



Rep. Natalie A. Manley

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LRB098 07721 RLC 55889 a

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 weapons under
26 Section 8.2 of the Firearm Owners Identification Card

1 Act.

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

17 (C) If the respondent is a peace officer as defined
18 in Section 2-13 of the Criminal Code of 2012, the court
19 shall order that any firearms used by the respondent in
20 the performance of his or her duties as a peace officer
21 be surrendered to the chief law enforcement executive
22 of the agency in which the respondent is employed, who
23 shall retain the firearms for safekeeping for the
24 duration of the order of protection.

25 (D) Upon expiration of the period of safekeeping,
26 if the firearms or Firearm Owner's Identification Card

1 cannot be returned to respondent because respondent
2 cannot be located, fails to respond to requests to
3 retrieve the firearms, or is not lawfully eligible to
4 possess a firearm, upon petition from the local law
5 enforcement agency, the court may order the local law
6 enforcement agency to destroy the firearms, use the
7 firearms for training purposes, or for any other
8 application as deemed appropriate by the local law
9 enforcement agency; or that the firearms be turned over
10 to a third party who is lawfully eligible to possess
11 firearms, and who does not reside with respondent.

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

22 (16) Order for payment of shelter services. Order
23 respondent to reimburse a shelter providing temporary
24 housing and counseling services to the petitioner for the
25 cost of the services, as certified by the shelter and
26 deemed reasonable by the court.

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

10 (c) Relevant factors; findings.

11 (1) In determining whether to grant a specific remedy,
12 other than payment of support, the court shall consider
13 relevant factors, including but not limited to the
14 following:

15 (i) the nature, frequency, severity, pattern and
16 consequences of the respondent's past abuse of the
17 petitioner or any family or household member,
18 including the concealment of his or her location in
19 order to evade service of process or notice, and the
20 likelihood of danger of future abuse to petitioner or
21 any member of petitioner's or respondent's family or
22 household; and

23 (ii) the danger that any minor child will be abused
24 or neglected or improperly removed from the
25 jurisdiction, improperly concealed within the State or
26 improperly separated from the child's primary

1 caretaker.

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

6 (i) availability, accessibility, cost, safety,
7 adequacy, location and other characteristics of
8 alternate housing for each party and any minor child or
9 dependent adult in the party's care;

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

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

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

18 (i) That the court has considered the applicable
19 relevant factors described in paragraphs (1) and (2) of
20 this subsection.

21 (ii) Whether the conduct or actions of respondent,
22 unless prohibited, will likely cause irreparable harm
23 or continued abuse.

24 (iii) Whether it is necessary to grant the
25 requested relief in order to protect petitioner or
26 other alleged abused persons.

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

6 When a verified petition for an emergency order of
7 protection in accordance with the requirements of Sections
8 112A-5 and 112A-17 is presented to the court, the court
9 shall examine petitioner on oath or affirmation. An
10 emergency order of protection shall be issued by the court
11 if it appears from the contents of the petition and the
12 examination of petitioner that the averments are
13 sufficient to indicate abuse by respondent and to support
14 the granting of relief under the issuance of the emergency
15 order of protection.

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

25 (d) Balance of hardships; findings. If the court finds that
26 the balance of hardships does not support the granting of a

1 remedy governed by paragraph (2), (3), (10), (11), or (16) of
2 subsection (b) of this Section, which may require such
3 balancing, the court's findings shall so indicate and shall
4 include a finding as to whether granting the remedy will result
5 in hardship to respondent that would substantially outweigh the
6 hardship to petitioner from denial of the remedy. The findings
7 shall be an official record or in writing.

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

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

13 (2) Respondent was voluntarily intoxicated;

14 (3) Petitioner acted in self-defense or defense of
15 another, provided that, if petitioner utilized force, such
16 force was justifiable under Article 7 of the Criminal Code
17 of 2012;

18 (4) Petitioner did not act in self-defense or defense
19 of another;

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

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

24 (7) Conduct by any family or household member excused
25 the abuse by respondent, unless that same conduct would
26 have excused such abuse if the parties had not been family

1 or household members.

2 (Source: P.A. 97-158, eff. 1-1-12; 97-1131, eff. 1-1-13;
3 97-1150, eff. 1-25-13; 98-63, eff. 7-9-13.)

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

6 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

7 Sec. 214. 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 or that
10 petitioner is a high-risk adult who has been abused, neglected,
11 or exploited, as defined in this Act, an order of protection
12 prohibiting the abuse, neglect, or exploitation shall issue;
13 provided that petitioner must also satisfy the requirements of
14 one of the following Sections, as appropriate: Section 217 on
15 emergency orders, Section 218 on interim orders, or Section 219
16 on plenary orders. Petitioner shall not be denied an order of
17 protection because petitioner or respondent is a minor. The
18 court, when determining whether or not to issue an order of
19 protection, shall not require physical manifestations of abuse
20 on the person of the victim. Modification and extension of
21 prior orders of protection shall be in accordance with this
22 Act.

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

6 (1) Prohibition of abuse, neglect, or exploitation.
7 Prohibit respondent's harassment, interference with
8 personal liberty, intimidation of a dependent, physical
9 abuse, or willful deprivation, neglect or exploitation, as
10 defined in this Act, or stalking of the petitioner, as
11 defined in Section 12-7.3 of the Criminal Code of 2012, if
12 such abuse, neglect, exploitation, or stalking has
13 occurred or otherwise appears likely to occur if not
14 prohibited.

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

24 (A) Right to occupancy. A party has a right to
25 occupancy of a residence or household if it is solely
26 or jointly owned or leased by that party, that party's

1 spouse, a person with a legal duty to support that
2 party or a minor child in that party's care, or by any
3 person or entity other than the opposing party that
4 authorizes that party's occupancy (e.g., a domestic
5 violence shelter). Standards set forth in subparagraph
6 (B) shall not preclude equitable relief.

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

23 The balance of hardships is presumed to favor
24 possession by petitioner unless the presumption is
25 rebutted by a preponderance of the evidence, showing
26 that the hardships to respondent substantially

1 outweigh the hardships to petitioner and any minor
2 child or dependent adult in petitioner's care. The
3 court, on the request of petitioner or on its own
4 motion, may order respondent to provide suitable,
5 accessible, alternate housing for petitioner instead
6 of excluding respondent from a mutual residence or
7 household.

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

18 (A) If an order of protection grants petitioner
19 exclusive possession of the residence, or prohibits
20 respondent from entering the residence, or orders
21 respondent to stay away from petitioner or other
22 protected persons, then the court may allow respondent
23 access to the residence to remove items of clothing and
24 personal adornment used exclusively by respondent,
25 medications, and other items as the court directs. The
26 right to access shall be exercised on only one occasion

1 as the court directs and in the presence of an
2 agreed-upon adult third party or law enforcement
3 officer.

4 (B) When the petitioner and the respondent attend
5 the same public, private, or non-public elementary,
6 middle, or high school, the court when issuing an order
7 of protection and providing relief shall consider the
8 severity of the act, any continuing physical danger or
9 emotional distress to the petitioner, the educational
10 rights guaranteed to the petitioner and respondent
11 under federal and State law, the availability of a
12 transfer of the respondent to another school, a change
13 of placement or a change of program of the respondent,
14 the expense, difficulty, and educational disruption
15 that would be caused by a transfer of the respondent to
16 another school, and any other relevant facts of the
17 case. The court may order that the respondent not
18 attend the public, private, or non-public elementary,
19 middle, or high school attended by the petitioner,
20 order that the respondent accept a change of placement
21 or change of program, as determined by the school
22 district or private or non-public school, or place
23 restrictions on the respondent's movements within the
24 school attended by the petitioner. The respondent
25 bears the burden of proving by a preponderance of the
26 evidence that a transfer, change of placement, or

1 change of program of the respondent is not available.
2 The respondent also bears the burden of production with
3 respect to the expense, difficulty, and educational
4 disruption that would be caused by a transfer of the
5 respondent to another school. A transfer, change of
6 placement, or change of program is not unavailable to
7 the respondent solely on the ground that the respondent
8 does not agree with the school district's or private or
9 non-public school's transfer, change of placement, or
10 change of program or solely on the ground that the
11 respondent fails or refuses to consent or otherwise
12 does not take an action required to effectuate a
13 transfer, change of placement, or change of program.
14 When a court orders a respondent to stay away from the
15 public, private, or non-public school attended by the
16 petitioner and the respondent requests a transfer to
17 another attendance center within the respondent's
18 school district or private or non-public school, the
19 school district or private or non-public school shall
20 have sole discretion to determine the attendance
21 center to which the respondent is transferred. In the
22 event the court order results in a transfer of the
23 minor respondent to another attendance center, a
24 change in the respondent's placement, or a change of
25 the respondent's program, the parents, guardian, or
26 legal custodian of the respondent is responsible for

1 transportation and other costs associated with the
2 transfer or change.

3 (C) The court may order the parents, guardian, or
4 legal custodian of a minor respondent to take certain
5 actions or to refrain from taking certain actions to
6 ensure that the respondent complies with the order. In
7 the event the court orders a transfer of the respondent
8 to another school, the parents, guardian, or legal
9 custodian of the respondent is responsible for
10 transportation and other costs associated with the
11 change of school by the respondent.

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

24 (5) Physical care and possession of the minor child. In
25 order to protect the minor child from abuse, neglect, or
26 unwarranted separation from the person who has been the

1 minor child's primary caretaker, or to otherwise protect
2 the well-being of the minor child, the court may do either
3 or both of the following: (i) grant petitioner physical
4 care or possession of the minor child, or both, or (ii)
5 order respondent to return a minor child to, or not remove
6 a minor child from, the physical care of a parent or person
7 in loco parentis.

8 If a court finds, after a hearing, that respondent has
9 committed abuse (as defined in Section 103) of a minor
10 child, there shall be a rebuttable presumption that
11 awarding physical care to respondent would not be in the
12 minor child's best interest.

13 (6) Temporary legal custody. Award temporary legal
14 custody to petitioner in accordance with this Section, the
15 Illinois Marriage and Dissolution of Marriage Act, the
16 Illinois Parentage Act of 1984, and this State's Uniform
17 Child-Custody Jurisdiction and Enforcement Act.

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 temporary legal custody to respondent would not be
22 in the child's best interest.

23 (7) Visitation. Determine the visitation rights, if
24 any, of respondent in any case in which the court awards
25 physical care or temporary legal custody of a minor child
26 to petitioner. The court shall restrict or deny

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

16 Petitioner may deny respondent access to the minor
17 child if, when respondent arrives for visitation,
18 respondent is under the influence of drugs or alcohol and
19 constitutes a threat to the safety and well-being of
20 petitioner or petitioner's minor children or is behaving in
21 a violent or abusive manner.

22 If necessary to protect any member of petitioner's
23 family or household from future abuse, respondent shall be
24 prohibited from coming to petitioner's residence to meet
25 the minor child for visitation, and the parties shall
26 submit to the court their recommendations for reasonable

1 alternative arrangements for visitation. A person may be
2 approved to supervise visitation only after filing an
3 affidavit accepting that responsibility and acknowledging
4 accountability to the court.

5 (8) Removal or concealment of minor child. Prohibit
6 respondent from removing a minor child from the State or
7 concealing the child within the State.

8 (9) Order to appear. Order the respondent to appear in
9 court, alone or with a minor child, to prevent abuse,
10 neglect, removal or concealment of the child, to return the
11 child to the custody or care of the petitioner or to permit
12 any court-ordered interview or examination of the child or
13 the respondent.

14 (10) Possession of personal property. Grant petitioner
15 exclusive possession of personal property and, if
16 respondent has possession or control, direct respondent to
17 promptly make it available to petitioner, if:

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

20 (ii) the parties own the property jointly; sharing
21 it would risk abuse of petitioner by respondent or is
22 impracticable; and the balance of hardships favors
23 temporary possession by petitioner.

24 If petitioner's sole claim to ownership of the property
25 is that it is marital property, the court may award
26 petitioner temporary possession thereof under the

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

5 No order under this provision shall affect title to
6 property.

7 (11) Protection of property. Forbid the respondent
8 from taking, transferring, encumbering, concealing,
9 damaging or otherwise disposing of any real or personal
10 property, except as explicitly authorized by the court, if:

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

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

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

21 The court may further prohibit respondent from
22 improperly using the financial or other resources of an
23 aged member of the family or household for the profit or
24 advantage of respondent or of any other person.

25 (11.5) Protection of animals. Grant the petitioner the
26 exclusive care, custody, or control of any animal owned,

1 possessed, leased, kept, or held by either the petitioner
2 or the respondent or a minor child residing in the
3 residence or household of either the petitioner or the
4 respondent and order the respondent to stay away from the
5 animal and forbid the respondent from taking,
6 transferring, encumbering, concealing, harming, or
7 otherwise disposing of the animal.

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

22 (13) Order for payment of losses. Order respondent to
23 pay petitioner for losses suffered as a direct result of
24 the abuse, neglect, or exploitation. Such losses shall
25 include, but not be limited to, medical expenses, lost
26 earnings or other support, repair or replacement of

1 property damaged or taken, reasonable attorney's fees,
2 court costs and moving or other travel expenses, including
3 additional reasonable expenses for temporary shelter and
4 restaurant meals.

5 (i) Losses affecting family needs. If a party is
6 entitled to seek maintenance, child support or
7 property distribution from the other party under the
8 Illinois Marriage and Dissolution of Marriage Act, as
9 now or hereafter amended, the court may order
10 respondent to reimburse petitioner's actual losses, to
11 the extent that such reimbursement would be
12 "appropriate temporary relief", as authorized by
13 subsection (a) (3) of Section 501 of that Act.

14 (ii) Recovery of expenses. In the case of an
15 improper concealment or removal of a minor child, the
16 court may order respondent to pay the reasonable
17 expenses incurred or to be incurred in the search for
18 and recovery of the minor child, including but not
19 limited to legal fees, court costs, private
20 investigator fees, and travel costs.

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

26 (14.5) Prohibition of firearm, firearm ammunition,

1 stun gun, and taser possession.

2 (a) A resident who is subject to an existing order
3 of protection, interim order of protection, emergency
4 order of protection, or plenary order of protection,
5 issued under this Act or a substantially similar order
6 of protection issued by any other state, possession, or
7 territory of the United States, or the District of
8 Columbia may not lawfully possess firearms, firearm
9 ammunition, stun guns, and tasers under Section 8.2 of
10 the Firearm Owners Identification Card Act. Prohibit a
11 respondent against whom an order of protection was
12 issued from possessing any firearms during the
13 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 firearms, firearm ammunition, stun guns, and
5 tasers ~~Firearm Owner's Identification Card~~ in the
6 possession of the respondent, except as provided in
7 subsection (b), shall be ordered by the court to be
8 turned over to a person with a valid Firearm Owner's
9 Identification Card for safekeeping. The court shall
10 order that the respondent's Firearm Owner's
11 Identification Card be turned over to the local law
12 enforcement agency, which in turn ~~the local law~~
13 ~~enforcement agency.~~ The local law enforcement agency
14 shall immediately mail the card to the Department of
15 State Police Firearm Owner's Identification Card
16 Office for safekeeping. ~~The court shall issue a warrant~~
17 ~~for seizure of any firearm in the possession of the~~
18 ~~respondent, to be kept by the local law enforcement~~
19 ~~agency for safekeeping, except as provided in~~
20 ~~subsection (b).~~ The period of safekeeping shall be for
21 the duration of the order of protection, interim order
22 of protection, emergency order of protection, or
23 plenary order of protection. The firearms, firearm
24 ammunition, stun guns, and tasers ~~firearm or firearms~~
25 and Firearm Owner's Identification Card, if unexpired,
26 shall at the respondent's request, be returned to the

1 respondent at the end of the order of protection,
2 interim order of protection, emergency order of
3 protection, or plenary order of protection. ~~It is the~~
4 ~~respondent's responsibility to notify the Department~~
5 ~~of State Police Firearm Owner's Identification Card~~
6 ~~Office.~~

7 (b) If the respondent is a peace officer as defined
8 in Section 2-13 of the Criminal Code of 2012, the court
9 shall order that any firearms used by the respondent in
10 the performance of his or her duties as a peace officer
11 be surrendered to the chief law enforcement executive
12 of the agency in which the respondent is employed, who
13 shall retain the firearms for safekeeping for the
14 duration of the order of protection.

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

1 firearms, and who does not reside with respondent.

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

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

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

1 (c) Relevant factors; findings.

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

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

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

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

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

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of
24 protection in accordance with the requirements of Sections
25 203 and 217 is presented to the court, the court shall
26 examine petitioner on oath or affirmation. An emergency

1 order of protection shall be issued by the court if it
2 appears from the contents of the petition and the
3 examination of petitioner that the averments are
4 sufficient to indicate abuse by respondent and to support
5 the granting of relief under the issuance of the emergency
6 order of protection.

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

1 temporary custody of the minor child, visitation with the
2 minor child, or physical care and possession of the minor
3 child, nor shall an order of payment for support of the
4 minor child be entered.

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

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

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

19 (2) Respondent was voluntarily intoxicated;

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

24 (4) Petitioner did not act in self-defense or defense
25 of another;

26 (5) Petitioner left the residence or household to avoid

1 further abuse, neglect, or exploitation by respondent;

2 (6) Petitioner did not leave the residence or household
3 to avoid further abuse, neglect, or exploitation by
4 respondent;

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

10 (Source: P.A. 96-701, eff. 1-1-10; 96-1239, eff. 1-1-11;
11 97-158, eff. 1-1-12; 97-294, eff. 1-1-12; 97-813, eff. 7-13-12;
12 97-1131, eff. 1-1-13; 97-1150, eff. 1-25-13.)".