

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 Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-23 as follows:

6 (725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

7 Sec. 112A-23. Enforcement of orders of protection.

8 (a) When violation is crime. A violation of any order of
9 protection, whether issued in a civil, quasi-criminal
10 proceeding, shall may be enforced by a criminal court when:

11 (1) The respondent commits the crime of violation
12 of an order of protection pursuant to Section 12-30 of
13 the Criminal Code of 1961, by having knowingly violated:

14 (i) remedies described in paragraphs (1), (2),
15 (3), (14), or (14.5) of subsection (b) of Section
16 112A-14,

17 (ii) a remedy, which is substantially similar
18 to the remedies authorized under paragraphs (1),
19 (2), (3), (14) or (14.5) of subsection (b) of
20 Section 214 of the Illinois Domestic Violence Act of
21 1986, in a valid order of protection, which is
22 authorized under the laws of another state, tribe or
23 United States territory,

24 (iii) or any other remedy when the act
25 constitutes a crime against the protected parties as
26 defined by the Criminal Code of 1961.

27 Prosecution for a violation of an order of protection
28 shall not bar concurrent prosecution for any other crime,
29 including any crime that may have been committed at the time
30 of the violation of the order of protection; or

31 (2) The respondent commits the crime of child

1 abduction pursuant to Section 10-5 of the Criminal Code
2 of 1961, by having knowingly violated:

3 (i) remedies described in paragraphs (5), (6)
4 or (8) of subsection (b) of Section 112A-14, or

5 (ii) a remedy, which is substantially similar
6 to the remedies authorized under paragraphs (1),
7 (5), (6), or (8) of subsection (b) of Section 214 of
8 the Illinois Domestic Violence Act of 1986, in a
9 valid order of protection, which is authorized under
10 the laws of another state, tribe or United States
11 territory.

12 (b) When violation is contempt of court. A violation of
13 any valid order of protection, whether issued in a civil or
14 criminal proceeding, may be enforced through civil or
15 criminal contempt procedures, as appropriate, by any court
16 with jurisdiction, regardless where the act or acts which
17 violated the order of protection were committed, to the
18 extent consistent with the venue provisions of this Article.
19 Nothing in this Article shall preclude any Illinois court
20 from enforcing any valid order of protection issued in
21 another state. Illinois courts may enforce orders of
22 protection through both criminal prosecution and contempt
23 proceedings, unless the action which is second in time is
24 barred by collateral estoppel or the constitutional
25 prohibition against double jeopardy.

26 (1) In a contempt proceeding where the petition for
27 a rule to show cause sets forth facts evidencing an
28 immediate danger that the respondent will flee the
29 jurisdiction, conceal a child, or inflict physical abuse
30 on the petitioner or minor children or on dependent
31 adults in petitioner's care, the court may order the
32 attachment of the respondent without prior service of the
33 rule to show cause or the petition for a rule to show
34 cause. Bond shall be set unless specifically denied in

1 writing.

2 (2) A petition for a rule to show cause for
3 violation of an order of protection shall be treated as
4 an expedited proceeding.

5 (c) Violation of custody or support orders. A violation
6 of remedies described in paragraphs (5), (6), (8), or (9) of
7 subsection (b) of Section 112A-14 may be enforced by any
8 remedy provided by Section 611 of the Illinois Marriage and
9 Dissolution of Marriage Act. The court may enforce any order
10 for support issued under paragraph (12) of subsection (b) of
11 Section 112A-14 in the manner provided for under Articles V
12 and VII of the Illinois Marriage and Dissolution of Marriage
13 Act.

14 (d) Actual knowledge. An order of protection may be
15 enforced pursuant to this Section if the respondent violates
16 the order after respondent has actual knowledge of its
17 contents as shown through one of the following means:

18 (1) By service, delivery, or notice under Section
19 112A-10.

20 (2) By notice under Section 112A-11.

21 (3) By service of an order of protection under
22 Section 112A-22.

23 (4) By other means demonstrating actual knowledge
24 of the contents of the order.

25 (e) The enforcement of an order of protection in civil
26 or criminal court shall not be affected by either of the
27 following:

28 (1) The existence of a separate, correlative order
29 entered under Section 112A-15.

30 (2) Any finding or order entered in a conjoined
31 criminal proceeding.

32 (f) Circumstances. The court, when determining whether
33 or not a violation of an order of protection has occurred,
34 shall not require physical manifestations of abuse on the

1 person of the victim.

2 (g) Penalties.

3 (1) Except as provided in paragraph (3) of this
4 subsection, where the court finds the commission of a
5 crime or contempt of court under subsections (a) or (b)
6 of this Section, the penalty shall be the penalty that
7 generally applies in such criminal or contempt
8 proceedings, and may include one or more of the
9 following: incarceration, payment of restitution, a fine,
10 payment of attorneys' fees and costs, or community
11 service.

12 (2) The court shall hear and take into account
13 evidence of any factors in aggravation or mitigation
14 before deciding an appropriate penalty under paragraph
15 (1) of this subsection.

16 (3) To the extent permitted by law, the court is
17 encouraged to:

18 (i) increase the penalty for the knowing
19 violation of any order of protection over any
20 penalty previously imposed by any court for
21 respondent's violation of any order of protection or
22 penal statute involving petitioner as victim and
23 respondent as defendant;

24 (ii) impose a minimum penalty of 24 hours
25 imprisonment for respondent's first violation of any
26 order of protection; and

27 (iii) impose a minimum penalty of 48 hours
28 imprisonment for respondent's second or subsequent
29 violation of an order of protection

30 unless the court explicitly finds that an increased
31 penalty or that period of imprisonment would be
32 manifestly unjust.

33 (4) In addition to any other penalties imposed for
34 a violation of an order of protection, a criminal court

1 may consider evidence of any violations of an order of
2 protection:

3 (i) to increase, revoke or modify the bail
4 bond on an underlying criminal charge pursuant to
5 Section 110-6;

6 (ii) to revoke or modify an order of
7 probation, conditional discharge or supervision,
8 pursuant to Section 5-6-4 of the Unified Code of
9 Corrections;

10 (iii) to revoke or modify a sentence of
11 periodic imprisonment, pursuant to Section 5-7-2 of
12 the Unified Code of Corrections.

13 (Source: P.A. 90-732, eff. 8-11-98.)

14 Section 10. The Illinois Domestic Violence Act of 1986
15 is amended by changing Section 223 as follows:

16 (750 ILCS 60/223) (from Ch. 40, par. 2312-23)

17 Sec. 223. Enforcement of orders of protection.

18 (a) When violation is crime. A violation of any order of
19 protection, whether issued in a civil or criminal proceeding,
20 shall may be enforced by a criminal court when:

21 (1) The respondent commits the crime of violation
22 of an order of protection pursuant to Section 12-30 of
23 the Criminal Code of 1961, by having knowingly violated:

24 (i) remedies described in paragraphs (1), (2),
25 (3), (14), or (14.5) of subsection (b) of Section
26 214 of this Act; or

27 (ii) a remedy, which is substantially similar
28 to the remedies authorized under paragraphs (1),
29 (2), (3), (14), and (14.5) of subsection (b) of
30 Section 214 of this Act, in a valid order of
31 protection which is authorized under the laws of
32 another state, tribe, or United States territory; or

1 (iii) any other remedy when the act
 2 constitutes a crime against the protected parties as
 3 defined by the Criminal Code of 1961.

4 Prosecution for a violation of an order of
 5 protection shall not bar concurrent prosecution for any
 6 other crime, including any crime that may have been
 7 committed at the time of the violation of the order of
 8 protection; or

9 (2) The respondent commits the crime of child
 10 abduction pursuant to Section 10-5 of the Criminal Code
 11 of 1961, by having knowingly violated:

12 (i) remedies described in paragraphs (5), (6)
 13 or (8) of subsection (b) of Section 214 of this Act;
 14 or

15 (ii) a remedy, which is substantially similar
 16 to the remedies authorized under paragraphs (5),
 17 (6), or (8) of subsection (b) of Section 214 of this
 18 Act, in a valid order of protection which is
 19 authorized under the laws of another state, tribe,
 20 or United States territory.

21 (b) When violation is contempt of court. A violation of
 22 any valid Illinois order of protection, whether issued in a
 23 civil or criminal proceeding, may be enforced through civil
 24 or criminal contempt procedures, as appropriate, by any court
 25 with jurisdiction, regardless where the act or acts which
 26 violated the order of protection were committed, to the
 27 extent consistent with the venue provisions of this Act.
 28 Nothing in this Act shall preclude any Illinois court from
 29 enforcing any valid order of protection issued in another
 30 state. Illinois courts may enforce orders of protection
 31 through both criminal prosecution and contempt proceedings,
 32 unless the action which is second in time is barred by
 33 collateral estoppel or the constitutional prohibition against
 34 double jeopardy.

1 (1) In a contempt proceeding where the petition for
2 a rule to show cause sets forth facts evidencing an
3 immediate danger that the respondent will flee the
4 jurisdiction, conceal a child, or inflict physical abuse
5 on the petitioner or minor children or on dependent
6 adults in petitioner's care, the court may order the
7 attachment of the respondent without prior service of the
8 rule to show cause or the petition for a rule to show
9 cause. Bond shall be set unless specifically denied in
10 writing.

11 (2) A petition for a rule to show cause for
12 violation of an order of protection shall be treated as
13 an expedited proceeding.

14 (c) Violation of custody or support orders. A violation
15 of remedies described in paragraphs (5), (6), (8), or (9) of
16 subsection (b) of Section 214 of this Act may be enforced by
17 any remedy provided by Section 611 of the Illinois Marriage
18 and Dissolution of Marriage Act. The court may enforce any
19 order for support issued under paragraph (12) of subsection
20 (b) of Section 214 in the manner provided for under Articles
21 V and VII of the Illinois Marriage and Dissolution of
22 Marriage Act.

23 (d) Actual knowledge. An order of protection may be
24 enforced pursuant to this Section if the respondent violates
25 the order after the respondent has actual knowledge of its
26 contents as shown through one of the following means:

27 (1) By service, delivery, or notice under Section
28 210.

29 (2) By notice under Section 210.1 or 211.

30 (3) By service of an order of protection under
31 Section 222.

32 (4) By other means demonstrating actual knowledge
33 of the contents of the order.

34 (e) The enforcement of an order of protection in civil

1 or criminal court shall not be affected by either of the
2 following:

3 (1) The existence of a separate, correlative order,
4 entered under Section 215.

5 (2) Any finding or order entered in a conjoined
6 criminal proceeding.

7 (f) Circumstances. The court, when determining whether
8 or not a violation of an order of protection has occurred,
9 shall not require physical manifestations of abuse on the
10 person of the victim.

11 (g) Penalties.

12 (1) Except as provided in paragraph (3) of this
13 subsection, where the court finds the commission of a
14 crime or contempt of court under subsections (a) or (b)
15 of this Section, the penalty shall be the penalty that
16 generally applies in such criminal or contempt
17 proceedings, and may include one or more of the
18 following: incarceration, payment of restitution, a fine,
19 payment of attorneys' fees and costs, or community
20 service.

21 (2) The court shall hear and take into account
22 evidence of any factors in aggravation or mitigation
23 before deciding an appropriate penalty under paragraph
24 (1) of this subsection.

25 (3) To the extent permitted by law, the court is
26 encouraged to:

27 (i) increase the penalty for the knowing
28 violation of any order of protection over any
29 penalty previously imposed by any court for
30 respondent's violation of any order of protection or
31 penal statute involving petitioner as victim and
32 respondent as defendant;

33 (ii) impose a minimum penalty of 24 hours
34 imprisonment for respondent's first violation of any

1 order of protection; and
 2 (iii) impose a minimum penalty of 48 hours
 3 imprisonment for respondent's second or subsequent
 4 violation of an order of protection
 5 unless the court explicitly finds that an increased
 6 penalty or that period of imprisonment would be
 7 manifestly unjust.

8 (4) In addition to any other penalties imposed for
 9 a violation of an order of protection, a criminal court
 10 may consider evidence of any violations of an order of
 11 protection:

12 (i) to increase, revoke or modify the bail
 13 bond on an underlying criminal charge pursuant to
 14 Section 110-6 of the Code of Criminal Procedure of
 15 1963;

16 (ii) to revoke or modify an order of
 17 probation, conditional discharge or supervision,
 18 pursuant to Section 5-6-4 of the Unified Code of
 19 Corrections;

20 (iii) to revoke or modify a sentence of
 21 periodic imprisonment, pursuant to Section 5-7-2 of
 22 the Unified Code of Corrections.

23 (5) In addition to any other penalties, the court
 24 shall impose an additional fine of \$20 as authorized by
 25 Section 5-9-1.11 of the Unified Code of Corrections upon
 26 any person convicted of or placed on supervision for a
 27 violation of an order of protection. The additional fine
 28 shall be imposed for each violation of this Section.

29 (Source: P.A. 90-241, eff. 1-1-98; 91-903, eff. 1-1-01.)