

1 AN ACT concerning visitation.

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-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  
9 petitioner has been abused by a family or household member,  
10 as defined in this Article, an order of protection  
11 prohibiting such abuse shall issue; provided that petitioner  
12 must also satisfy the requirements of one of the following  
13 Sections, as appropriate: Section 112A-17 on emergency  
14 orders, Section 112A-18 on interim orders, or Section 112A-19  
15 on plenary orders. Petitioner shall not be denied an order  
16 of protection because petitioner or respondent is a minor.  
17 The court, when determining whether or not to issue an order  
18 of protection, shall not require physical manifestations of  
19 abuse on the person of the victim. Modification and  
20 extension of prior orders of protection shall be in  
21 accordance with this Article.

22 (b) Remedies and standards. The remedies to be included  
23 in an order of protection shall be determined in accordance  
24 with this Section and one of the following Sections, as  
25 appropriate: Section 112A-17 on emergency orders, Section  
26 112A-18 on interim orders, and Section 112A-19 on plenary  
27 orders. The remedies listed in this subsection shall be in  
28 addition to other civil or criminal remedies available to  
29 petitioner.

30 (1) Prohibition of abuse. Prohibit respondent's  
31 harassment, interference with personal liberty,

1 intimidation of a dependent, physical abuse or willful  
2 deprivation, as defined in this Article, if such abuse  
3 has occurred or otherwise appears likely to occur if not  
4 prohibited.

5 (2) Grant of exclusive possession of residence.  
6 Prohibit respondent from entering or remaining in any  
7 residence or household of the petitioner, including one  
8 owned or leased by respondent, if petitioner has a right  
9 to occupancy thereof. The grant of exclusive possession  
10 of the residence shall not affect title to real property,  
11 nor shall the court be limited by the standard set forth  
12 in Section 701 of the Illinois Marriage and Dissolution  
13 of Marriage Act.

14 (A) Right to occupancy. A party has a right  
15 to occupancy of a residence or household if it is  
16 solely or jointly owned or leased by that party,  
17 that party's spouse, a person with a legal duty to  
18 support that party or a minor child in that party's  
19 care, or by any person or entity other than the  
20 opposing party that authorizes that party's  
21 occupancy (e.g., a domestic violence shelter).  
22 Standards set forth in subparagraph (B) shall not  
23 preclude equitable relief.

24 (B) Presumption of hardships. If petitioner  
25 and respondent each has the right to occupancy of a  
26 residence or household, the court shall balance (i)  
27 the hardships to respondent and any minor child or  
28 dependent adult in respondent's care resulting from  
29 entry of this remedy with (ii) the hardships to  
30 petitioner and any minor child or dependent adult in  
31 petitioner's care resulting from continued exposure  
32 to the risk of abuse (should petitioner remain at  
33 the residence or household) or from loss of  
34 possession of the residence or household (should

1 petitioner leave to avoid the risk of abuse). When  
2 determining the balance of hardships, the court  
3 shall also take into account the accessibility of  
4 the residence or household. Hardships need not be  
5 balanced if respondent does not have a right to  
6 occupancy.

7 The balance of hardships is presumed to favor  
8 possession by petitioner unless the presumption is  
9 rebutted by a preponderance of the evidence, showing  
10 that the hardships to respondent substantially  
11 outweigh the hardships to petitioner and any minor  
12 child or dependent adult in petitioner's care. The  
13 court, on the request of petitioner or on its own  
14 motion, may order respondent to provide suitable,  
15 accessible, alternate housing for petitioner instead  
16 of excluding respondent from a mutual residence or  
17 household.

18 (3) Stay away order and additional prohibitions.  
19 Order respondent to stay away from petitioner or any  
20 other person protected by the order of protection, or  
21 prohibit respondent from entering or remaining present at  
22 petitioner's school, place of employment, or other  
23 specified places at times when petitioner is present, or  
24 both, if reasonable, given the balance of hardships.  
25 Hardships need not be balanced for the court to enter a  
26 stay away order or prohibit entry if respondent has no  
27 right to enter the premises.

28 If an order of protection grants petitioner  
29 exclusive possession of the residence, or prohibits  
30 respondent from entering the residence, or orders  
31 respondent to stay away from petitioner or other  
32 protected persons, then the court may allow respondent  
33 access to the residence to remove items of clothing and  
34 personal adornment used exclusively by respondent,

1 medications, and other items as the court directs. The  
2 right to access shall be exercised on only one occasion  
3 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  
6 respondent to undergo counseling for a specified duration  
7 with a social worker, psychologist, clinical  
8 psychologist, psychiatrist, family service agency,  
9 alcohol or substance abuse program, mental health center  
10 guidance counselor, agency providing services to elders,  
11 program designed for domestic violence abusers or any  
12 other guidance service the court deems appropriate.

13 (5) Physical care and possession of the minor  
14 child. In order to protect the minor child from abuse,  
15 neglect, or unwarranted separation from the person who  
16 has been the minor child's primary caretaker, or to  
17 otherwise protect the well-being of the minor child, the  
18 court may do either or both of the following: (i) grant  
19 petitioner physical care or possession of the minor  
20 child, or both, or (ii) order respondent to return a  
21 minor child to, or not remove a minor child from, the  
22 physical care of a parent or person in loco parentis.

23 If a court finds, after a hearing, that respondent  
24 has committed abuse (as defined in Section 112A-3) of a  
25 minor child, there shall be a rebuttable presumption that  
26 awarding physical care to respondent would not be in the  
27 minor child's best interest.

28 (6) Temporary legal custody. Award temporary legal  
29 custody to petitioner in accordance with this Section,  
30 the Illinois Marriage and Dissolution of Marriage Act,  
31 the Illinois Parentage Act of 1984, and this State's  
32 Uniform Child Custody Jurisdiction Act.

33 If a court finds, after a hearing, that respondent  
34 has committed abuse (as defined in Section 112A-3) of a

1 minor child, there shall be a rebuttable presumption that  
2 awarding temporary legal custody to respondent would not  
3 be in the child's best interest.

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

23 Petitioner may deny respondent access to the minor  
24 child if, when respondent arrives for visitation,  
25 respondent is under the influence of drugs or alcohol and  
26 constitutes a threat to the safety and well-being of  
27 petitioner or petitioner's minor children or is behaving  
28 in a violent or abusive manner.

29 If necessary to protect any member of petitioner's  
30 family or household from future abuse, respondent shall  
31 be prohibited from coming to petitioner's residence to  
32 meet the minor child for visitation, and the parties  
33 shall submit to the court their recommendations for  
34 reasonable alternative arrangements for visitation. A

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

4 If an order of protection has been entered against  
5 one of the parties or in other appropriate circumstances,  
6 the court may appoint or may direct the Department of  
7 Children and Family Services to appoint a neutral third  
8 party to be present when the child is exchanged for  
9 visitation.

10 (8) Removal or concealment of minor child.  
11 Prohibit respondent from removing a minor child from the  
12 State or concealing the child within the State.

13 (9) Order to appear. Order the respondent to  
14 appear in court, alone or with a minor child, to prevent  
15 abuse, neglect, removal or concealment of the child, to  
16 return the child to the custody or care of the petitioner  
17 or to permit any court-ordered interview or examination  
18 of the child or the respondent.

19 (10) Possession of personal property. Grant  
20 petitioner exclusive possession of personal property and,  
21 if respondent has possession or control, direct  
22 respondent to promptly make it available to petitioner,  
23 if:

24 (i) petitioner, but not respondent, owns the  
25 property; or

26 (ii) the parties own the property jointly;  
27 sharing it would risk abuse of petitioner by  
28 respondent or is impracticable; and the balance of  
29 hardships favors temporary possession by petitioner.

30 If petitioner's sole claim to ownership of the  
31 property is that it is marital property, the court may  
32 award petitioner temporary possession thereof under the  
33 standards of subparagraph (ii) of this paragraph only if  
34 a proper proceeding has been filed under the Illinois

1 Marriage and Dissolution of Marriage Act, as now or  
2 hereafter amended.

3 No order under this provision shall affect title to  
4 property.

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

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

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

15 If petitioner's sole claim to ownership of the  
16 property is that it is marital property, the court may  
17 grant petitioner relief under subparagraph (ii) of this  
18 paragraph only if a proper proceeding has been filed  
19 under the Illinois Marriage and Dissolution of Marriage  
20 Act, as 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 (12) Order for payment of support. Order  
26 respondent to pay temporary support for the petitioner or  
27 any child in the petitioner's care or custody, when the  
28 respondent has a legal obligation to support that person,  
29 in accordance with the Illinois Marriage and Dissolution  
30 of Marriage Act, which shall govern, among other matters,  
31 the amount of support, payment through the clerk and  
32 withholding of income to secure payment. An order for  
33 child support may be granted to a petitioner with lawful  
34 physical care or custody of a child, or an order or

1 agreement for physical care or custody, prior to entry of  
2 an order for legal custody. Such a support order shall  
3 expire upon entry of a valid order granting legal custody  
4 to another, unless otherwise provided in the custody  
5 order.

6 (13) Order for payment of losses. Order respondent  
7 to pay petitioner for losses suffered as a direct result  
8 of the abuse. Such losses shall include, but not be  
9 limited to, medical expenses, lost earnings or other  
10 support, repair or replacement of property damaged or  
11 taken, reasonable attorney's fees, court costs and moving  
12 or other travel expenses, including additional reasonable  
13 expenses for temporary shelter and restaurant meals.

14 (i) Losses affecting family needs. If a party  
15 is entitled to seek maintenance, child support or  
16 property distribution from the other party under the  
17 Illinois Marriage and Dissolution of Marriage Act,  
18 as now or hereafter amended, the court may order  
19 respondent to reimburse petitioner's actual losses,  
20 to the extent that such reimbursement would be  
21 "appropriate temporary relief", as authorized by  
22 subsection (a)(3) of Section 501 of that Act.

23 (ii) Recovery of expenses. In the case of an  
24 improper concealment or removal of a minor child,  
25 the court may order respondent to pay the reasonable  
26 expenses incurred or to be incurred in the search  
27 for and recovery of the minor child, including but  
28 not limited to legal fees, court costs, private  
29 investigator fees, and travel costs.

30 (14) Prohibition of entry. Prohibit the respondent  
31 from entering or remaining in the residence or household  
32 while the respondent is under the influence of alcohol or  
33 drugs and constitutes a threat to the safety and  
34 well-being of the petitioner or the petitioner's



1 children.

2 (14.5) Prohibition of firearm possession. (a) When  
3 a complaint is made under a request for an order of  
4 protection, that the respondent has threatened or is  
5 likely to use firearms illegally against the petitioner,  
6 and the respondent is present in court, or has failed to  
7 appear after receiving actual notice, the court shall  
8 examine on oath the petitioner, and any witnesses who may  
9 be produced. If the court is satisfied that there is any  
10 danger of the illegal use of firearms, it shall include  
11 in the order of protection the requirement that any  
12 firearms in the possession of the respondent, except as  
13 provided in subsection (b), be turned over to the local  
14 law enforcement agency for safekeeping. If the  
15 respondent fails to appear, or refuses or fails to  
16 surrender his or her firearms, the court shall issue a  
17 warrant for seizure of any firearm in the possession of  
18 the respondent. The period of safekeeping shall be for a  
19 stated period of time not to exceed 2 years. The firearm  
20 or firearms shall be returned to the respondent at the  
21 end of the stated period or at expiration of the order of  
22 protection, whichever is sooner. (b) If the respondent is  
23 a peace officer as defined in Section 2-13 of the  
24 Criminal Code of 1961, the court shall order that any  
25 firearms used by the respondent in the performance of his  
26 or her duties as a peace officer be surrendered to the  
27 chief law enforcement executive of the agency in which  
28 the respondent is employed, who shall retain the firearms  
29 for safekeeping for the stated period not to exceed 2  
30 years as set forth in the court order.

31 (15) Prohibition of access to records. If an order  
32 of protection prohibits respondent from having contact  
33 with the minor child, or if petitioner's address is  
34 omitted under subsection (b) of Section 112A-5, or if

1 necessary to prevent abuse or wrongful removal or  
2 concealment of a minor child, the order shall deny  
3 respondent access to, and prohibit respondent from  
4 inspecting, obtaining, or attempting to inspect or  
5 obtain, school or any other records of the minor child  
6 who is in the care of petitioner.

7 (16) Order for payment of shelter services. Order  
8 respondent to reimburse a shelter providing temporary  
9 housing and counseling services to the petitioner for the  
10 cost of the services, as certified by the shelter and  
11 deemed reasonable by the court.

12 (17) Order for injunctive relief. Enter injunctive  
13 relief necessary or appropriate to prevent further abuse  
14 of a family or household member or to effectuate one of  
15 the granted remedies, if supported by the balance of  
16 hardships. If the harm to be prevented by the injunction  
17 is abuse or any other harm that one of the remedies  
18 listed in paragraphs (1) through (16) of this subsection  
19 is designed to prevent, no further evidence is necessary  
20 to establish that the harm is an irreparable injury.

21 (c) Relevant factors; findings.

22 (1) In determining whether to grant a specific  
23 remedy, other than payment of support, the court shall  
24 consider relevant factors, including but not limited to  
25 the following:

26 (i) the nature, frequency, severity, pattern  
27 and consequences of the respondent's past abuse of  
28 the petitioner or any family or household member,  
29 including the concealment of his or her location in  
30 order to evade service of process or notice, and the  
31 likelihood of danger of future abuse to petitioner  
32 or any member of petitioner's or respondent's family  
33 or household; and

34 (ii) the danger that any minor child will be

1           abused or neglected or improperly removed from the  
2           jurisdiction, improperly concealed within the State  
3           or improperly separated from the child's primary  
4           caretaker.

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

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

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

14                   (iii) the effect on the relationship of the  
15                   party, and any minor child or dependent adult in the  
16                   party's care, to family, school, church and  
17                   community.

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

22                   (i) That the court has considered the  
23                   applicable relevant factors described in paragraphs  
24                   (1) and (2) of this subsection.

25                   (ii) Whether the conduct or actions of  
26                   respondent, unless prohibited, will likely cause  
27                   irreparable harm or continued abuse.

28                   (iii) Whether it is necessary to grant the  
29                   requested relief in order to protect petitioner or  
30                   other alleged abused persons.

31           (4) For purposes of issuing an ex parte emergency  
32           order of protection, the court, as an alternative to or  
33           as a supplement to making the findings described in  
34           paragraphs (c)(3)(i) through (c)(3)(iii) of this

1 subsection, may use the following procedure:

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

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

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

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

34 (1) Respondent has cause for any use of force,

1 unless that cause satisfies the standards for justifiable  
2 use of force provided by Article VII of the Criminal Code  
3 of 1961;

4 (2) Respondent was voluntarily intoxicated;

5 (3) Petitioner acted in self-defense or defense of  
6 another, provided that, if petitioner utilized force,  
7 such force was justifiable under Article VII of the  
8 Criminal Code of 1961;

9 (4) Petitioner did not act in self-defense or  
10 defense of another;

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

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

15 (7) Conduct by any family or household member  
16 excused the abuse by respondent, unless that same conduct  
17 would have excused such abuse if the parties had not been  
18 family or household members.

19 (Source: P.A. 89-367, eff. 1-1-96.)

20 Section 10. The Illinois Marriage and Dissolution of  
21 Marriage Act is amended by changing Section 607 as follows:

22 (750 ILCS 5/607) (from Ch. 40, par. 607)

23 Sec. 607. Visitation.

24 (a) A parent not granted custody of the child is  
25 entitled to reasonable visitation rights unless the court  
26 finds, after a hearing, that visitation would endanger  
27 seriously the child's physical, mental, moral or emotional  
28 health. If the custodian's street address is not identified,  
29 pursuant to Section 708, the court shall require the parties  
30 to identify reasonable alternative arrangements for  
31 visitation by a non-custodial parent, including but not  
32 limited to visitation of the minor child at the residence of

1 another person or at a local public or private facility.

2 (b) (1) The court may grant reasonable visitation  
3 privileges to a grandparent, great-grandparent, or sibling of  
4 any minor child upon petition to the court by the  
5 grandparents or great-grandparents or on behalf of the  
6 sibling, with notice to the parties required to be notified  
7 under Section 601 of this Act, if the court determines that  
8 it is in the best interests and welfare of the child, and may  
9 issue any necessary orders to enforce such visitation  
10 privileges. Except as provided in paragraph (2) of this  
11 subsection (b), a petition for visitation privileges may be  
12 filed under this paragraph (1) whether or not a petition  
13 pursuant to this Act has been previously filed or is  
14 currently pending if one or more of the following  
15 circumstances exist:

16 (A) the parents are not currently cohabiting on a  
17 permanent or an indefinite basis;

18 (B) one of the parents has been absent from the  
19 marital abode for more than one month without the spouse  
20 knowing his or her whereabouts;

21 (C) one of the parents is deceased;

22 (D) one of the parents joins in the petition with  
23 the grandparents, great-grandparents, or sibling; or

24 (E) a sibling is in State custody.

25 (1.5) The Court may grant reasonable visitation  
26 privileges to a stepparent upon petition to the court by the  
27 stepparent, with notice to the parties required to be  
28 notified under Section 601 of this Act, if the court  
29 determines that it is in the best interests and welfare of  
30 the child, and may issue any necessary orders to enforce  
31 those visitation privileges. A petition for visitation  
32 privileges may be filed under this paragraph (1.5) whether or  
33 not a petition pursuant to this Act has been previously filed  
34 or is currently pending if the following circumstances are

1 met:

2 (A) the child is at least 12 years old;

3 (B) the child resided continuously with the parent  
4 and stepparent for at least 5 years;

5 (C) the parent is deceased or is disabled and is  
6 unable to care for the child;

7 (D) the child wishes to have reasonable visitation  
8 with the stepparent; and

9 (E) the stepparent was providing for the care,  
10 control, and welfare to the child prior to the initiation  
11 of the petition for visitation.

12 (2)(A) A petition for visitation privileges shall not be  
13 filed pursuant to this subsection (b) by the parents or  
14 grandparents of a putative father if the paternity of the  
15 putative father has not been legally established.

16 (B) A petition for visitation privileges may not be  
17 filed under this subsection (b) if the child who is the  
18 subject of the grandparents' or great-grandparents' petition  
19 has been voluntarily surrendered by the parent or parents,  
20 except for a surrender to the Illinois Department of Children  
21 and Family Services or a foster care facility, or has been  
22 previously adopted by an individual or individuals who are  
23 not related to the biological parents of the child or is the  
24 subject of a pending adoption petition by an individual or  
25 individuals who are not related to the biological parents of  
26 the child.

27 (3) When one parent is deceased, the surviving parent  
28 shall not interfere with the visitation rights of the  
29 grandparents.

30 (c) The court may modify an order granting or denying  
31 visitation rights of a parent whenever modification would  
32 serve the best interest of the child; but the court shall  
33 not restrict a parent's visitation rights unless it finds  
34 that the visitation would endanger seriously the child's

1 physical, mental, moral or emotional health. The court may  
2 modify an order granting, denying, or limiting visitation  
3 rights of a grandparent, great-grandparent, or sibling of any  
4 minor child whenever a change of circumstances has occurred  
5 based on facts occurring subsequent to the judgment and the  
6 court finds by clear and convincing evidence that the  
7 modification is in the best interest of the minor child.

8 (d) If any court has entered an order prohibiting a  
9 non-custodial parent of a child from any contact with a child  
10 or restricting the non-custodial parent's contact with the  
11 child, the following provisions shall apply:

12 (1) If an order has been entered granting  
13 visitation privileges with the child to a grandparent or  
14 great-grandparent who is related to the child through the  
15 non-custodial parent, the visitation privileges of the  
16 grandparent or great-grandparent may be revoked if:

17 (i) a court has entered an order prohibiting  
18 the non-custodial parent from any contact with the  
19 child, and the grandparent or great-grandparent is  
20 found to have used his or her visitation privileges  
21 to facilitate contact between the child and the  
22 non-custodial parent; or

23 (ii) a court has entered an order restricting  
24 the non-custodial parent's contact with the child,  
25 and the grandparent or great-grandparent is found to  
26 have used his or her visitation privileges to  
27 facilitate contact between the child and the  
28 non-custodial parent in a manner that violates the  
29 terms of the order restricting the non-custodial  
30 parent's contact with the child.

31 Nothing in this subdivision (1) limits the authority  
32 of the court to enforce its orders in any manner  
33 permitted by law.

34 (2) Any order granting visitation privileges with



1 the child to a grandparent or great-grandparent who is  
2 related to the child through the non-custodial parent  
3 shall contain the following provision:

4 "If the (grandparent or great-grandparent, whichever  
5 is applicable) who has been granted visitation privileges  
6 under this order uses the visitation privileges to  
7 facilitate contact between the child and the child's  
8 non-custodial parent, the visitation privileges granted  
9 under this order shall be permanently revoked."

10 (e) No parent, not granted custody of the child, or  
11 grandparent, or great-grandparent, or stepparent, or sibling  
12 of any minor child, convicted of any offense involving an  
13 illegal sex act perpetrated upon a victim less than 18 years  
14 of age including but not limited to offenses for violations  
15 of Article 12 of the Criminal Code of 1961, is entitled to  
16 visitation rights while incarcerated or while on parole,  
17 probation, conditional discharge, periodic imprisonment, or  
18 mandatory supervised release for that offense, and upon  
19 discharge from incarceration for a misdemeanor offense or  
20 upon discharge from parole, probation, conditional discharge,  
21 periodic imprisonment, or mandatory supervised release for a  
22 felony offense, visitation shall be denied until the person  
23 successfully completes a treatment program approved by the  
24 court.

25 (f) Unless the court determines, after considering all  
26 relevant factors, including but not limited to those set  
27 forth in Section 602(a), that it would be in the best  
28 interests of the child to allow visitation, the court shall  
29 not enter an order providing visitation rights and pursuant  
30 to a motion to modify visitation shall revoke visitation  
31 rights previously granted to any person who would otherwise  
32 be entitled to petition for visitation rights under this  
33 Section who has been convicted of first degree murder of the  
34 parent, grandparent, great-grandparent, or sibling of the

1 child who is the subject of the order. Until an order is  
2 entered pursuant to this subsection, no person shall visit,  
3 with the child present, a person who has been convicted of  
4 first degree murder of the parent, grandparent,  
5 great-grandparent, or sibling of the child without the  
6 consent of the child's parent, other than a parent convicted  
7 of first degree murder as set forth herein, or legal  
8 guardian.

9 (h-5) If an order of protection has been entered against  
10 one of the parties or in other appropriate circumstances, the  
11 court may appoint or may direct the Department of Children  
12 and Family Services to appoint a neutral third party to be  
13 present when the child is exchanged for visitation.

14 (g) If an order has been entered limiting, for cause, a  
15 minor child's contact or visitation with a grandparent,  
16 great-grandparent, or sibling on the grounds that it was in  
17 the best interest of the child to do so, that order may be  
18 modified only upon a showing of a substantial change in  
19 circumstances occurring subsequent to the entry of the order  
20 with proof by clear and convincing evidence that modification  
21 is in the best interest of the minor child.

22 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;  
23 91-357, eff. 7-29-99; 91-610, eff. 8-19-99.)

24 Section 15. The Illinois Domestic Violence Act of 1986  
25 is amended by changing Section 214 as follows:

26 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

27 Sec. 214. Order of protection; remedies.

28 (a) Issuance of order. If the court finds that  
29 petitioner has been abused by a family or household member or  
30 that petitioner is a high-risk adult who has been abused,  
31 neglected, or exploited, as defined in this Act, an order of  
32 protection prohibiting the abuse, neglect, or exploitation

1 shall issue; provided that petitioner must also satisfy the  
2 requirements of one of the following Sections, as  
3 appropriate: Section 217 on emergency orders, Section 218 on  
4 interim orders, or Section 219 on plenary orders. Petitioner  
5 shall not be denied an order of protection because petitioner  
6 or respondent is a minor. The court, when determining whether  
7 or not to issue an order of protection, shall not require  
8 physical manifestations of abuse on the person of the victim.  
9 Modification and extension of prior orders of protection  
10 shall be in accordance with this Act.

11 (b) Remedies and standards. The remedies to be included  
12 in an order of protection shall be determined in accordance  
13 with this Section and one of the following Sections, as  
14 appropriate: Section 217 on emergency orders, Section 218 on  
15 interim orders, and Section 219 on plenary orders. The  
16 remedies listed in this subsection shall be in addition to  
17 other civil or criminal remedies available to petitioner.

18 (1) Prohibition of abuse, neglect, or exploitation.  
19 Prohibit respondent's harassment, interference with  
20 personal liberty, intimidation of a dependent, physical  
21 abuse, or willful deprivation, neglect or exploitation,  
22 as defined in this Act, or stalking of the petitioner, as  
23 defined in Section 12-7.3 of the Criminal Code of 1961,  
24 if such abuse, neglect, exploitation, or stalking has  
25 occurred or otherwise appears likely to occur if not  
26 prohibited.

27 (2) Grant of exclusive possession of residence.  
28 Prohibit respondent from entering or remaining in any  
29 residence or household of the petitioner, including one  
30 owned or leased by respondent, if petitioner has a right  
31 to occupancy thereof. The grant of exclusive possession  
32 of the residence shall not affect title to real property,  
33 nor shall the court be limited by the standard set forth  
34 in Section 701 of the Illinois Marriage and Dissolution

1 of Marriage Act.

2 (A) Right to occupancy. A party has a right  
3 to occupancy of a residence or household if it is  
4 solely or jointly owned or leased by that party,  
5 that party's spouse, a person with a legal duty to  
6 support that party or a minor child in that party's  
7 care, or by any person or entity other than the  
8 opposing party that authorizes that party's  
9 occupancy (e.g., a domestic violence shelter).  
10 Standards set forth in subparagraph (B) shall not  
11 preclude equitable relief.

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

29 The balance of hardships is presumed to favor  
30 possession by petitioner unless the presumption is  
31 rebutted by a preponderance of the evidence, showing  
32 that the hardships to respondent substantially  
33 outweigh the hardships to petitioner and any minor  
34 child or dependent adult in petitioner's care. The

1 court, on the request of petitioner or on its own  
2 motion, may order respondent to provide suitable,  
3 accessible, alternate housing for petitioner instead  
4 of excluding respondent from a mutual residence or  
5 household.

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

16 If an order of protection grants petitioner  
17 exclusive possession of the residence, or prohibits  
18 respondent from entering the residence, or orders  
19 respondent to stay away from petitioner or other  
20 protected persons, then the court may allow respondent  
21 access to the residence to remove items of clothing and  
22 personal adornment used exclusively by respondent,  
23 medications, and other items as the court directs. The  
24 right to access shall be exercised on only one occasion  
25 as the court directs and in the presence of an  
26 agreed-upon adult third party or law enforcement officer.

27 (4) Counseling. Require or recommend the  
28 respondent to undergo counseling for a specified duration  
29 with a social worker, psychologist, clinical  
30 psychologist, psychiatrist, family service agency,  
31 alcohol or substance abuse program, mental health center  
32 guidance counselor, agency providing services to elders,  
33 program designed for domestic violence abusers or any  
34 other guidance service the court deems appropriate.

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

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

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

21           If a court finds, after a hearing, that respondent  
22 has committed abuse (as defined in Section 103) of a  
23 minor child, there shall be a rebuttable presumption that  
24 awarding temporary legal custody to respondent would not  
25 be in the child's best interest.

26           (7) Visitation. Determine the visitation rights,  
27 if any, of respondent in any case in which the court  
28 awards physical care or temporary legal custody of a  
29 minor child to petitioner. The court shall restrict or  
30 deny respondent's visitation with a minor child if the  
31 court finds that respondent has done or is likely to do  
32 any of the following: (i) abuse or endanger the minor  
33 child during visitation; (ii) use the visitation as an  
34 opportunity to abuse or harass petitioner or petitioner's

1 family or household members; (iii) improperly conceal or  
2 detain the minor child; or (iv) otherwise act in a manner  
3 that is not in the best interests of the minor child.  
4 The court shall not be limited by the standards set forth  
5 in Section 607.1 of the Illinois Marriage and Dissolution  
6 of Marriage Act. If the court grants visitation, the  
7 order shall specify dates and times for the visitation to  
8 take place or other specific parameters or conditions  
9 that are appropriate. No order for visitation shall  
10 refer merely to the term "reasonable visitation".

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

17 If necessary to protect any member of petitioner's  
18 family or household from future abuse, respondent shall  
19 be prohibited from coming to petitioner's residence to  
20 meet the minor child for visitation, and the parties  
21 shall submit to the court their recommendations for  
22 reasonable alternative arrangements for visitation. A  
23 person may be approved to supervise visitation only after  
24 filing an affidavit accepting that responsibility and  
25 acknowledging accountability to the court.

26 If an order of protection has been entered against  
27 one of the parties or in other appropriate circumstances,  
28 the court may appoint or may direct the Department of  
29 Children and Family Services to appoint a neutral third  
30 party to be present when the child is exchanged for  
31 visitation.

32 (8) Removal or concealment of minor child. Prohibit  
33 respondent from removing a minor child from the State or  
34 concealing the child within the State.

1           (9) Order to appear. Order the respondent to  
2 appear in court, alone or with a minor child, to prevent  
3 abuse, neglect, removal or concealment of the child, to  
4 return the child to the custody or care of the petitioner  
5 or to permit any court-ordered interview or examination  
6 of the child or the respondent.

7           (10) Possession of personal property. Grant  
8 petitioner exclusive possession of personal property and,  
9 if respondent has possession or control, direct  
10 respondent to promptly make it available to petitioner,  
11 if:

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

14                   (ii) the parties own the property jointly;  
15 sharing it would risk abuse of petitioner by  
16 respondent or is impracticable; and the balance of  
17 hardships favors temporary possession by petitioner.

18           If petitioner's sole claim to ownership of the  
19 property is that it is marital property, the court may  
20 award petitioner temporary possession thereof under the  
21 standards of subparagraph (ii) of this paragraph only if  
22 a proper proceeding has been filed under the Illinois  
23 Marriage and Dissolution of Marriage Act, as now or  
24 hereafter amended.

25           No order under this provision shall affect title to  
26 property.

27           (11) Protection of property. Forbid the respondent  
28 from taking, transferring, encumbering, concealing,  
29 damaging or otherwise disposing of any real or personal  
30 property, except as explicitly authorized by the court,  
31 if:

32                   (i) petitioner, but not respondent, owns the  
33 property; or

34                   (ii) the parties own the property jointly, and



1           the balance of hardships favors granting this  
2           remedy.

3           If petitioner's sole claim to ownership of the  
4           property is that it is marital property, the court may  
5           grant petitioner relief under subparagraph (ii) of this  
6           paragraph only if a proper proceeding has been filed  
7           under the Illinois Marriage and Dissolution of Marriage  
8           Act, as now or hereafter amended.

9           The court may further prohibit respondent from  
10          improperly using the financial or other resources of an  
11          aged member of the family or household for the profit or  
12          advantage of respondent or of any other person.

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

28          (13) Order for payment of losses. Order respondent  
29          to pay petitioner for losses suffered as a direct result  
30          of the abuse, neglect, or exploitation. Such losses  
31          shall include, but not be limited to, medical expenses,  
32          lost earnings or other support, repair or replacement of  
33          property damaged or taken, reasonable attorney's fees,  
34          court costs and moving or other travel expenses,

1 including additional reasonable expenses for temporary  
2 shelter and restaurant meals.

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

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

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

25 (14.5) Prohibition of firearm possession.

26 (a) When a complaint is made under a request  
27 for an order of protection, that the respondent has  
28 threatened or is likely to use firearms illegally  
29 against the petitioner, and the respondent is  
30 present in court, or has failed to appear after  
31 receiving actual notice, the court shall examine on  
32 oath the petitioner, and any witnesses who may be  
33 produced. If the court is satisfied that there is  
34 any danger of the illegal use of firearms, it shall

1 issue an order that any firearms in the possession  
2 of the respondent, except as provided in subsection  
3 (b), be turned over to the local law enforcement  
4 agency for safekeeping. If the respondent has  
5 failed to appear, the court shall issue a warrant  
6 for seizure of any firearm in the possession of the  
7 respondent. The period of safekeeping shall be for a  
8 stated period of time not to exceed 2 years. The  
9 firearm or firearms shall be returned to the  
10 respondent at the end of the stated period or at  
11 expiration of the order of protection, whichever is  
12 sooner.

13 (b) If the respondent is a peace officer as  
14 defined in Section 2-13 of the Criminal Code of  
15 1961, the court shall order that any firearms used  
16 by the respondent in the performance of his or her  
17 duties as a peace officer be surrendered to the  
18 chief law enforcement executive of the agency in  
19 which the respondent is employed, who shall retain  
20 the firearms for safekeeping for the stated period  
21 not to exceed 2 years as set forth in the court  
22 order.

23 (15) Prohibition of access to records. If an order  
24 of protection prohibits respondent from having contact  
25 with the minor child, or if petitioner's address is  
26 omitted under subsection (b) of Section 203, or if  
27 necessary to prevent abuse or wrongful removal or  
28 concealment of a minor child, the order shall deny  
29 respondent access to, and prohibit respondent from  
30 inspecting, obtaining, or attempting to inspect or  
31 obtain, school or any other records of the minor child  
32 who is in the care of petitioner.

33 (16) Order for payment of shelter services. Order  
34 respondent to reimburse a shelter providing temporary

1 housing and counseling services to the petitioner for the  
2 cost of the services, as certified by the shelter and  
3 deemed reasonable by the court.

4 (17) Order for injunctive relief. Enter injunctive  
5 relief necessary or appropriate to prevent further abuse  
6 of a family or household member or further abuse,  
7 neglect, or exploitation of a high-risk adult with  
8 disabilities or to effectuate one of the granted  
9 remedies, if supported by the balance of hardships. If  
10 the harm to be prevented by the injunction is abuse or  
11 any other harm that one of the remedies listed in  
12 paragraphs (1) through (16) of this subsection is  
13 designed to prevent, no further evidence is necessary  
14 that the harm is an irreparable injury.

15 (c) Relevant factors; findings.

16 (1) In determining whether to grant a specific  
17 remedy, other than payment of support, the court shall  
18 consider relevant factors, including but not limited to  
19 the following:

20 (i) the nature, frequency, severity, pattern  
21 and consequences of the respondent's past abuse,  
22 neglect or exploitation of the petitioner or any  
23 family or household member, including the  
24 concealment of his or her location in order to evade  
25 service of process or notice, and the likelihood of  
26 danger of future abuse, neglect, or exploitation to  
27 petitioner or any member of petitioner's or  
28 respondent's family or household; and

29 (ii) the danger that any minor child will be  
30 abused or neglected or improperly removed from the  
31 jurisdiction, improperly concealed within the State  
32 or improperly separated from the child's primary  
33 caretaker.

34 (2) In comparing relative hardships resulting to

1 the parties from loss of possession of the family home,  
2 the court shall consider relevant factors, including but  
3 not limited to the following:

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

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

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

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

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

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

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

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

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

1 emergency order of protection shall be issued by the  
2 court if it appears from the contents of the petition and  
3 the 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  
6 emergency order of protection.

7 (5) Never married parties. No rights or  
8 responsibilities for a minor child born outside of  
9 marriage attach to a putative father until a father and  
10 child relationship has been established under the  
11 Illinois Parentage Act of 1984, the Illinois Public Aid  
12 Code, Section 12 of the Vital Records Act, the Juvenile  
13 Court Act of 1987, the Probate Act of 1985, the Revised  
14 Uniform Reciprocal Enforcement of Support Act, the  
15 Uniform Interstate Family Support Act, the Expedited  
16 Child Support Act of 1990, any judicial, administrative,  
17 or other act of another state or territory, any other  
18 Illinois statute, or by any foreign nation establishing  
19 the father and child relationship, any other proceeding  
20 substantially in conformity with the Personal  
21 Responsibility and Work Opportunity Reconciliation Act of  
22 1996 (Pub. L. 104-193), or where both parties appeared in  
23 open court or at an administrative hearing acknowledging  
24 under oath or admitting by affirmation the existence of  
25 a father and child relationship. Absent such an  
26 adjudication, finding, or acknowledgement, no putative  
27 father shall be granted temporary custody of the minor  
28 child, visitation with the minor child, or physical care  
29 and possession of the minor child, nor shall an order of  
30 payment for support of the minor child be entered.

31 (d) Balance of hardships; findings. If the court finds  
32 that the balance of hardships does not support the granting  
33 of a remedy governed by paragraph (2), (3), (10), (11), or  
34 (16) of subsection (b) of this Section, which may require

1 such balancing, the court's findings shall so indicate and  
2 shall include a finding as to whether granting the remedy  
3 will result in hardship to respondent that would  
4 substantially outweigh the hardship to petitioner from denial  
5 of the remedy. The findings shall be an official record or in  
6 writing.

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

9 (1) Respondent has cause for any use of force,  
10 unless that cause satisfies the standards for justifiable  
11 use of force provided by Article VII of the Criminal Code  
12 of 1961;

13 (2) Respondent was voluntarily intoxicated;

14 (3) Petitioner acted in self-defense or defense of  
15 another, provided that, if petitioner utilized force,  
16 such force was justifiable under Article VII of the  
17 Criminal Code of 1961;

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

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

23 (6) Petitioner did not leave the residence or  
24 household to avoid further abuse, neglect, or  
25 exploitation by respondent;

26 (7) Conduct by any family or household member  
27 excused the abuse, neglect, or exploitation by  
28 respondent, unless that same conduct would have excused  
29 such abuse, neglect, or exploitation if the parties had  
30 not been family or household members.

31 (Source: P.A. 89-367, eff. 1-1-96; 90-118, eff. 1-1-98.)

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law.