23 visitation; (ii) use the visitation as an opportunity to
24 abuse or harass petitioner or petitioner's family or
25 household members; (iii) improperly conceal or detain the
26 minor child; or (iv) otherwise act in a manner that is not

1 in the best interests of the minor child. The court shall
2 not be limited by the standards set forth in Section 607.1
3 of the Illinois Marriage and Dissolution of Marriage Act.
4 If the court grants visitation, the order shall specify
5 dates and times for the visitation to take place or other
6 specific parameters or conditions that are appropriate. No
7 order for visitation shall refer merely to the term
8 "reasonable visitation".

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

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

24 (8) Removal or concealment of minor child. Prohibit
25 respondent from removing a minor child from the State or
26 concealing the child within the State.

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

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

11 (i) petitioner, but not respondent, owns the
12 property; or

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

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

24 No order under this provision shall affect title to
25 property.

26 (11) Protection of property. Forbid the respondent

1 from taking, transferring, encumbering, concealing,
2 damaging or otherwise disposing of any real or personal
3 property, except as explicitly authorized by the court, if:

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

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

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

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

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

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

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

23 (i) Losses affecting family needs. If a party is
24 entitled to seek maintenance, child support or
25 property distribution from the other party under the
26 Illinois Marriage and Dissolution of Marriage Act, as

1 now or hereafter amended, the court may order
2 respondent to reimburse petitioner's actual losses, to
3 the extent that such reimbursement would be
4 "appropriate temporary relief", as authorized by
5 subsection (a) (3) of Section 501 of that Act.

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

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

18 (14.5) Prohibition of firearm possession.

19 (A) A person who is subject to an existing order of
20 protection, interim order of protection, emergency
21 order of protection, or plenary order of protection,
22 issued under this Code or a substantially similar order
23 of protection issued by any other state, possession, or
24 territory of the United States, or the District of
25 Columbia may not lawfully possess a firearm, firearm
26 ammunition, stun gun, or taser ~~may not lawfully possess~~

1 ~~weapons~~ under Section 8.2 of the Firearm Owners
2 Identification Card Act.

3 (B) Any firearms, firearm ammunition, stun guns,
4 or tasers in the possession of the respondent, except
5 as provided in subparagraph (C) of this paragraph
6 (14.5), shall be ordered by the court to be turned over
7 to a person with a valid Firearm Owner's Identification
8 Card for safekeeping. The court shall issue an order
9 that the respondent's Firearm Owner's Identification
10 Card be turned over to the local law enforcement
11 agency, which in turn shall immediately mail the card
12 to the Department of State Police Firearm Owner's
13 Identification Card Office for safekeeping. The period
14 of safekeeping shall be for the duration of the order
15 of protection, interim order of protection, emergency
16 order of protection, or plenary order of protection.
17 The firearm or firearms and Firearm Owner's
18 Identification Card, if unexpired, shall at the
19 respondent's request be returned to the respondent at
20 expiration of the order of protection, interim order of
21 protection, emergency order of protection, or plenary
22 order of protection. It is the respondent's
23 responsibility to notify the Department of State
24 Police Firearm Owner's Identification Card Office.

25 (C) If the respondent is a peace officer as defined
26 in Section 2-13 of the Criminal Code of 2012, the court

1 shall order that any firearms used by the respondent in
2 the performance of his or her duties as a peace officer
3 be surrendered to the chief law enforcement executive
4 of the agency in which the respondent is employed, who
5 shall retain the firearms for safekeeping for the
6 duration of the order of protection.

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

20 (15) Prohibition of access to records. If an order of
21 protection prohibits respondent from having contact with
22 the minor child, or if petitioner's address is omitted
23 under subsection (b) of Section 112A-5, or if necessary to
24 prevent abuse or wrongful removal or concealment of a minor
25 child, the order shall deny respondent access to, and
26 prohibit respondent from inspecting, obtaining, or

1 attempting to inspect or obtain, school or any other
2 records of the minor child who is in the care of
3 petitioner.

4 (16) Order for payment of shelter services. Order
5 respondent to reimburse a shelter providing temporary
6 housing and counseling services to the petitioner for the
7 cost of the services, as certified by the shelter and
8 deemed reasonable by the court.

9 (17) Order for injunctive relief. Enter injunctive
10 relief necessary or appropriate to prevent further abuse of
11 a family or household member or to effectuate one of the
12 granted remedies, if supported by the balance of hardships.
13 If the harm to be prevented by the injunction is abuse or
14 any other harm that one of the remedies listed in
15 paragraphs (1) through (16) of this subsection is designed
16 to prevent, no further evidence is necessary to establish
17 that the harm is an irreparable injury.

18 (c) Relevant factors; findings.

19 (1) In determining whether to grant a specific remedy,
20 other than payment of support, the court shall consider
21 relevant factors, including but not limited to the
22 following:

23 (i) the nature, frequency, severity, pattern and
24 consequences of the respondent's past abuse of the
25 petitioner or any family or household member,
26 including the concealment of his or her location in

1 order to evade service of process or notice, and the
2 likelihood of danger of future abuse to petitioner or
3 any member of petitioner's or respondent's family or
4 household; and

5 (ii) the danger that any minor child will be abused
6 or neglected or improperly removed from the
7 jurisdiction, improperly concealed within the State or
8 improperly separated from the child's primary
9 caretaker.

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

14 (i) availability, accessibility, cost, safety,
15 adequacy, location and other characteristics of
16 alternate housing for each party and any minor child or
17 dependent adult in the party's care;

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

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

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

26 (i) That the court has considered the applicable

1 relevant factors described in paragraphs (1) and (2) of
2 this subsection.

3 (ii) Whether the conduct or actions of respondent,
4 unless prohibited, will likely cause irreparable harm
5 or continued abuse.

6 (iii) Whether it is necessary to grant the
7 requested relief in order to protect petitioner or
8 other alleged abused persons.

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

14 When a verified petition for an emergency order of
15 protection in accordance with the requirements of Sections
16 112A-5 and 112A-17 is presented to the court, the court
17 shall examine petitioner on oath or affirmation. An
18 emergency order of protection shall be issued by the court
19 if it appears from the contents of the petition and the
20 examination of petitioner that the averments are
21 sufficient to indicate abuse by respondent and to support
22 the granting of relief under the issuance of the emergency
23 order of protection.

24 (5) Never married parties. No rights or
25 responsibilities for a minor child born outside of marriage
26 attach to a putative father until a father and child

1 relationship has been established under the Illinois
2 Parentage Act of 1984. Absent such an adjudication, no
3 putative father shall be granted temporary custody of the
4 minor child, visitation with the minor child, or physical
5 care and possession of the minor child, nor shall an order
6 of payment for support of the minor child be entered.

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

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

18 (1) Respondent has cause for any use of force, unless
19 that cause satisfies the standards for justifiable use of
20 force provided by Article 7 of the Criminal Code of 2012;

21 (2) Respondent was voluntarily intoxicated;

22 (3) Petitioner acted in self-defense or defense of
23 another, provided that, if petitioner utilized force, such
24 force was justifiable under Article 7 of the Criminal Code
25 of 2012;

26 (4) Petitioner did not act in self-defense or defense

1 of another;

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

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

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

10 (Source: P.A. 97-158, eff. 1-1-12; 97-1131, eff. 1-1-13;
11 97-1150, eff. 1-25-13; 98-63, eff. 7-9-13.)

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

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

15 Sec. 214. Order of protection; remedies.

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

1 protection because petitioner or respondent is a minor. The
2 court, when determining whether or not to issue an order of
3 protection, shall not require physical manifestations of abuse
4 on the person of the victim. Modification and extension of
5 prior orders of protection shall be in accordance with this
6 Act.

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

14 (1) Prohibition of abuse, neglect, or exploitation.
15 Prohibit respondent's harassment, interference with
16 personal liberty, intimidation of a dependent, physical
17 abuse, or willful deprivation, neglect or exploitation, as
18 defined in this Act, or stalking of the petitioner, as
19 defined in Section 12-7.3 of the Criminal Code of 2012, if
20 such abuse, neglect, exploitation, or stalking has
21 occurred or otherwise appears likely to occur if not
22 prohibited.

23 (2) Grant of exclusive possession of residence.
24 Prohibit respondent from entering or remaining in any
25 residence, household, or premises of the petitioner,
26 including one owned or leased by respondent, if petitioner

1 has a right to occupancy thereof. The grant of exclusive
2 possession of the residence, household, or premises shall
3 not affect title to real property, nor shall the court be
4 limited by the standard set forth in Section 701 of the
5 Illinois Marriage and Dissolution of Marriage Act.

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

15 (B) Presumption of hardships. If petitioner and
16 respondent each has the right to occupancy of a
17 residence or household, the court shall balance (i) the
18 hardships to respondent and any minor child or
19 dependent adult in respondent's care resulting from
20 entry of this remedy with (ii) the hardships to
21 petitioner and any minor child or dependent adult in
22 petitioner's care resulting from continued exposure to
23 the risk of abuse (should petitioner remain at the
24 residence or household) or from loss of possession of
25 the residence or household (should petitioner leave to
26 avoid the risk of abuse). When determining the balance

1 of hardships, the court shall also take into account
2 the accessibility of the residence or household.
3 Hardships need not be balanced if respondent does not
4 have a right to occupancy.

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

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

26 (A) If an order of protection grants petitioner

1 exclusive possession of the residence, or prohibits
2 respondent from entering the residence, or orders
3 respondent to stay away from petitioner or other
4 protected persons, then the court may allow respondent
5 access to the residence to remove items of clothing and
6 personal adornment used exclusively by respondent,
7 medications, and other items as the court directs. The
8 right to access shall be exercised on only one occasion
9 as the court directs and in the presence of an
10 agreed-upon adult third party or law enforcement
11 officer.

12 (B) When the petitioner and the respondent attend
13 the same public, private, or non-public elementary,
14 middle, or high school, the court when issuing an order
15 of protection and providing relief shall consider the
16 severity of the act, any continuing physical danger or
17 emotional distress to the petitioner, the educational
18 rights guaranteed to the petitioner and respondent
19 under federal and State law, the availability of a
20 transfer of the respondent to another school, a change
21 of placement or a change of program of the respondent,
22 the expense, difficulty, and educational disruption
23 that would be caused by a transfer of the respondent to
24 another school, and any other relevant facts of the
25 case. The court may order that the respondent not
26 attend the public, private, or non-public elementary,

1 middle, or high school attended by the petitioner,
2 order that the respondent accept a change of placement
3 or change of program, as determined by the school
4 district or private or non-public school, or place
5 restrictions on the respondent's movements within the
6 school attended by the petitioner. The respondent
7 bears the burden of proving by a preponderance of the
8 evidence that a transfer, change of placement, or
9 change of program of the respondent is not available.
10 The respondent also bears the burden of production with
11 respect to the expense, difficulty, and educational
12 disruption that would be caused by a transfer of the
13 respondent to another school. A transfer, change of
14 placement, or change of program is not unavailable to
15 the respondent solely on the ground that the respondent
16 does not agree with the school district's or private or
17 non-public school's transfer, change of placement, or
18 change of program or solely on the ground that the
19 respondent fails or refuses to consent or otherwise
20 does not take an action required to effectuate a
21 transfer, change of placement, or change of program.
22 When a court orders a respondent to stay away from the
23 public, private, or non-public school attended by the
24 petitioner and the respondent requests a transfer to
25 another attendance center within the respondent's
26 school district or private or non-public school, the

1 school district or private or non-public school shall
2 have sole discretion to determine the attendance
3 center to which the respondent is transferred. In the
4 event the court order results in a transfer of the
5 minor respondent to another attendance center, a
6 change in the respondent's placement, or a change of
7 the respondent's program, the parents, guardian, or
8 legal custodian of the respondent is responsible for
9 transportation and other costs associated with the
10 transfer or change.

11 (C) The court may order the parents, guardian, or
12 legal custodian of a minor respondent to take certain
13 actions or to refrain from taking certain actions to
14 ensure that the respondent complies with the order. In
15 the event the court orders a transfer of the respondent
16 to another school, the parents, guardian, or legal
17 custodian of the respondent is responsible for
18 transportation and other costs associated with the
19 change of school by the respondent.

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

1 appropriate. The Court may order the respondent in any
2 intimate partner relationship to report to an Illinois
3 Department of Human Services protocol approved partner
4 abuse intervention program for an assessment and to follow
5 all recommended treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 property; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (14.5) Prohibition of firearm possession.

9 (a) A person who is subject to an existing order of
10 protection, interim order of protection, emergency
11 order of protection, or plenary order of protection,
12 issued under this Act or a substantially similar order
13 of protection issued by any other state, possession, or
14 territory of the United States, or the District of
15 Columbia may not lawfully possess firearms, firearm
16 ammunition, stun guns, or tasers under Section 8.2 of
17 the Firearm Owners Identification Card Act, ~~Prohibit a~~
18 ~~respondent against whom an order of protection was~~
19 ~~issued from possessing any firearms during the~~
20 ~~duration of the order~~ if the order:

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

24 (2) restrains such person from harassing,
25 stalking, or threatening an intimate partner of
26 such person or child of such intimate partner or

1 person, or engaging in other conduct that would
2 place an intimate partner in reasonable fear of
3 bodily injury to the partner or child; and

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

11 Any firearms, firearm ammunition, stun guns, or tasers
12 in the possession of the respondent, except as provided
13 in item (b) of this paragraph (14.5), shall be ordered
14 by the court to be turned over to a person with a valid
15 Firearm Owner's Identification Card for safekeeping.
16 The court shall order that the respondent's Firearm
17 Owner's Identification Card be turned over to the local
18 law enforcement agency, which shall immediately mail
19 the card to the Department of State Police Firearm
20 Owner's Identification Card Office for safekeeping.
21 The period of safekeeping shall be for the duration of
22 the order of protection, interim order of protection,
23 emergency order of protection, or plenary order of
24 protection. The firearms, firearm ammunition, stun
25 guns, or tasers and Firearm Owner's Identification
26 Card, if unexpired, shall at the respondent's request,

1 be returned to the respondent at expiration of the
2 order of protection, interim order of protection,
3 emergency order of protection, or plenary order of
4 protection. Any Firearm Owner's Identification Card in
5 the possession of the respondent, except as provided in
6 subsection (b), shall be ordered by the court to be
7 turned over to the local law enforcement agency. The
8 local law enforcement agency shall immediately mail
9 the card to the Department of State Police Firearm
10 Owner's Identification Card Office for safekeeping.
11 The court shall issue a warrant for seizure of any
12 firearm in the possession of the respondent, to be kept
13 by the local law enforcement agency for safekeeping,
14 except as provided in subsection (b). The period of
15 safekeeping shall be for the duration of the order of
16 protection. The firearm or firearms and Firearm
17 Owner's Identification Card, if unexpired, shall at
18 the respondent's request, be returned to the
19 respondent at the end of the order of protection. It is
20 the respondent's responsibility to notify the
21 Department of State Police Firearm Owner's
22 Identification Card Office.

23 (b) If the respondent is a peace officer as defined
24 in Section 2-13 of the Criminal Code of 2012, the court
25 shall order that any firearms used by the respondent in
26 the performance of his or her duties as a peace officer

1 be surrendered to the chief law enforcement executive
2 of the agency in which the respondent is employed, who
3 shall retain the firearms for safekeeping for the
4 duration of the order of protection.

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

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

1 petitioner.

2 (16) Order for payment of shelter services. Order
3 respondent to reimburse a shelter providing temporary
4 housing and counseling services to the petitioner for the
5 cost of the services, as certified by the shelter and
6 deemed reasonable by the court.

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

17 (c) Relevant factors; findings.

18 (1) In determining whether to grant a specific remedy,
19 other than payment of support, the court shall consider
20 relevant factors, including but not limited to the
21 following:

22 (i) the nature, frequency, severity, pattern and
23 consequences of the respondent's past abuse, neglect
24 or exploitation of the petitioner or any family or
25 household member, including the concealment of his or
26 her location in order to evade service of process or

1 notice, and the likelihood of danger of future abuse,
2 neglect, or exploitation to petitioner or any member of
3 petitioner's or respondent's family or household; and

4 (ii) the danger that any minor child will be abused
5 or neglected or improperly removed from the
6 jurisdiction, improperly concealed within the State or
7 improperly separated from the child's primary
8 caretaker.

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

13 (i) availability, accessibility, cost, safety,
14 adequacy, location and other characteristics of
15 alternate housing for each party and any minor child or
16 dependent adult in the party's care;

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

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

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

25 (i) That the court has considered the applicable
26 relevant factors described in paragraphs (1) and (2) of

1 this subsection.

2 (ii) Whether the conduct or actions of respondent,
3 unless prohibited, will likely cause irreparable harm
4 or continued abuse.

5 (iii) Whether it is necessary to grant the
6 requested relief in order to protect petitioner or
7 other alleged abused persons.

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

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

23 (5) Never married parties. No rights or
24 responsibilities for a minor child born outside of marriage
25 attach to a putative father until a father and child
26 relationship has been established under the Illinois

1 Parentage Act of 1984, the Illinois Public Aid Code,
2 Section 12 of the Vital Records Act, the Juvenile Court Act
3 of 1987, the Probate Act of 1985, the Revised Uniform
4 Reciprocal Enforcement of Support Act, the Uniform
5 Interstate Family Support Act, the Expedited Child Support
6 Act of 1990, any judicial, administrative, or other act of
7 another state or territory, any other Illinois statute, or
8 by any foreign nation establishing the father and child
9 relationship, any other proceeding substantially in
10 conformity with the Personal Responsibility and Work
11 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
12 or where both parties appeared in open court or at an
13 administrative hearing acknowledging under oath or
14 admitting by affirmation the existence of a father and
15 child relationship. Absent such an adjudication, finding,
16 or acknowledgement, no putative father shall be granted
17 temporary custody of the minor child, visitation with the
18 minor child, or physical care and possession of the minor
19 child, nor shall an order of payment for support of the
20 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 7 of the Criminal Code of 2012;

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 7 of the Criminal Code
13 of 2012;

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, neglect, or exploitation by respondent;

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

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

26 (Source: P.A. 96-701, eff. 1-1-10; 96-1239, eff. 1-1-11;

1 97-158, eff. 1-1-12; 97-294, eff. 1-1-12; 97-813, eff. 7-13-12;
2 97-1131, eff. 1-1-13; 97-1150, eff. 1-25-13.)".