

AN ACT concerning domestic violence.

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

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 112A-10 as follows:

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

Sec. 112A-10. Process.

(a) Summons. Any action for an order of protection, whether commenced alone or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending criminal cases, the summons may be delivered to respondent in open court. The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require respondent to answer or appear within 7 days, and shall be accompanied by the petition for the order of protection, any supporting affidavits, if any, and any emergency order of protection that has been issued. The enforcement of an order of protection under Section 112A-23 shall not be affected by the lack of service or delivery, provided the requirements of subsection (a) of that Section are otherwise met.

(b) Fees. No fee shall be charged for service of summons.

(c) Expedited service. The summons shall be served by the

sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers. Process shall not be served in court. In counties with a population over 3,000,000, a special process server may not be appointed if the order of protection grants the surrender of a child, the surrender of a firearm or firearm owners identification card, or the exclusive possession of a shared residence.

(d) Remedies requiring actual notice. The counseling, payment of support, payment of shelter services, and payment of losses remedies provided by paragraphs 4, 12, 13, and 16 of subsection (b) of Section 112A-14 may be granted only if respondent has been personally served with process, has answered or has made a general appearance.

(e) Remedies upon constructive notice. Service of process on a member of respondent's household or by publication, in accordance with Sections 2-203, 2-206 and 2-207 of the Code of Civil Procedure, as now or hereafter amended, shall be adequate for the remedies provided by paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 14, 15, and 17 of subsection (b) of Section 112A-14, but only if: (i) petitioner has made all reasonable efforts to accomplish actual service of process personally upon respondent, but respondent cannot be found to effect such

service; and (ii) petitioner files an affidavit or presents sworn testimony as to those efforts.

(f) Default. A plenary order of protection may be entered by default (1) for any of the remedies sought in the petition, if respondent has been served with documents in accordance with subsection (a) and if respondent then fails to appear on the specified return date or on any subsequent hearing date agreed to by the parties or set by the court; or (2) for any of the remedies provided under subsection (e), if the defendant fails to answer or appear in accordance with the date set in the publication notice or the return date indicated on the service of a household member.

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

Section 10. The Illinois Domestic Violence Act of 1986 is amended by changing Section 210 as follows:

(750 ILCS 60/210) (from Ch. 40, par. 2312-10)

Sec. 210. Process.

(a) Summons. Any action for an order of protection, whether commenced alone or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:

(1) By delivery of the summons to respondent personally in open court in pending civil or criminal cases.

(2) By notice in accordance with Section 210.1 in civil cases in which the defendant has filed a general appearance.

The summons shall be in the form prescribed by Supreme Court Rule 101(d), except that it shall require respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for order of protection and supporting affidavits, if any, and any emergency order of protection that has been issued. The enforcement of an order of protection under Section 223 shall not be affected by the lack of service, delivery, or notice, provided the requirements of subsection (d) of that Section are otherwise met.

(b) Blank.

(c) Expedited service. The summons shall be served by the sheriff or other law enforcement officer at the earliest time and shall take precedence over other summonses except those of a similar emergency nature. Special process servers may be appointed at any time, and their designation shall not affect the responsibilities and authority of the sheriff or other official process servers. In counties with a population over 3,000,000, a special process server may not be appointed if the order of protection grants the surrender of a child, the surrender of a firearm or firearm owners identification card, or the exclusive possession of a shared residence.

(d) Remedies requiring actual notice. The counseling, payment of support, payment of shelter services, and payment of

losses remedies provided by paragraphs 4, 12, 13, and 16 of subsection (b) of Section 214 may be granted only if respondent has been personally served with process, has answered or has made a general appearance.

(e) Remedies upon constructive notice. Service of process on a member of respondent's household or by publication shall be adequate for the remedies provided by paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 14, 15, and 17 of subsection (b) of Section 214, but only if: (i) petitioner has made all reasonable efforts to accomplish actual service of process personally upon respondent, but respondent cannot be found to effect such service and (ii) petitioner files an affidavit or presents sworn testimony as to those efforts.

(f) Default. A plenary order of protection may be entered by default as follows:

(1) For any of the remedies sought in the petition, if respondent has been served or given notice in accordance with subsection (a) and if respondent then fails to appear as directed or fails to appear on any subsequent appearance or hearing date agreed to by the parties or set by the court; or

(2) For any of the remedies provided in accordance with subsection (e), if respondent fails to answer or appear in accordance with the date set in the publication notice or the return date indicated on the service of a household member.

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(Source: P.A. 87-1186; 88-306.)