



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5392

by Rep. Thomas Morrison - Grant Wehrli - Avery Bourne - Amy Grant - Darren Bailey

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-4	from Ch. 38, par. 112A-4
725 ILCS 5/112A-4.5	
750 ILCS 60/201	from Ch. 40, par. 2312-1

Amends the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that a person who is a victim of human trafficking, regardless of the relationship between the victim and the trafficker, is protected by both the Code and the Act. Provides that a person who has been the victim of human trafficking, or a person on behalf of a minor child or an adult who has been the victim of human trafficking, may file a petition for an order of protection.

LRB101 15855 LNS 65212 b

1 AN ACT concerning human trafficking.

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-4.5 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 in
9 cases involving domestic violence:

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

11 (2) any minor child or dependent adult in the care of
12 such person;

13 (3) any person residing or employed at a private home
14 or public shelter which is housing an abused family or
15 household member; ~~and~~

16 (4) any of the following persons if the person is
17 abused by a family or household member of a child:

18 (i) a foster parent of that child if the child has
19 been placed in the foster parent's home by the
20 Department of Children and Family Services or by
21 another state's public child welfare agency;

22 (ii) a legally appointed guardian or legally
23 appointed custodian of that child;

1 (iii) an adoptive parent of that child; or
2 (iv) a prospective adoptive parent of that child if
3 the child has been placed in the prospective adoptive
4 parent's home pursuant to the Adoption Act or pursuant
5 to another state's law; and -

6 (5) any person who is a victim of human trafficking,
7 regardless of the relationship between the victim and the
8 trafficker.

9 For purposes of ~~this~~ paragraph (a)(4), individuals who
10 would have been considered "family or household members" of the
11 child under paragraph (3) of subsection (b) of Section 112A-3
12 before a termination of the parental rights with respect to the
13 child continue to meet the definition of "family or household
14 members" of the child.

15 (a-5) The following persons are protected by this Article
16 in cases involving sexual offenses:

17 (1) any victim of non-consensual sexual conduct or
18 non-consensual sexual penetration on whose behalf the
19 petition is brought;

20 (2) any family or household member of the named victim;
21 and

22 (3) any employee of or volunteer at a rape crisis
23 center.

24 (a-10) The following persons are protected by this Article
25 in cases involving stalking offenses:

26 (1) any victim of stalking; and

1 (2) any family or household member of the named victim.

2 (b) (Blank).

3 (Source: P.A. 100-199, eff. 1-1-18; 100-639, eff. 1-1-19.)

4 (725 ILCS 5/112A-4.5)

5 Sec. 112A-4.5. Who may file petition.

6 (a) A petition for a domestic violence order of protection
7 may be filed:

8 (1) by a named victim who has been abused by a family
9 or household member;

10 (2) by any person or by the State's Attorney on behalf
11 of a named victim who is a minor child or an adult who has
12 been abused by a family or household member and who,
13 because of age, health, disability, or inaccessibility,
14 cannot file the petition;

15 (3) by a State's Attorney on behalf of any minor child
16 or dependent adult in the care of the named victim, if the
17 named victim does not file a petition or request the
18 State's Attorney file the petition; ~~or~~

19 (4) any of the following persons if the person is
20 abused by a family or household member of a child:

21 (i) a foster parent of that child if the child has
22 been placed in the foster parent's home by the
23 Department of Children and Family Services or by
24 another state's public child welfare agency;

25 (ii) a legally appointed guardian or legally

1 appointed custodian of that child;
2 (iii) an adoptive parent of that child;
3 (iv) a prospective adoptive parent of that child if
4 the child has been placed in the prospective adoptive
5 parent's home pursuant to the Adoption Act or pursuant
6 to another state's law; or -
7 (5) by a person who has been the victim of human
8 trafficking, or by any person on behalf of a minor child or
9 an adult who has been the victim of human trafficking and
10 who, because of age, health, disability, or
11 inaccessibility, cannot file the petition.

12 For purposes of ~~this~~ paragraph (a)(4), individuals who
13 would have been considered "family or household members" of the
14 child under paragraph (3) of subsection (b) of Section 112A-3
15 before a termination of the parental rights with respect to the
16 child continue to meet the definition of "family or household
17 members" of the child.

18 (b) A petition for a civil no contact order may be filed:

19 (1) by any person who is a named victim of
20 non-consensual sexual conduct or non-consensual sexual
21 penetration, including a single incident of non-consensual
22 sexual conduct or non-consensual sexual penetration;

23 (2) by a person or by the State's Attorney on behalf of
24 a named victim who is a minor child or an adult who is a
25 victim of non-consensual sexual conduct or non-consensual
26 sexual penetration but, because of age, disability,

1 health, or inaccessibility, cannot file the petition; or

2 (3) by a State's Attorney on behalf of any minor child
3 who is a family or household member of the named victim, if
4 the named victim does not file a petition or request the
5 State's Attorney file the petition.

6 (c) A petition for a stalking no contact order may be
7 filed:

8 (1) by any person who is a named victim of stalking;

9 (2) by a person or by the State's Attorney on behalf of
10 a named victim who is a minor child or an adult who is a
11 victim of stalking but, because of age, disability, health,
12 or inaccessibility, cannot file the petition; or

13 (3) by a State's Attorney on behalf of any minor child
14 who is a family or household member of the named victim, if
15 the named victim does not file a petition or request the
16 State's Attorney file the petition.

17 (d) The State's Attorney shall file a petition on behalf of
18 any person who may file a petition under subsections (a), (b),
19 or (c) of this Section if the person requests the State's
20 Attorney to file a petition on the person's behalf, unless the
21 State's Attorney has a good faith basis to delay filing the
22 petition. The State's Attorney shall inform the person that the
23 State's Attorney will not be filing the petition at that time
24 and that the person may file a petition or may retain an
25 attorney to file the petition. The State's Attorney may file
26 the petition at a later date.

1 (d-5) (1) A person eligible to file a petition under
2 subsection (a), (b), or (c) of this Section may retain an
3 attorney to represent the petitioner on the petitioner's
4 request for a protective order. The attorney's representation
5 is limited to matters related to the petition and relief
6 authorized under this Article.

7 (2) Advocates shall be allowed to accompany the petitioner
8 and confer with the victim, unless otherwise directed by the
9 court. Advocates are not engaged in the unauthorized practice
10 of law when providing assistance to the petitioner.

11 (e) Any petition properly filed under this Article may seek
12 protection for any additional persons protected by this
13 Article.

14 (Source: P.A. 100-199, eff. 1-1-18; 100-597, eff. 6-29-18;
15 100-639, eff. 1-1-19; 101-81, eff. 7-12-19.)

16 Section 10. The Illinois Domestic Violence Act of 1986 is
17 amended by changing Section 201 as follows:

18 (750 ILCS 60/201) (from Ch. 40, par. 2312-1)

19 Sec. 201. Persons protected by this Act.

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

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

22 (ii) any high-risk adult with disabilities who is
23 abused, neglected, or exploited by a family or household
24 member;

1 (iii) any minor child or dependent adult in the care of
2 such person;

3 (iv) any person residing or employed at a private home
4 or public shelter which is housing an abused family or
5 household member; ~~and~~

6 (v) any of the following persons if the person is
7 abused by a family or household member of a child:

8 (A) a foster parent of that child if the child has
9 been placed in the foster parent's home by the
10 Department of Children and Family Services or by
11 another state's public child welfare agency;

12 (B) a legally appointed guardian or legally
13 appointed custodian of that child;

14 (C) an adoptive parent of that child; or

15 (D) a prospective adoptive parent of that child if
16 the child has been placed in the prospective adoptive
17 parent's home pursuant to the Adoption Act or pursuant
18 to another state's law; ~~and~~.

19 (vi) any person who is a victim of human trafficking,
20 regardless of the relationship between the victim and the
21 trafficker.

22 For purposes of ~~this~~ paragraph (a)(v), individuals who
23 would have been considered "family or household members" of the
24 child under subsection (6) of Section 103 of this Act before a
25 termination of the parental rights with respect to the child
26 continue to meet the definition of "family or household

1 members" of the child.

2 (b) A petition for an order of protection may be filed
3 only:

4 (i) by a person who has been abused by a family or
5 household member or by any person on behalf of a minor child or
6 an adult who has been abused by a family or household member
7 and who, because of age, health, disability, or
8 inaccessibility, cannot file the petition;

9 (ii) by any person on behalf of a high-risk adult with
10 disabilities who has been abused, neglected, or exploited
11 by a family or household member; ~~or~~

12 (iii) any of the following persons if the person is
13 abused by a family or household member of a child:

14 (A) a foster parent of that child if the child has
15 been placed in the foster parent's home by the
16 Department of Children and Family Services or by
17 another state's public child welfare agency;

18 (B) a legally appointed guardian or legally
19 appointed custodian of that child;

20 (C) an adoptive parent of that child;

21 (D) a prospective adoptive parent of that child if
22 the child has been placed in the prospective adoptive
23 parent's home pursuant to the Adoption Act or pursuant
24 to another state's law; or

25 (iv) by a person who has been the victim of human
26 trafficking, or by any person on behalf of a minor child or

1 an adult who has been the victim of human trafficking and
2 who, because of age, health, disability, or
3 inaccessibility, cannot file the petition.

4 For purposes of ~~this~~ paragraph (b)(iii), individuals who
5 would have been considered "family or household members" of the
6 child under subsection (6) of Section 103 of this Act before a
7 termination of the parental rights with respect to the child
8 continue to meet the definition of "family or household
9 members" of the child.

10 (c) Any petition properly filed under this Act may seek
11 protection for any additional persons protected by this Act.

12 (Source: P.A. 100-639, eff. 1-1-19.)