

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.)