



Sen. Cheryl Axley

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LRB094 18261 RLC 57719 a

1 AMENDMENT TO HOUSE BILL 5216

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5216 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Firearm Owners Identification Card Act is  
5 amended by changing Section 8 and by adding Section 8.2 as  
6 follows:

7 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

8 Sec. 8. The Department of State Police has authority to  
9 deny an application for or to revoke and seize a Firearm  
10 Owner's Identification Card previously issued under this Act  
11 only if the Department finds that the applicant or the person  
12 to whom such card was issued is or was at the time of issuance:

13 (a) A person under 21 years of age who has been convicted  
14 of a misdemeanor other than a traffic offense or adjudged  
15 delinquent;

16 (b) A person under 21 years of age who does not have the  
17 written consent of his parent or guardian to acquire and  
18 possess firearms and firearm ammunition, or whose parent or  
19 guardian has revoked such written consent, or where such parent  
20 or guardian does not qualify to have a Firearm Owner's  
21 Identification Card;

22 (c) A person convicted of a felony under the laws of this  
23 or any other jurisdiction;

24 (d) A person addicted to narcotics;

1 (e) A person who has been a patient of a mental institution  
2 within the past 5 years;

3 (f) A person whose mental condition is of such a nature  
4 that it poses a clear and present danger to the applicant, any  
5 other person or persons or the community;

6 For the purposes of this Section, "mental condition" means  
7 a state of mind manifested by violent, suicidal, threatening or  
8 assaultive behavior.

9 (g) A person who is mentally retarded;

10 (h) A person who intentionally makes a false statement in  
11 the Firearm Owner's Identification Card application;

12 (i) An alien who is unlawfully present in the United States  
13 under the laws of the United States;

14 (i-5) An alien who has been admitted to the United States  
15 under a non-immigrant visa (as that term is defined in Section  
16 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.  
17 1101(a)(26))), except that this subsection (i-5) does not apply  
18 to any alien who has been lawfully admitted to the United  
19 States under a non-immigrant visa if that alien is:

20 (1) admitted to the United States for lawful hunting or  
21 sporting purposes;

22 (2) an official representative of a foreign government  
23 who is:

24 (A) accredited to the United States Government or  
25 the Government's mission to an international  
26 organization having its headquarters in the United  
27 States; or

28 (B) en route to or from another country to which  
29 that alien is accredited;

30 (3) an official of a foreign government or  
31 distinguished foreign visitor who has been so designated by  
32 the Department of State;

33 (4) a foreign law enforcement officer of a friendly  
34 foreign government entering the United States on official

1 business; or

2 (5) one who has received a waiver from the Attorney  
3 General of the United States pursuant to 18 U.S.C.  
4 922 (y) (3);

5 (j) (Blank) ~~A person who is subject to an existing order of~~  
6 ~~protection prohibiting him or her from possessing a firearm;~~

7 (k) A person who has been convicted within the past 5 years  
8 of battery, assault, aggravated assault, violation of an order  
9 of protection, or a substantially similar offense in another  
10 jurisdiction, in which a firearm was used or possessed;

11 (l) A person who has been convicted of domestic battery or  
12 a substantially similar offense in another jurisdiction  
13 committed on or after January 1, 1998;

14 (m) A person who has been convicted within the past 5 years  
15 of domestic battery or a substantially similar offense in  
16 another jurisdiction committed before January 1, 1998;

17 (n) A person who is prohibited from acquiring or possessing  
18 firearms or firearm ammunition by any Illinois State statute or  
19 by federal law;

20 (o) A minor subject to a petition filed under Section 5-520  
21 of the Juvenile Court Act of 1987 alleging that the minor is a  
22 delinquent minor for the commission of an offense that if  
23 committed by an adult would be a felony; or

24 (p) An adult who had been adjudicated a delinquent minor  
25 under the Juvenile Court Act of 1987 for the commission of an  
26 offense that if committed by an adult would be a felony.

27 (Source: P.A. 92-854, eff. 12-5-02; 93-367, eff. 1-1-04.)

28 (430 ILCS 65/8.2 new)

29 Sec. 8.2. Firearm Owner's Identification Card denial or  
30 revocation. The Department of State Police shall deny an  
31 application or shall revoke and seize a Firearm Owner's  
32 Identification Card previously issued under this Act if the  
33 Department finds that the applicant or person to whom such card

1 was issued is or was at the time of issuance subject to an  
2 existing order of protection.

3 Section 10. The Code of Criminal Procedure of 1963 is  
4 amended by changing Section 112A-14 as follows:

5 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

6 Sec. 112A-14. Order of protection; remedies.

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

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

27 (1) Prohibition of abuse. Prohibit respondent's  
28 harassment, interference with personal liberty,  
29 intimidation of a dependent, physical abuse or willful  
30 deprivation, as defined in this Article, if such abuse has  
31 occurred or otherwise appears likely to occur if not  
32 prohibited.

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

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

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

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

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

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

32          (4) Counseling. Require or recommend the respondent to  
33          undergo counseling for a specified duration with a social  
34          worker, psychologist, clinical psychologist, psychiatrist,

1 family service agency, alcohol or substance abuse program,  
2 mental health center guidance counselor, agency providing  
3 services to elders, program designed for domestic violence  
4 abusers or any other guidance service the court deems  
5 appropriate.

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

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

21 (6) Temporary legal custody. Award temporary legal  
22 custody to petitioner in accordance with this Section, the  
23 Illinois Marriage and Dissolution of Marriage Act, the  
24 Illinois Parentage Act of 1984, and this State's Uniform  
25 Child-Custody Jurisdiction and Enforcement Act.

26 If a court finds, after a hearing, that respondent has  
27 committed abuse (as defined in Section 112A-3) of a minor  
28 child, there shall be a rebuttable presumption that  
29 awarding temporary legal custody to respondent would not be  
30 in the child's best interest.

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

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

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

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

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

34 (9) Order to appear. Order the respondent to appear in



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

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

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

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

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

23 No order under this provision shall affect title to  
24 property.

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

29 (i) petitioner, but not respondent, owns the  
30 property; or

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

33 If petitioner's sole claim to ownership of the property  
34 is that it is marital property, the court may grant

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

5 The court may further prohibit respondent from  
6 improperly using the financial or other resources of an  
7 aged member of the family or household for the profit or  
8 advantage of respondent or of any other person.

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

23 (13) Order for payment of losses. Order respondent to  
24 pay petitioner for losses suffered as a direct result of  
25 the abuse. Such losses shall include, but not be limited  
26 to, medical expenses, lost earnings or other support,  
27 repair or replacement of property damaged or taken,  
28 reasonable attorney's fees, court costs and moving or other  
29 travel expenses, including additional reasonable expenses  
30 for temporary shelter and restaurant meals.

31 (i) Losses affecting family needs. If a party is  
32 entitled to seek maintenance, child support or  
33 property distribution from the other party under the  
34 Illinois Marriage and Dissolution of Marriage Act, as

1           now or hereafter amended, the court may order  
2           respondent to reimburse petitioner's actual losses, to  
3           the extent that such reimbursement would be  
4           "appropriate temporary relief", as authorized by  
5           subsection (a) (3) of Section 501 of that Act.

6           (ii) Recovery of expenses. In the case of an  
7           improper concealment or removal of a minor child, the  
8           court may order respondent to pay the reasonable  
9           expenses incurred or to be incurred in the search for  
10          and recovery of the minor child, including but not  
11          limited to legal fees, court costs, private  
12          investigator fees, and travel costs.

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

18          (14.5) Prohibition of firearm possession. (a) When a  
19          complaint is made under a request for an order of  
20          protection, that the respondent has threatened or is likely  
21          to use firearms illegally against the petitioner, and the  
22          respondent is present in court, or has failed to appear  
23          after receiving actual notice, the court shall examine on  
24          oath the petitioner, and any witnesses who may be produced.  
25          If the court is satisfied that there is any danger of the  
26          illegal use of firearms, it shall include in the order of  
27          protection the requirement that any firearms and any  
28          Firearm Owner's Identification Card in the possession of  
29          the respondent, except as provided in subsection (b), be  
30          turned over to the local law enforcement agency for  
31          safekeeping. If the respondent fails to appear, or refuses  
32          or fails to surrender his or her firearms or Firearm  
33          Owner's Identification Card, the court shall issue a  
34          warrant for seizure of any firearm and any Firearm Owner's

1        Identification Card in the possession of the respondent.  
2        The period of safekeeping shall be for a stated period of  
3        time not to exceed 2 years. The firearm or firearms and any  
4        Firearm Owner's Identification Card shall be returned to  
5        the respondent at the end of the stated period or at  
6        expiration of the order of protection, whichever is sooner.

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

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

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

30       (17) Order for injunctive relief. Enter injunctive  
31       relief necessary or appropriate to prevent further abuse of  
32       a family or household member or to effectuate one of the  
33       granted remedies, if supported by the balance of hardships.  
34       If the harm to be prevented by the injunction is abuse or

1 any other harm that one of the remedies listed in  
2 paragraphs (1) through (16) of this subsection is designed  
3 to prevent, no further evidence is necessary to establish  
4 that the harm is an irreparable injury.

5 (c) Relevant factors; findings.

6 (1) In determining whether to grant a specific remedy,  
7 other than payment of support, the court shall consider  
8 relevant factors, including but not limited to the  
9 following:

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

18 (ii) the danger that any minor child will be abused  
19 or neglected or improperly removed from the  
20 jurisdiction, improperly concealed within the State or  
21 improperly separated from the child's primary  
22 caretaker.

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

27 (i) availability, accessibility, cost, safety,  
28 adequacy, location and other characteristics of  
29 alternate housing for each party and any minor child or  
30 dependent adult in the party's care;

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

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

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

5           (i) That the court has considered the applicable  
6           relevant factors described in paragraphs (1) and (2) of  
7           this subsection.

8           (ii) Whether the conduct or actions of respondent,  
9           unless prohibited, will likely cause irreparable harm  
10          or continued abuse.

11          (iii) Whether it is necessary to grant the  
12          requested relief in order to protect petitioner or  
13          other alleged abused persons.

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

19          When a verified petition for an emergency order of  
20          protection in accordance with the requirements of Sections  
21          112A-5 and 112A-17 is presented to the court, the court  
22          shall examine petitioner on oath or affirmation. An  
23          emergency order of protection shall be issued by the court  
24          if it appears from the contents of the petition and the  
25          examination of petitioner that the averments are  
26          sufficient to indicate abuse by respondent and to support  
27          the granting of relief under the issuance of the emergency  
28          order of protection.

29          (5) Never married parties. No rights or  
30          responsibilities for a minor child born outside of marriage  
31          attach to a putative father until a father and child  
32          relationship has been established under the Illinois  
33          Parentage Act of 1984. Absent such an adjudication, no  
34          putative father shall be granted temporary custody of the

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

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

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

15 (1) Respondent has cause for any use of force, unless  
16 that cause satisfies the standards for justifiable use of  
17 force provided by Article VII of the Criminal Code of 1961;

18 (2) Respondent was voluntarily intoxicated;

19 (3) Petitioner acted in self-defense or defense of  
20 another, provided that, if petitioner utilized force, such  
21 force was justifiable under Article VII of the Criminal  
22 Code of 1961;

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

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

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

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

33 (Source: P.A. 93-108, eff. 1-1-04.)

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

3           (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

4           Sec. 214. Order of protection; remedies.

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

20           (b) Remedies and standards. The remedies to be included in  
21 an order of protection shall be determined in accordance with  
22 this Section and one of the following Sections, as appropriate:  
23 Section 217 on emergency orders, Section 218 on interim orders,  
24 and Section 219 on plenary orders. The remedies listed in this  
25 subsection shall be in addition to other civil or criminal  
26 remedies available to petitioner.

27           (1) Prohibition of abuse, neglect, or exploitation.  
28           Prohibit respondent's harassment, interference with  
29 personal liberty, intimidation of a dependent, physical  
30 abuse, or willful deprivation, neglect or exploitation, as  
31 defined in this Act, or stalking of the petitioner, as  
32 defined in Section 12-7.3 of the Criminal Code of 1961, if  
33 such abuse, neglect, exploitation, or stalking has



1 occurred or otherwise appears likely to occur if not  
2 prohibited.

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

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

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

1 Hardships need not be balanced if respondent does not  
2 have a right to occupancy.

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

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

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

34 (4) Counseling. Require or recommend the respondent to

1       undergo counseling for a specified duration with a social  
2       worker, psychologist, clinical psychologist, psychiatrist,  
3       family service agency, alcohol or substance abuse program,  
4       mental health center guidance counselor, agency providing  
5       services to elders, program designed for domestic violence  
6       abusers or any other guidance service the court deems  
7       appropriate.

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

18      If a court finds, after a hearing, that respondent has  
19      committed abuse (as defined in Section 103) of a minor  
20      child, there shall be a rebuttable presumption that  
21      awarding physical care to respondent would not be in the  
22      minor child's best interest.

23      (6) Temporary legal custody. Award temporary legal  
24      custody to petitioner in accordance with this Section, the  
25      Illinois Marriage and Dissolution of Marriage Act, the  
26      Illinois Parentage Act of 1984, and this State's Uniform  
27      Child-Custody Jurisdiction and Enforcement Act.

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

33      (7) Visitation. Determine the visitation rights, if  
34      any, of respondent in any case in which the court awards

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

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

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

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

1 concealing the child within the State.

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

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

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

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

18 If petitioner's sole claim to ownership of the property  
19 is that it is marital property, the court may award  
20 petitioner temporary possession thereof under the  
21 standards of subparagraph (ii) of this paragraph only if a  
22 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, if:

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

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

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

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

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

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

34                 (i) Losses affecting family needs. If a party is

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

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

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

21 (14.5) Prohibition of firearm possession.

22 (a) When a complaint is made under a request for an  
23 order of protection, that the respondent has  
24 threatened or is likely to use firearms illegally  
25 against the petitioner, and the respondent is present  
26 in court, or has failed to appear after receiving  
27 actual notice, the court shall examine on oath the  
28 petitioner, and any witnesses who may be produced. If  
29 the court is satisfied that there is any danger of the  
30 illegal use of firearms, it shall issue an order that  
31 any firearms and any Firearm Owner's Identification  
32 Card in the possession of the respondent, except as  
33 provided in subsection (b), be turned over to the local  
34 law enforcement agency for safekeeping. If the

1           respondent has failed to appear, the court shall issue  
2           a warrant for seizure of any firearm and Firearm  
3           Owner's Identification Card in the possession of the  
4           respondent. The period of safekeeping shall be for a  
5           stated period of time not to exceed 2 years. The  
6           firearm or firearms and Firearm Owner's Identification  
7           Card shall be returned to the respondent at the end of  
8           the stated period or at expiration of the order of  
9           protection, whichever is sooner.

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

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

29           (16) Order for payment of shelter services. Order  
30           respondent to reimburse a shelter providing temporary  
31           housing and counseling services to the petitioner for the  
32           cost of the services, as certified by the shelter and  
33           deemed reasonable by the court.

34           (17) Order for injunctive relief. Enter injunctive



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

10 (c) Relevant factors; findings.

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

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

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

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

32 (i) availability, accessibility, cost, safety,  
33 adequacy, location and other characteristics of  
34 alternate housing for each party and any minor child or

1 dependent adult in the party's care;

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

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

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

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

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

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

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

24 When a verified petition for an emergency order of  
25 protection in accordance with the requirements of Sections  
26 203 and 217 is presented to the court, the court shall  
27 examine petitioner on oath or affirmation. An emergency  
28 order of protection shall be issued by the court if it  
29 appears from the contents of the petition and the  
30 examination of petitioner that the averments are  
31 sufficient to indicate abuse by respondent and to support  
32 the granting of relief under the issuance of the emergency  
33 order of protection.

34 (5) Never married parties. No rights or

1 responsibilities for a minor child born outside of marriage  
2 attach to a putative father until a father and child  
3 relationship has been established under the Illinois  
4 Parentage Act of 1984, the Illinois Public Aid Code,  
5 Section 12 of the Vital Records Act, the Juvenile Court Act  
6 of 1987, the Probate Act of 1985, the Revised Uniform  
7 Reciprocal Enforcement of Support Act, the Uniform  
8 Interstate Family Support Act, the Expedited Child Support  
9 Act of 1990, any judicial, administrative, or other act of  
10 another state or territory, any other Illinois statute, or  
11 by any foreign nation establishing the father and child  
12 relationship, any other proceeding substantially in  
13 conformity with the Personal Responsibility and Work  
14 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),  
15 or where both parties appeared in open court or at an  
16 administrative hearing acknowledging under oath or  
17 admitting by affirmation the existence of a father and  
18 child relationship. Absent such an adjudication, finding,  
19 or acknowledgement, no putative father shall be granted  
20 temporary custody of the minor child, visitation with the  
21 minor child, or physical care and possession of the minor  
22 child, nor shall an order of payment for support of the  
23 minor child be entered.

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

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

1           (1) Respondent has cause for any use of force, unless  
2 that cause satisfies the standards for justifiable use of  
3 force provided by Article VII of the Criminal Code 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, such  
7 force was justifiable under Article VII of the Criminal  
8 Code of 1961;

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

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

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

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

21 (Source: P.A. 93-108, eff. 1-1-04.)".