



Sen. William R. Haine

Filed: 4/6/2005

09400SB1911sam003

LRB094 08687 LCB 44046 a

1 AMENDMENT TO SENATE BILL 1911

2 AMENDMENT NO. _____. Amend Senate Bill 1911 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Domestic Violence Act of 1986 is
5 amended by changing Sections 103 and 201.1 as follows:

6 (750 ILCS 60/103) (from Ch. 40, par. 2311-3)

7 Sec. 103. Definitions. For the purposes of this Act, the
8 following terms shall have the following meanings:

9 (1) "Abuse" means physical abuse, harassment, intimidation
10 of a dependent, interference with personal liberty or willful
11 deprivation but does not include reasonable direction of a
12 minor child by a parent or person in loco parentis.

13 (2) Blank. ~~"Adult with disabilities" means an elder adult
14 with disabilities or a high risk adult with disabilities. A
15 person may be an adult with disabilities for purposes of this
16 Act even though he or she has never been adjudicated an
17 incompetent adult. However, no court proceeding may be
18 initiated or continued on behalf of an adult with disabilities
19 over that adult's objection, unless such proceeding is approved
20 by his or her legal guardian, if any.~~

21 (3) "Domestic violence" means abuse as defined in paragraph
22 (1).

23 (4) Blank. ~~"Elder adult with disabilities" means an adult
24 prevented by advanced age from taking appropriate action to~~

1 ~~protect himself or herself from abuse by a family or household~~
2 ~~member.~~

3 (5) "Exploitation" means the illegal, including tortious,
4 use of a high-risk adult with disabilities or of the assets or
5 resources of a high-risk adult with disabilities. Exploitation
6 includes, but is not limited to, the misappropriation of assets
7 or resources of a high-risk adult with disabilities by undue
8 influence, by breach of a fiduciary relationship, by fraud,
9 deception, or extortion, or the use of such assets or resources
10 in a manner contrary to law.

11 (6) "Family or household members" include spouses, former
12 spouses, parents, children, stepchildren and other persons
13 related by blood or by present or prior marriage, persons who
14 share or formerly shared a common dwelling, persons who have or
15 allegedly have a child in common, persons who share or
16 allegedly share a blood relationship through a child, persons
17 who have or have had a dating or engagement relationship,
18 persons with disabilities and their personal assistants, and
19 caregivers as defined in paragraph (3) of subsection (b) of
20 Section 12-21 of the Criminal Code of 1961. For purposes of
21 this paragraph, neither a casual acquaintanceship nor ordinary
22 fraternization between 2 individuals in business or social
23 contexts shall be deemed to constitute a dating relationship.
24 In the case of a high-risk adult with disabilities, "family or
25 household members" includes any person who has the
26 responsibility for a high-risk adult as a result of a family
27 relationship or who has assumed responsibility for all or a
28 portion of the care of a high-risk adult with disabilities
29 voluntarily, or by express or implied contract, or by court
30 order.

31 (7) "Harassment" means knowing conduct which is not
32 necessary to accomplish a purpose that is reasonable under the
33 circumstances; would cause a reasonable person emotional
34 distress; and does cause emotional distress to the petitioner.

1 Unless the presumption is rebutted by a preponderance of the
2 evidence, the following types of conduct shall be presumed to
3 cause emotional distress:

4 (i) creating a disturbance at petitioner's place of
5 employment or school;

6 (ii) repeatedly telephoning petitioner's place of
7 employment, home or residence;

8 (iii) repeatedly following petitioner about in a
9 public place or places;

10 (iv) repeatedly keeping petitioner under surveillance
11 by remaining present outside his or her home, school, place
12 of employment, vehicle or other place occupied by
13 petitioner or by peering in petitioner's windows;

14 (v) improperly concealing a minor child from
15 petitioner, repeatedly threatening to improperly remove a
16 minor child of petitioner's from the jurisdiction or from
17 the physical care of petitioner, repeatedly threatening to
18 conceal a minor child from petitioner, or making a single
19 such threat following an actual or attempted improper
20 removal or concealment, unless respondent was fleeing an
21 incident or pattern of domestic violence; or

22 (vi) threatening physical force, confinement or
23 restraint on one or more occasions.

24 (8) "High-risk adult with disabilities" means a person aged
25 18 or over whose physical or mental disability or advanced age
26 impairs his or her ability to seek or obtain protection from
27 abuse, neglect, or exploitation. A person may be a high-risk
28 adult with disabilities for purposes of this Act even though he
29 or she has never been adjudicated an incompetent adult.

30 (9) "Interference with personal liberty" means committing
31 or threatening physical abuse, harassment, intimidation or
32 willful deprivation so as to compel another to engage in
33 conduct from which she or he has a right to abstain or to
34 refrain from conduct in which she or he has a right to engage.

1 (10) "Intimidation of a dependent" means subjecting a
2 person who is dependent because of age, health or disability to
3 participation in or the witnessing of: physical force against
4 another or physical confinement or restraint of another which
5 constitutes physical abuse as defined in this Act, regardless
6 of whether the abused person is a family or household member.

7 (11) (A) "Neglect" means the failure to exercise that
8 degree of care toward a high-risk adult with disabilities which
9 a reasonable person would exercise under the circumstances and
10 includes but is not limited to:

11 (i) the failure to take reasonable steps to protect a
12 high-risk adult with disabilities from acts of abuse;

13 (ii) the repeated, careless imposition of unreasonable
14 confinement;

15 (iii) the failure to provide food, shelter, clothing,
16 and personal hygiene to a high-risk adult with disabilities
17 who requires such assistance;

18 (iv) the failure to provide medical and rehabilitative
19 care for the physical and mental health needs of a
20 high-risk adult with disabilities; or

21 (v) the failure to protect a high-risk adult with
22 disabilities from health and safety hazards.

23 (B) Nothing in this subsection (10) shall be construed to
24 impose a requirement that assistance be provided to a high-risk
25 adult with disabilities over his or her objection in the
26 absence of a court order, nor to create any new affirmative
27 duty to provide support to a high-risk adult with disabilities.

28 (12) "Order of protection" means an emergency order,
29 interim order or plenary order, granted pursuant to this Act,
30 which includes any or all of the remedies authorized by Section
31 214 of this Act.

32 (13) "Petitioner" may mean not only any named petitioner
33 for the order of protection and any named victim of abuse on
34 whose behalf the petition is brought, but also any other person

1 protected by this Act.

2 (14) "Physical abuse" includes sexual abuse and means any
3 of the following:

4 (i) knowing or reckless use of physical force,
5 confinement or restraint;

6 (ii) knowing, repeated and unnecessary sleep
7 deprivation; or

8 (iii) knowing or reckless conduct which creates an
9 immediate risk of physical harm.

10 (14.5) "Stay away" means for the respondent to refrain from
11 both physical presence and nonphysical contact with the
12 petitioner whether direct, indirect (including, but not
13 limited to, telephone calls, mail, email, faxes, and written
14 notes), or through third parties who may or may not know about
15 the order of protection.

16 (15) "Willful deprivation" means wilfully denying a person
17 who because of age, health or disability requires medication,
18 medical care, shelter, accessible shelter or services, food,
19 therapeutic device, or other physical assistance, and thereby
20 exposing that person to the risk of physical, mental or
21 emotional harm, except with regard to medical care or treatment
22 when the dependent person has expressed an intent to forgo such
23 medical care or treatment. This paragraph does not create any
24 new affirmative duty to provide support to dependent persons.

25 (Source: P.A. 92-253, eff. 1-1-02; 93-811, eff. 1-1-05.)

26 (750 ILCS 60/201.1) (from Ch. 40, par. 2312-1.1)

27 Sec. 201.1. Access of high-risk adults. No person shall
28 obstruct or impede the access of a high-risk adult with
29 disabilities to any agency or organization authorized to file a
30 petition for an order of protection under Section 201 of this
31 Act for the purpose of a private visit relating to legal
32 rights, entitlements, claims and services under this Act and
33 Section 1 of "An Act in relation to domestic relations and

1 domestic violence shelters and service programs", approved
2 September 24, 1981, as now or hereafter amended. If a person
3 does so obstruct or impede such access of a high-risk adult
4 with disabilities, local law enforcement agencies shall take
5 all appropriate action to assist the party seeking access in
6 petitioning for a search warrant or an ex parte injunctive
7 order. Such warrant or order may issue upon a showing of
8 probable cause to believe that the high-risk adult with
9 disabilities is the subject of abuse, neglect, or exploitation
10 which constitutes a criminal offense or that any other criminal
11 offense is occurring which affects the interests or welfare of
12 the high-risk adult with disabilities. When, from the personal
13 observations of a law enforcement officer, it appears probable
14 that delay of entry in order to obtain a warrant or order would
15 cause the high-risk adult with disabilities to be in imminent
16 danger of death or great bodily harm, entry may be made by the
17 law enforcement officer after an announcement of the officer's
18 authority and purpose.

19 No court proceedings may be initiated or continued on
20 behalf of a high-risk adult with disabilities over that adult's
21 objection, unless the proceeding is approved by his or her
22 legal guardian, if any. In cases where a legal guardian of the
23 high-risk adult with disabilities objects to court proceedings
24 on behalf of the adult and the guardian is alleged or
25 substantiated to have abused, neglected, or exploited the
26 adult, the court shall consider such allegations or
27 substantiation in determining whether court proceedings under
28 this Act should be initiated or continued.

29 (Source: P.A. 86-542.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law."