



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6109

Introduced 2/11/2016, by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

705 ILCS 5/7.5 new
750 ILCS 60/202

from Ch. 40, par. 2312-2

Amends the Supreme Court Act. Provides that the Supreme Court may establish a pilot program for the filing of petitions for temporary orders of protection by electronic means and for the issuance of such orders by audio-visual means. Provides that the administrative director of the courts shall maintain an up-to-date and publicly available listing of the sites, if any, at which petitions for ex parte temporary orders of protection may be filed, and at which electronic appearances in support of such petitions may be made. Provides that in developing a pilot program, the administrative director shall strive for a program that is regionally diverse and takes into consideration, among other things, the availability of public transportation, population density, and the availability of facilities for conducting the program. Amends the Illinois Domestic Violence Act of 1986. Defines terms and provides substantive and procedural requirements for the pilot program.

LRB099 18385 HEP 42760 b

1 AN ACT concerning domestic violence.

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

4 Section 5. The Supreme Court Act is amended by adding
5 Section 7.5 as follows:

6 (705 ILCS 5/7.5 new)

7 Sec. 7.5. Electronic filing pilot program. The Supreme
8 Court may establish a pilot program for the filing of petitions
9 for temporary orders of protection by electronic means and for
10 the issuance of such orders by audio-visual means pursuant to
11 the Illinois Domestic Violence Act of 1986. The administrative
12 director shall maintain an up-to-date and publicly-available
13 listing of the sites, if any, at which a petition for an ex
14 parte temporary order of protection may be filed, and at which
15 electronic appearances in support of the petition may be made,
16 in accordance with the Illinois Domestic Violence Act of 1986.
17 In developing the pilot program, the administrative director
18 shall strive for a program that is regionally diverse and takes
19 into consideration, among other things, the availability of
20 public transportation, population density, and the
21 availability of facilities for conducting the program.

22 Section 10. The Illinois Domestic Violence Act of 1986 is

1 amended by changing Section 202 as follows:

2 (750 ILCS 60/202) (from Ch. 40, par. 2312-2)

3 Sec. 202. Commencement of action; filing fees; dismissal.

4 (a) How to commence action. Actions for orders of
5 protection are commenced:

6 (1) Independently: By filing a petition for an order of
7 protection in any civil court, unless specific courts are
8 designated by local rule or order.

9 (2) In conjunction with another civil proceeding: By
10 filing a petition for an order of protection under the same
11 case number as another civil proceeding involving the
12 parties, including but not limited to: (i) any proceeding
13 under the Illinois Marriage and Dissolution of Marriage
14 Act, Illinois Parentage Act of 2015, Nonsupport of Spouse
15 and Children Act, Revised Uniform Reciprocal Enforcement
16 of Support Act or an action for nonsupport brought under
17 Article 10 of the Illinois Public Aid Code, provided that a
18 petitioner and the respondent are a party to or the subject
19 of that proceeding or (ii) a guardianship proceeding under
20 the Probate Act of 1975, or a proceeding for involuntary
21 commitment under the Mental Health and Developmental
22 Disabilities Code, or any proceeding, other than a
23 delinquency petition, under the Juvenile Court Act of 1987,
24 provided that a petitioner or the respondent is a party to
25 or the subject of such proceeding.

1 (3) In conjunction with a delinquency petition or a
2 criminal prosecution: By filing a petition for an order of
3 protection, under the same case number as the delinquency
4 petition or criminal prosecution, to be granted during
5 pre-trial release of a defendant, with any dispositional
6 order issued under Section 5-710 of the Juvenile Court Act
7 of 1987 or as a condition of release, supervision,
8 conditional discharge, probation, periodic imprisonment,
9 parole, aftercare release, or mandatory supervised
10 release, or in conjunction with imprisonment or a bond
11 forfeiture warrant; provided that:

12 (i) the violation is alleged in an information,
13 complaint, indictment or delinquency petition on file,
14 and the alleged offender and victim are family or
15 household members or persons protected by this Act; and

16 (ii) the petition, which is filed by the State's
17 Attorney, names a victim of the alleged crime as a
18 petitioner.

19 (b) Filing, certification, and service fees. No fee shall
20 be charged by the clerk for filing, amending, vacating,
21 certifying, or photocopying petitions or orders; or for issuing
22 alias summons; or for any related filing service. No fee shall
23 be charged by the sheriff for service by the sheriff of a
24 petition, rule, motion, or order in an action commenced under
25 this Section.

26 (c) Dismissal and consolidation. Withdrawal or dismissal

1 of any petition for an order of protection prior to
2 adjudication where the petitioner is represented by the State
3 shall operate as a dismissal without prejudice. No action for
4 an order of protection shall be dismissed because the
5 respondent is being prosecuted for a crime against the
6 petitioner. An independent action may be consolidated with
7 another civil proceeding, as provided by paragraph (2) of
8 subsection (a) of this Section. For any action commenced under
9 paragraph (2) or (3) of subsection (a) of this Section,
10 dismissal of the conjoined case (or a finding of not guilty)
11 shall not require dismissal of the action for the order of
12 protection; instead, it may be treated as an independent action
13 and, if necessary and appropriate, transferred to a different
14 court or division. Dismissal of any conjoined case shall not
15 affect the validity of any previously issued order of
16 protection, and thereafter subsections (b)(1) and (b)(2) of
17 Section 220 shall be inapplicable to such order.

18 (d) Pro se petitions. The court shall provide, through the
19 office of the clerk of the court, simplified forms and clerical
20 assistance to help with the writing and filing of a petition
21 under this Section by any person not represented by counsel. In
22 addition, that assistance may be provided by the state's
23 attorney.

24 (e) As provided in this subsection, the administrative
25 director of the Administrative Office of the Illinois Courts,
26 with the approval of the administrative board of the courts,

1 may adopt rules to establish and implement a pilot program to
2 allow the electronic filing of petitions for temporary orders
3 of protection and the issuance of such orders by audio-visual
4 means to accommodate litigants for whom attendance in court to
5 file for and obtain emergency relief would constitute an undue
6 hardship or would constitute a risk of harm to the litigant.

7 (1) As used in this subsection:

8 (A) "Electronic means" means any method of
9 transmission of information between computers or other
10 machines designed for the purpose of sending or
11 receiving electronic transmission and that allows for
12 the recipient of information to reproduce the
13 information received in a tangible medium of
14 expression.

15 (B) "Independent audio-visual system" means an
16 electronic system for the transmission and receiving
17 of audio and visual signals, including those with the
18 means to preclude the unauthorized reception and
19 decoding of the signals by commercially available
20 television receivers, channel converters, or other
21 available receiving devices.

22 (C) "Electronic appearance" means an appearance in
23 which one or more of the parties are not present in the
24 court, but in which, by means of an independent
25 audio-visual system, all of the participants are
26 simultaneously able to see and hear reproductions of

1 the voices and images of the judge, counsel, parties,
2 witnesses, and any other participants.

3 (2) Any pilot program under this subsection (e) shall
4 be developed by the administrative director or his or her
5 delegate in consultation with at least one local
6 organization providing assistance to domestic violence
7 victims. The program plan shall include but not be limited
8 to:

9 (A) identification of agencies equipped with or
10 that have access to an independent audio-visual system
11 and electronic means for filing documents; and

12 (B) identification of one or more organizations
13 who are trained and available to assist petitioners in
14 preparing and filing petitions for temporary orders of
15 protection and in their electronic appearances before
16 the court to obtain such orders; and

17 (C) identification of the existing resources
18 available in local family courts for the
19 implementation and oversight of the pilot program; and

20 (D) procedures for filing petitions and documents
21 by electronic means, swearing in the petitioners and
22 witnesses, preparation of a transcript of testimony
23 and evidence presented, and a prompt transmission of
24 any orders issued to the parties; and

25 (E) a timeline for implementation and a plan for
26 informing the public about the availability of the

1 program; and

2 (F) a description of the data to be collected in
3 order to evaluate and make recommendations for
4 improvements to the pilot program.

5 (3) In conjunction with an electronic appearance, any
6 petitioner for an ex parte temporary order of protection
7 may, using the assistance of a trained advocate if
8 necessary, commence the proceedings by filing a petition by
9 electronic means.

10 (A) A petitioner who is seeking an ex parte
11 temporary order of protection using an electronic
12 appearance must file a petition in advance of the
13 appearance and may do so electronically.

14 (B) The petitioner must show that traveling to or
15 appearing in court would constitute an undue hardship
16 or create a risk of harm to the petitioner. In granting
17 or denying any relief sought by the petitioner, the
18 court shall state the names of all participants and
19 whether it is granting or denying an appearance by
20 electronic means and the basis for such a
21 determination. A party is not required to file a
22 petition or other document by electronic means or to
23 testify by means of an electronic appearance.

24 (C) Nothing in this subsection (e) affects or
25 changes any existing laws governing the service of
26 process, including requirements for personal service

1 or the sealing and confidentiality of court records in
2 court proceedings or access to court records by the
3 parties to the proceedings.

4 (4) Appearances.

5 (A) All electronic appearances by a petitioner
6 seeking an ex parte temporary order of protection under
7 this subsection (e) are strictly voluntary and the
8 court shall obtain the consent of the petitioner on the
9 record at the commencement of each appearance.

10 (B) Electronic appearances under this subsection
11 (e) shall be recorded and preserved for transcription.
12 Documentary evidence, if any, referred to by a party or
13 witness or the court may be transmitted and submitted
14 and introduced by electronic means.

15 (Source: P.A. 98-558, eff. 1-1-14; 99-85, eff. 1-1-16.)