



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0399

by Rep. Martin J. Moylan

SYNOPSIS AS INTRODUCED:

| | |
|--------------------|---------------------------|
| 725 ILCS 5/112A-4 | from Ch. 38, par. 112A-4 |
| 725 ILCS 5/112A-20 | from Ch. 38, par. 112A-20 |
| 750 ILCS 60/201 | from Ch. 40, par. 2312-1 |
| 750 ILCS 60/220 | from Ch. 40, par. 2312-20 |

Amends the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that a petition for an order of protection may be filed by the State's Attorney on behalf of a person who has been abused by a family or household member. Provides that the court may, on its own motion, on behalf of a person who has been abused by a family or household member issue an order of protection. Lengthens duration of plenary order of protection in a criminal case to no longer than 10 years after sentence completion (rather than 2 years).

LRB099 03499 MRW 23507 b

1 AN ACT concerning orders of protection.

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

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

6 (725 ILCS 5/112A-4) (from Ch. 38, par. 112A-4)

7 Sec. 112A-4. Persons protected by this article.

8 (a) The following persons are protected by this Article:

9 (i) any person abused by a family or household member;

10 (ii) any minor child or dependent adult in the care of
11 such person; and

12 (iii) any person residing or employed at a private home
13 or public shelter which is housing an abused family or
14 household member.

15 (b) A petition for an order of protection may be filed ~~only~~
16 by:

17 (1) a person who has been abused by a family or
18 household member;

19 (2) ~~or by~~ any person on behalf of a minor child or an
20 adult who has been abused by a family or household member
21 and who, because of age, health, disability, or
22 inaccessibility, cannot file the petition; or

23 (3) the State's Attorney on behalf of a person who has

1 been abused by a family or household member.

2 However, any petition properly filed under this Article may
3 seek protection for any additional persons protected by this
4 Article.

5 (c) The court may, on its own motion, on behalf of a person
6 who has been abused by a family or household member issue an
7 order of protection under this Article.

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

9 (725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

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

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

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

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

19 (b) Duration of plenary orders. Except as otherwise
20 provided in this Section, a plenary order of protection shall
21 be valid for a fixed period of time not to exceed 2 years. A
22 plenary order of protection entered in conjunction with a
23 criminal prosecution shall remain in effect as follows:

24 (1) if entered during pre-trial release, until
25 disposition, withdrawal, or dismissal of the underlying

1 charge; if, however, the case is continued as an
2 independent cause of action, the order's duration may be
3 for a fixed period of time not to exceed 2 years;

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

9 (3) until expiration of any supervision, conditional
10 discharge, probation, periodic imprisonment, parole,
11 aftercare release, or mandatory supervised release and for
12 an additional period of time thereafter not exceeding 10 ~~2~~
13 years; or

14 (4) until the date set by the court for expiration of
15 any sentence of imprisonment and subsequent parole,
16 aftercare release, or mandatory supervised release and for
17 an additional period of time thereafter not exceeding 10 ~~2~~
18 years.

19 (c) Computation of time. The duration of an order of
20 protection shall not be reduced by the duration of any prior
21 order of protection.

22 (d) Law enforcement records. When a plenary order of
23 protection expires upon the occurrence of a specified event,
24 rather than upon a specified date as provided in subsection
25 (b), no expiration date shall be entered in Department of State
26 Police records. To remove the plenary order from those records,

1 either party shall request the clerk of the court to file a
2 certified copy of an order stating that the specified event has
3 occurred or that the plenary order has been vacated or modified
4 with the sheriff, and the sheriff shall direct that law
5 enforcement records shall be promptly corrected in accordance
6 with the filed order.

7 (e) Extension of Orders. Any emergency, interim or plenary
8 order of protection may be extended one or more times, as
9 required, provided that the requirements of Section 112A-17,
10 112A-18 or 112A-19, as appropriate, are satisfied. If the
11 motion for extension is uncontested and petitioner seeks no
12 modification of the order, the order may be extended on the
13 basis of petitioner's motion or affidavit stating that there
14 has been no material change in relevant circumstances since
15 entry of the order and stating the reason for the requested
16 extension. An extension of a plenary order of protection may be
17 granted, upon good cause shown, to remain in effect until the
18 order of protection is vacated or modified. Extensions may be
19 granted only in open court and not under the provisions of
20 Section 112A-17(c), which applies only when the court is
21 unavailable at the close of business or on a court holiday.

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

25 (g) Statement of purpose. The practice of dismissing or
26 suspending a criminal prosecution in exchange for issuing an

1 order of protection undermines the purposes of this Article.
2 This Section shall not be construed as encouraging that
3 practice.

4 (Source: P.A. 98-558, eff. 1-1-14.)

5 Section 10. The Illinois Domestic Violence Act of 1986 is
6 amended by changing Sections 201 and 220 as follows:

7 (750 ILCS 60/201) (from Ch. 40, par. 2312-1)

8 Sec. 201. Persons protected by this Act.

9 (a) The following persons are protected by this Act:

10 (i) any person abused by a family or household member;

11 (ii) any high-risk adult with disabilities who is
12 abused, neglected, or exploited by a family or household
13 member;

14 (iii) any minor child or dependent adult in the care of
15 such person; and

16 (iv) any person residing or employed at a private home
17 or public shelter which is housing an abused family or
18 household member.

19 (b) A petition for an order of protection may be filed
20 ~~only~~: (i) by a person who has been abused by a family or
21 household member or by any person on behalf of a minor child or
22 an adult who has been abused by a family or household member
23 and who, because of age, health, disability, or
24 inaccessibility, cannot file the petition, ~~or~~ (ii) by any

1 person on behalf of a high-risk adult with disabilities who has
2 been abused, neglected, or exploited by a family or household
3 member, or (iii) by the State's Attorney on behalf of a person
4 who has been abused by a family or household member.

5 However, any petition properly filed under this Act may
6 seek protection for any additional persons protected by this
7 Act.

8 (c) The court may, on its own motion, on behalf of a person
9 who has been abused by a family or household member issue an
10 order of protection under this Act.

11 (Source: P.A. 86-542; 87-1186.)

12 (750 ILCS 60/220) (from Ch. 40, par. 2312-20)

13 Sec. 220. Duration and extension of orders.

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

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

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

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

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

1 effect as follows:

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

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

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

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

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

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

1 (iii) until expiration of any supervision,
2 conditional discharge, probation, periodic
3 imprisonment, parole, aftercare release, or mandatory
4 supervised release and for an additional period of time
5 thereafter not exceeding 10 ~~2~~ years; or

6 (iv) until the date set by the court for expiration
7 of any sentence of imprisonment and subsequent parole,
8 aftercare release, or mandatory supervised release and
9 for an additional period of time thereafter not
10 exceeding 10 ~~2~~ years.

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

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

25 (e) Extension of orders. Any emergency, interim or plenary
26 order may be extended one or more times, as required, provided

1 that the requirements of Section 217, 218 or 219, as
2 appropriate, are satisfied. If the motion for extension is
3 uncontested and petitioner seeks no modification of the order,
4 the order may be extended on the basis of petitioner's motion
5 or affidavit stating that there has been no material change in
6 relevant circumstances since entry of the order and stating the
7 reason for the requested extension. An extension of a plenary
8 order of protection may be granted, upon good cause shown, to
9 remain in effect until the order of protection is vacated or
10 modified. Extensions may be granted only in open court and not
11 under the provisions of subsection (c) of Section 217, which
12 applies only when the court is unavailable at the close of
13 business or on a court holiday.

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

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

22 (Source: P.A. 98-558, eff. 1-1-14.)