



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0397

Introduced 1/26/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Public Aid Code, the Circuit Courts Act, the Juvenile Court Act of 1987, the Illinois Marriage and Dissolution of Marriage Act, and other Acts. Provides that the chief judge of each circuit shall establish a separate family division for the circuit for the purpose of hearing all family cases. Provides that the chief judge shall designate an appropriate number of circuit judges or associate judges, or both, to serve in the family division. Provides that "family case" means an action in which the court exercises its jurisdiction under Article X of the Illinois Public Aid Code (concerning the enforcement of child support obligations), Article II, III, or IV of the Juvenile Court Act of 1987 (concerning abused, neglected, or dependent minors, minors requiring authoritative intervention, and addicted minors), the Illinois Marriage and Dissolution of Marriage Act, and other designated Acts. Provides for a right to trial by jury in family cases. (Under current law, trial by jury is expressly prohibited under the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, and the Illinois Domestic Violence Act of 1986.) Provides that the court may order parties to a family case to undergo counseling as the court deems appropriate, based on the evidence.

LRB095 05270 AJO 25348 b

1 AN ACT in relation to courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 10-10 as follows:

6 (305 ILCS 5/10-10) (from Ch. 23, par. 10-10)

7 Sec. 10-10. Court enforcement; applicability also to
8 persons who are not applicants or recipients. Except where the
9 Illinois Department, by agreement, acts for the local
10 governmental unit, as provided in Section 10-3.1, local
11 governmental units shall refer to the State's Attorney or to
12 the proper legal representative of the governmental unit, for
13 judicial enforcement as herein provided, instances of
14 non-support or insufficient support when the dependents are
15 applicants or recipients under Article VI. The Child and Spouse
16 Support Unit established by Section 10-3.1 may institute in
17 behalf of the Illinois Department any actions under this
18 Section for judicial enforcement of the support liability when
19 the dependents are (a) applicants or recipients under Articles
20 III, IV, V or VII; (b) applicants or recipients in a local
21 governmental unit when the Illinois Department, by agreement,
22 acts for the unit; or (c) non-applicants or non-recipients who
23 are receiving child support enforcement services under this

1 Article X, as provided in Section 10-1. Where the Child and
2 Spouse Support Unit has exercised its option and discretion not
3 to apply the provisions of Sections 10-3 through 10-8, the
4 failure by the Unit to apply such provisions shall not be a bar
5 to bringing an action under this Section.

6 Action shall be brought in the circuit court to obtain
7 support, or for the recovery of aid granted during the period
8 such support was not provided, or both for the obtainment of
9 support and the recovery of the aid provided. Actions for the
10 recovery of aid may be taken separately or they may be
11 consolidated with actions to obtain support. Such actions may
12 be brought in the name of the person or persons requiring
13 support, or may be brought in the name of the Illinois
14 Department or the local governmental unit, as the case
15 requires, in behalf of such persons.

16 In accordance with the Code of Civil Procedure, in an
17 action to obtain support or for the recovery of aid, the
18 responsible relative, a person requiring support, the
19 Department of Human Services, or the local governmental unit
20 may demand a trial by jury as to the issues of fact raised in
21 the action.

22 The court may enter such orders for the payment of moneys
23 for the support of the person as may be just and equitable and
24 may direct payment thereof for such period or periods of time
25 as the circumstances require, including support for a period
26 before the date the order for support is entered. The order may

1 be entered against any or all of the defendant responsible
2 relatives and may be based upon the proportionate ability of
3 each to contribute to the person's support.

4 The Court shall determine the amount of child support
5 (including child support for a period before the date the order
6 for child support is entered) by using the guidelines and
7 standards set forth in subsection (a) of Section 505 and in
8 Section 505.2 of the Illinois Marriage and Dissolution of
9 Marriage Act. For purposes of determining the amount of child
10 support to be paid for a period before the date the order for
11 child support is entered, there is a rebuttable presumption
12 that the responsible relative's net income for that period was
13 the same as his or her net income at the time the order is
14 entered.

15 If (i) the responsible relative was properly served with a
16 request for discovery of financial information relating to the
17 responsible relative's ability to provide child support, (ii)
18 the responsible relative failed to comply with the request,
19 despite having been ordered to do so by the court, and (iii)
20 the responsible relative is not present at the hearing to
21 determine support despite having received proper notice, then
22 any relevant financial information concerning the responsible
23 relative's ability to provide child support that was obtained
24 pursuant to subpoena and proper notice shall be admitted into
25 evidence without the need to establish any further foundation
26 for its admission.

1 An order entered under this Section shall include a
2 provision requiring the obligor to report to the obligee and to
3 the clerk of court within 10 days each time the obligor obtains
4 new employment, and each time the obligor's employment is
5 terminated for any reason. The report shall be in writing and
6 shall, in the case of new employment, include the name and
7 address of the new employer. Failure to report new employment
8 or the termination of current employment, if coupled with
9 nonpayment of support for a period in excess of 60 days, is
10 indirect criminal contempt. For any obligor arrested for
11 failure to report new employment bond shall be set in the
12 amount of the child support that should have been paid during
13 the period of unreported employment. An order entered under
14 this Section shall also include a provision requiring the
15 obligor and obligee parents to advise each other of a change in
16 residence within 5 days of the change except when the court
17 finds that the physical, mental, or emotional health of a party
18 or that of a minor child, or both, would be seriously
19 endangered by disclosure of the party's address.

20 The Court shall determine the amount of maintenance using
21 the standards set forth in Section 504 of the Illinois Marriage
22 and Dissolution of Marriage Act.

23 Any new or existing support order entered by the court
24 under this Section shall be deemed to be a series of judgments
25 against the person obligated to pay support thereunder, each
26 such judgment to be in the amount of each payment or

1 installment of support and each such judgment to be deemed
2 entered as of the date the corresponding payment or installment
3 becomes due under the terms of the support order. Each such
4 judgment shall have the full force, effect and attributes of
5 any other judgment of this State, including the ability to be
6 enforced. Any such judgment is subject to modification or
7 termination only in accordance with Section 510 of the Illinois
8 Marriage and Dissolution of Marriage Act. A lien arises by
9 operation of law against the real and personal property of the
10 noncustodial parent for each installment of overdue support
11 owed by the noncustodial parent.

12 In an action to obtain support or for the recovery of aid,
13 the court at any time may order the responsible relative or a
14 person requiring support to undergo counseling as the court
15 deems appropriate, based on the evidence, for the purpose of
16 ensuring the payment of any required support or recovered aid.

17 When an order is entered for the support of a minor, the
18 court may provide therein for reasonable visitation of the
19 minor by the person or persons who provided support pursuant to
20 the order. Whoever willfully refuses to comply with such
21 visitation order or willfully interferes with its enforcement
22 may be declared in contempt of court and punished therefor.

23 Except where the local governmental unit has entered into
24 an agreement with the Illinois Department for the Child and
25 Spouse Support Unit to act for it, as provided in Section
26 10-3.1, support orders entered by the court in cases involving

1 applicants or recipients under Article VI shall provide that
2 payments thereunder be made directly to the local governmental
3 unit. Orders for the support of all other applicants or
4 recipients shall provide that payments thereunder be made
5 directly to the Illinois Department. In accordance with federal
6 law and regulations, the Illinois Department may continue to
7 collect current maintenance payments or child support
8 payments, or both, after those persons cease to receive public
9 assistance and until termination of services under Article X.
10 The Illinois Department shall pay the net amount collected to
11 those persons after deducting any costs incurred in making the
12 collection or any collection fee from the amount of any
13 recovery made. In both cases the order shall permit the local
14 governmental unit or the Illinois Department, as the case may
15 be, to direct the responsible relative or relatives to make
16 support payments directly to the needy person, or to some
17 person or agency in his behalf, upon removal of the person from
18 the public aid rolls or upon termination of services under
19 Article X.

20 If the notice of support due issued pursuant to Section
21 10-7 directs that support payments be made directly to the
22 needy person, or to some person or agency in his behalf, and
23 the recipient is removed from the public aid rolls, court
24 action may be taken against the responsible relative hereunder
25 if he fails to furnish support in accordance with the terms of
26 such notice.

1 Actions may also be brought under this Section in behalf of
2 any person who is in need of support from responsible
3 relatives, as defined in Section 2-11 of Article II who is not
4 an applicant for or recipient of financial aid under this Code.
5 In such instances, the State's Attorney of the county in which
6 such person resides shall bring action against the responsible
7 relatives hereunder. If the Illinois Department, as authorized
8 by Section 10-1, extends the child support enforcement services
9 provided by this Article to spouses and dependent children who
10 are not applicants or recipients under this Code, the Child and
11 Spouse Support Unit established by Section 10-3.1 shall bring
12 action against the responsible relatives hereunder and any
13 support orders entered by the court in such cases shall provide
14 that payments thereunder be made directly to the Illinois
15 Department.

16 Whenever it is determined in a proceeding to establish or
17 enforce a child support or maintenance obligation that the
18 person owing a duty of support is unemployed, the court may
19 order the person to seek employment and report periodically to
20 the court with a diary, listing or other memorandum of his or
21 her efforts in accordance with such order. Additionally, the
22 court may order the unemployed person to report to the
23 Department of Employment Security for job search services or to
24 make application with the local Job Training Partnership Act
25 provider for participation in job search, training or work
26 programs and where the duty of support is owed to a child

1 receiving child support enforcement services under this
2 Article X, the court may order the unemployed person to report
3 to the Illinois Department for participation in job search,
4 training or work programs established under Section 9-6 and
5 Article IXA of this Code.

6 Whenever it is determined that a person owes past-due
7 support for a child receiving assistance under this Code, the
8 court shall order at the request of the Illinois Department:

9 (1) that the person pay the past-due support in
10 accordance with a plan approved by the court; or

11 (2) if the person owing past-due support is unemployed,
12 is subject to such a plan, and is not incapacitated, that
13 the person participate in such job search, training, or
14 work programs established under Section 9-6 and Article IXA
15 of this Code as the court deems appropriate.

16 A determination under this Section shall not be
17 administratively reviewable by the procedures specified in
18 Sections 10-12, and 10-13 to 10-13.10. Any determination under
19 these Sections, if made the basis of court action under this
20 Section, shall not affect the de novo judicial determination
21 required under this Section.

22 A one-time charge of 20% is imposable upon the amount of
23 past-due child support owed on July 1, 1988 which has accrued
24 under a support order entered by the court. The charge shall be
25 imposed in accordance with the provisions of Section 10-21 of
26 this Code and shall be enforced by the court upon petition.

1 All orders for support, when entered or modified, shall
2 include a provision requiring the non-custodial parent to
3 notify the court and, in cases in which a party is receiving
4 child support enforcement services under this Article X, the
5 Illinois Department, within 7 days, (i) of the name, address,
6 and telephone number of any new employer of the non-custodial
7 parent, (ii) whether the non-custodial parent has access to
8 health insurance coverage through the employer or other group
9 coverage and, if so, the policy name and number and the names
10 of persons covered under the policy, and (iii) of any new
11 residential or mailing address or telephone number of the
12 non-custodial parent. In any subsequent action to enforce a
13 support order, upon a sufficient showing that a diligent effort
14 has been made to ascertain the location of the non-custodial
15 parent, service of process or provision of notice necessary in
16 the case may be made at the last known address of the
17 non-custodial parent in any manner expressly provided by the
18 Code of Civil Procedure or this Code, which service shall be
19 sufficient for purposes of due process.

20 An order for support shall include a date on which the
21 current support obligation terminates. The termination date
22 shall be no earlier than the date on which the child covered by
23 the order will attain the age of 18. However, if the child will
24 not graduate from high school until after attaining the age of
25 18, then the termination date shall be no earlier than the
26 earlier of the date on which the child's high school graduation

1 will occur or the date on which the child will attain the age
2 of 19. The order for support shall state that the termination
3 date does not apply to any arrearage that may remain unpaid on
4 that date. Nothing in this paragraph shall be construed to
5 prevent the court from modifying the order or terminating the
6 order in the event the child is otherwise emancipated.

7 If there is an unpaid arrearage or delinquency (as those
8 terms are defined in the Income Withholding for Support Act)
9 equal to at least one month's support obligation on the
10 termination date stated in the order for support or, if there
11 is no termination date stated in the order, on the date the
12 child attains the age of majority or is otherwise emancipated,
13 then the periodic amount required to be paid for current
14 support of that child immediately prior to that date shall
15 automatically continue to be an obligation, not as current
16 support but as periodic payment toward satisfaction of the
17 unpaid arrearage or delinquency. That periodic payment shall be
18 in addition to any periodic payment previously required for
19 satisfaction of the arrearage or delinquency. The total
20 periodic amount to be paid toward satisfaction of the arrearage
21 or delinquency may be enforced and collected by any method
22 provided by law for the enforcement and collection of child
23 support, including but not limited to income withholding under
24 the Income Withholding for Support Act. Each order for support
25 entered or modified on or after the effective date of this
26 amendatory Act of the 93rd General Assembly must contain a

1 statement notifying the parties of the requirements of this
2 paragraph. Failure to include the statement in the order for
3 support does not affect the validity of the order or the
4 operation of the provisions of this paragraph with regard to
5 the order. This paragraph shall not be construed to prevent or
6 affect the establishment or modification of an order for the
7 support of a minor child or the establishment or modification
8 of an order for the support of a non-minor child or educational
9 expenses under Section 513 of the Illinois Marriage and
10 Dissolution of Marriage Act.

11 Payments under this Section to the Illinois Department
12 pursuant to the Child Support Enforcement Program established
13 by Title IV-D of the Social Security Act shall be paid into the
14 Child Support Enforcement Trust Fund. All payments under this
15 Section to the Illinois Department of Human Services shall be
16 deposited in the DHS Recoveries Trust Fund. Disbursements from
17 these funds shall be as provided in Sections 12-9.1 and 12-10.2
18 of this Code. Payments received by a local governmental unit
19 shall be deposited in that unit's General Assistance Fund.

20 To the extent the provisions of this Section are
21 inconsistent with the requirements pertaining to the State
22 Disbursement Unit under Sections 10-10.4 and 10-26 of this
23 Code, the requirements pertaining to the State Disbursement
24 Unit shall apply.

25 (Source: P.A. 93-1061, eff. 1-1-05; 94-88, eff. 1-1-06; revised
26 8-9-05.)

1 Section 10. The Circuit Courts Act is amended by adding
2 Section 4.4 as follows:

3 (705 ILCS 35/4.4 new)

4 Sec. 4.4. Family Division.

5 (a) In this Section, "family case" means an action in which
6 the court exercises its jurisdiction under any of the
7 following:

8 (1) Article X of the Illinois Public Aid Code.

9 (2) Article II, III, or IV of the Juvenile Court Act of
10 1987.

11 (3) Article 112A of the Code of Criminal Procedure of
12 1963.

13 (4) The Illinois Marriage and Dissolution of Marriage
14 Act.

15 (5) The Illinois Uniform Premarital Agreement Act.

16 (6) The Uniform Interstate Family Support Act.

17 (7) The Income Withholding for Support Act.

18 (8) The Emancipation of Minors Act.

19 (9) The Uniform Child-Custody Jurisdiction and
20 Enforcement Act.

21 (10) The Illinois Parentage Act.

22 (11) The Illinois Parentage Act of 1984.

23 (12) The Gestational Surrogacy Act.

24 (13) The Adoption Act.

1 (14) The Illinois Domestic Violence Act of 1986.

2 (15) The Rights of Married Persons Act.

3 (b) The chief judge of each circuit shall establish a
4 separate family division for the circuit. In each circuit,
5 every hearing or other proceeding in a family case shall be
6 assigned to the family division.

7 (c) The chief judge of each circuit shall designate an
8 appropriate number of circuit judges or associate judges, or
9 both, to serve in the family division.

10 (d) This Section applies to all family cases pending on the
11 effective date of this amendatory Act of the 95th General
12 Assembly or commenced on or after that date.

13 Section 15. The Juvenile Court Act of 1987 is amended by
14 changing Sections 1-5, 2-20, 2-23, 3-21, 3-24, 4-18, and 4-21
15 as follows:

16 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

17 Sec. 1-5. Rights of parties to proceedings.

18 (1) Except as provided in this Section and paragraph (2) of
19 Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who is the
20 subject of the proceeding and his parents, guardian, legal
21 custodian or responsible relative who are parties respondent
22 have the right to be present, to be heard, to present evidence
23 material to the proceedings, to cross-examine witnesses, to
24 examine pertinent court files and records and also, although

1 proceedings under this Act are not intended to be adversary in
2 character, the right to be represented by counsel. At the
3 request of any party financially unable to employ counsel, with
4 the exception of a foster parent permitted to intervene under
5 this Section, the court shall appoint the Public Defender or
6 such other counsel as the case may require. Counsel appointed
7 for the minor and any indigent party shall appear at all stages
8 of the trial court proceeding, and such appointment shall
9 continue through the permanency hearings and termination of
10 parental rights proceedings subject to withdrawal or
11 substitution pursuant to Supreme Court Rules or the Code of
12 Civil Procedure. Following the dispositional hearing, the
13 court may require appointed counsel, other than counsel for the
14 minor or counsel for the guardian ad litem, to withdraw his or
15 her appearance upon failure of the party for whom counsel was
16 appointed under this Section to attend any subsequent
17 proceedings.

18 No hearing on any petition or motion filed under this Act
19 may be commenced unless the minor who is the subject of the
20 proceeding is represented by counsel. Notwithstanding the
21 preceding sentence, if a guardian ad litem has been appointed
22 for the minor under Section 2-17 of this Act and the guardian
23 ad litem is a licensed attorney at law of this State, or in the
24 event that a court appointed special advocate has been
25 appointed as guardian ad litem and counsel has been appointed
26 to represent the court appointed special advocate, the court

1 may not require the appointment of counsel to represent the
2 minor unless the court finds that the minor's interests are in
3 conflict with what the guardian ad litem determines to be in
4 the best interest of the minor. Each adult respondent shall be
5 furnished a written "Notice of Rights" at or before the first
6 hearing at which he or she appears.

7 (1.5) The Department shall maintain a system of response to
8 inquiry made by parents or putative parents as to whether their
9 child is under the custody or guardianship of the Department;
10 and if so, the Department shall direct the parents or putative
11 parents to the appropriate court of jurisdiction, including
12 where inquiry may be made of the clerk of the court regarding
13 the case number and the next scheduled court date of the
14 minor's case. Effective notice and the means of accessing
15 information shall be given to the public on a continuing basis
16 by the Department.

17 (2) (a) Though not appointed guardian or legal custodian or
18 otherwise made a party to the proceeding, any current or
19 previously appointed foster parent or relative caregiver, or
20 representative of an agency or association interested in the
21 minor has the right to be heard by the court, but does not
22 thereby become a party to the proceeding.

23 In addition to the foregoing right to be heard by the
24 court, any current foster parent or relative caregiver of a
25 minor and the agency designated by the court or the Department
26 of Children and Family Services as custodian of the minor who

1 is alleged to be or has been adjudicated an abused or neglected
2 minor under Section 2-3 or a dependent minor under Section 2-4
3 of this Act has the right to and shall be given adequate notice
4 at all stages of any hearing or proceeding under this Act.

5 Any foster parent or relative caregiver who is denied his
6 or her right to be heard under this Section may bring a
7 mandamus action under Article XIV of the Code of Civil
8 Procedure against the court or any public agency to enforce
9 that right. The mandamus action may be brought immediately upon
10 the denial of those rights but in no event later than 30 days
11 after the foster parent has been denied the right to be heard.

12 (b) If after an adjudication that a minor is abused or
13 neglected as provided under Section 2-21 of this Act and a
14 motion has been made to restore the minor to any parent,
15 guardian, or legal custodian found by the court to have caused
16 the neglect or to have inflicted the abuse on the minor, a
17 foster parent may file a motion to intervene in the proceeding
18 for the sole purpose of requesting that the minor be placed
19 with the foster parent, provided that the foster parent (i) is
20 the current foster parent of the minor or (ii) has previously
21 been a foster parent for the minor for one year or more, has a
22 foster care license or is eligible for a license, and is not
23 the subject of any findings of abuse or neglect of any child.
24 The juvenile court may only enter orders placing a minor with a
25 specific foster parent under this subsection (2) (b) and nothing
26 in this Section shall be construed to confer any jurisdiction

1 or authority on the juvenile court to issue any other orders
2 requiring the appointed guardian or custodian of a minor to
3 place the minor in a designated foster home or facility. This
4 Section is not intended to encompass any matters that are
5 within the scope or determinable under the administrative and
6 appeal process established by rules of the Department of
7 Children and Family Services under Section 5(o) of the Children
8 and Family Services Act. Nothing in this Section shall relieve
9 the court of its responsibility, under Section 2-14(a) of this
10 Act to act in a just and speedy manner to reunify families
11 where it is the best interests of the minor and the child can
12 be cared for at home without endangering the child's health or
13 safety and, if reunification is not in the best interests of
14 the minor, to find another permanent home for the minor.
15 Nothing in this Section, or in any order issued by the court
16 with respect to the placement of a minor with a foster parent,
17 shall impair the ability of the Department of Children and
18 Family Services, or anyone else authorized under Section 5 of
19 the Abused and Neglected Child Reporting Act, to remove a minor
20 from the home of a foster parent if the Department of Children
21 and Family Services or the person removing the minor has reason
22 to believe that the circumstances or conditions of the minor
23 are such that continuing in the residence or care of the foster
24 parent will jeopardize the child's health and safety or present
25 an imminent risk of harm to that minor's life.

26 (c) If a foster parent has had the minor who is the subject

1 of the proceeding under Article II in his or her home for more
2 than one year on or after July 3, 1994 and if the minor's
3 placement is being terminated from that foster parent's home,
4 that foster parent shall have standing and intervenor status
5 except in those circumstances where the Department of Children
6 and Family Services or anyone else authorized under Section 5
7 of the Abused and Neglected Child Reporting Act has removed the
8 minor from the foster parent because of a reasonable belief
9 that the circumstances or conditions of the minor are such that
10 continuing in the residence or care of the foster parent will
11 jeopardize the child's health or safety or presents an imminent
12 risk of harm to the minor's life.

13 (d) The court may grant standing to any foster parent if
14 the court finds that it is in the best interest of the child
15 for the foster parent to have standing and intervenor status.

16 (3) Parties respondent are entitled to notice in compliance
17 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or
18 5-525 and 5-530, as appropriate. At the first appearance before
19 the court by the minor, his parents, guardian, custodian or
20 responsible relative, the court shall explain the nature of the
21 proceedings and inform the parties of their rights under the
22 first 2 paragraphs of this Section.

23 If the child is alleged to be abused, neglected or
24 dependent, the court shall admonish the parents that if the
25 court declares the child to be a ward of the court and awards
26 custody or guardianship to the Department of Children and

1 Family Services, the parents must cooperate with the Department
2 of Children and Family Services, comply with the terms of the
3 service plans, and correct the conditions that require the
4 child to be in care, or risk termination of their parental
5 rights.

6 Upon an adjudication of wardship of the court under
7 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform the
8 parties of their right to appeal therefrom as well as from any
9 other final judgment of the court.

10 When the court finds that a child is an abused, neglected,
11 or dependent minor under Section 2-21, the court shall admonish
12 the parents that the parents must cooperate with the Department
13 of Children and Family Services, comply with the terms of the
14 service plans, and correct the conditions that require the
15 child to be in care, or risk termination of their parental
16 rights.

17 When the court declares a child to be a ward of the court
18 and awards guardianship to the Department of Children and
19 Family Services under Section 2-22, the court shall admonish
20 the parents, guardian, custodian, or responsible relative that
21 the parents must cooperate with the Department of Children and
22 Family Services, comply with the terms of the service plans,
23 and correct the conditions that require the child to be in
24 care, or risk termination of their parental rights.

25 (4) No sanction may be applied against the minor who is the
26 subject of the proceedings by reason of his refusal or failure

1 to testify in the course of any hearing held prior to final
2 adjudication under Section 2-22, 3-23, 4-20 or 5-705.

3 (5) In the discretion of the court, the minor may be
4 excluded from any part or parts of a dispositional hearing and,
5 with the consent of the parent or parents, guardian, counsel or
6 a guardian ad litem, from any part or parts of an adjudicatory
7 hearing.

8 (6) The general public except for the news media and the
9 crime victim, as defined in Section 3 of the Rights of Crime
10 Victims and Witnesses Act, shall be excluded from any hearing
11 and, except for the persons specified in this Section only
12 persons, including representatives of agencies and
13 associations, who in the opinion of the court have a direct
14 interest in the case or in the work of the court shall be
15 admitted to the hearing. However, the court may, for the
16 minor's safety and protection and for good cause shown,
17 prohibit any person or agency present in court from further
18 disclosing the minor's identity. Nothing in this subsection (6)
19 prevents the court from allowing other juveniles to be present
20 or to participate in a court session being held under the
21 Juvenile Drug Court Treatment Act.

22 (7) A party shall not be entitled to exercise the right to
23 a substitution of a judge without cause under subdivision
24 (a) (2) of Section 2-1001 of the Code of Civil Procedure in a
25 proceeding under this Act if the judge is currently assigned to
26 a proceeding involving the alleged abuse, neglect, or

1 dependency of the minor's sibling or half sibling and that
2 judge has made a substantive ruling in the proceeding involving
3 the minor's sibling or half sibling.

4 (8) In accordance with the Code of Civil Procedure, a party
5 may demand a trial by jury as to the issues of fact raised in
6 any of the following proceedings:

7 (a) An adjudicatory hearing under Section 2-21, 3-22,
8 or 4-19.

9 (b) A dispositional hearing under Section 2-22, 3-23,
10 or 4-20.

11 (c) A proceeding for termination of parental rights
12 under Section 2-29, 3-30, or 4-27.

13 (Source: P.A. 93-539, eff. 8-18-03; 94-271, eff. 1-1-06.)

14 (705 ILCS 405/2-20) (from Ch. 37, par. 802-20)

15 Sec. 2-20. Continuance under supervision.

16 (1) The court may enter an order of continuance under
17 supervision (a) upon an admission or stipulation by the
18 appropriate respondent or minor respondent of the facts
19 supporting the petition and before proceeding to findings and
20 adjudication, or after hearing the evidence at the adjudicatory
21 hearing but before noting in the minutes of proceeding a
22 finding of whether or not the minor is abused, neglected or
23 dependent; and (b) in the absence of objection made in open
24 court by the minor, his parent, guardian, custodian,
25 responsible relative, defense attorney or the State's

1 Attorney.

2 (2) If the minor, his parent, guardian, custodian,
3 responsible relative, defense attorney or the State's
4 Attorney, objects in open court to any such continuance and
5 insists upon proceeding to findings and adjudication, the court
6 shall so proceed.

7 (3) Nothing in this Section limits the power of the court
8 to order a continuance of the hearing for the production of
9 additional evidence or for any other proper reason.

10 (4) When a hearing where a minor is alleged to be abused,
11 neglected or dependent is continued pursuant to this Section,
12 the court may permit the minor to remain in his home if the
13 court determines and makes written factual findings that the
14 minor can be cared for at home when consistent with the minor's
15 health, safety, and best interests, subject to such conditions
16 concerning his conduct and supervision as the court may require
17 by order.

18 (4.5) As a condition of supervision under this Section, the
19 court may order the minor or the minor's parent, guardian,
20 custodian, or other responsible relative to undergo counseling
21 as the court deems appropriate, based on the evidence, in order
22 to achieve the purposes of this Act.

23 (5) If a petition is filed charging a violation of a
24 condition of the continuance under supervision, the court shall
25 conduct a hearing. If the court finds that such condition of
26 supervision has not been fulfilled the court may proceed to

1 findings and adjudication and disposition. The filing of a
2 petition for violation of a condition of the continuance under
3 supervision shall toll the period of continuance under
4 supervision until the final determination of the charge, and
5 the term of the continuance under supervision shall not run
6 until the hearing and disposition of the petition for
7 violation; provided where the petition alleges conduct that
8 does not constitute a criminal offense, the hearing must be
9 held within 15 days of the filing of the petition unless a
10 delay in such hearing has been occasioned by the minor, in
11 which case the delay shall continue the tolling of the period
12 of continuance under supervision for the period of such delay.

13 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98.)

14 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

15 Sec. 2-23. Kinds of dispositional orders.

16 (1) The following kinds of orders of disposition may be
17 made in respect of wards of the court:

18 (a) A minor under 18 years of age found to be neglected
19 or abused under Section 2-3 or dependent under Section 2-4
20 may be (1) continued in the custody of his or her parents,
21 guardian or legal custodian; (2) placed in accordance with
22 Section 2-27; (3) restored to the custody of the parent,
23 parents, guardian, or legal custodian, provided the court
24 shall order the parent, parents, guardian, or legal
25 custodian to cooperate with the Department of Children and

1 Family Services and comply with the terms of an after-care
2 plan or risk the loss of custody of the child and the
3 possible termination of their parental rights; or (4)
4 ordered partially or completely emancipated in accordance
5 with the provisions of the Emancipation of ~~Mature~~ Minors
6 Act.

7 However, in any case in which a minor is found by the
8 court to be neglected or abused under Section 2-3 of this
9 Act, custody of the minor shall not be restored to any
10 parent, guardian or legal custodian whose acts or omissions
11 or both have been identified, pursuant to subsection (1) of
12 Section 2-21, as forming the basis for the court's finding
13 of abuse or neglect, until such time as a hearing is held
14 on the issue of the best interests of the minor and the
15 fitness of such parent, guardian or legal custodian to care
16 for the minor without endangering the minor's health or
17 safety, and the court enters an order that such parent,
18 guardian or legal custodian is fit to care for the minor.

19 (b) A minor under 18 years of age found to be dependent
20 under Section 2-4 may be (1) placed in accordance with
21 Section 2-27 or (2) ordered partially or completely
22 emancipated in accordance with the provisions of the
23 Emancipation of ~~Mature~~ Minors Act.

24 However, in any case in which a minor is found by the
25 court to be dependent under Section 2-4 of this Act,
26 custody of the minor shall not be restored to any parent,

1 guardian or legal custodian whose acts or omissions or both
2 have been identified, pursuant to subsection (1) of Section
3 2-21, as forming the basis for the court's finding of
4 dependency, until such time as a hearing is held on the
5 issue of the fitness of such parent, guardian or legal
6 custodian to care for the minor without endangering the
7 minor's health or safety, and the court enters an order
8 that such parent, guardian or legal custodian is fit to
9 care for the minor.

10 (c) When the court awards guardianship to the
11 Department of Children and Family Services, the court shall
12 order the parents to cooperate with the Department of
13 Children and Family Services, comply with the terms of the
14 service plans, and correct the conditions that require the
15 child to be in care, or risk termination of their parental
16 rights.

17 (2) Any order of disposition may provide for protective
18 supervision under Section 2-24 and may include an order of
19 protection under Section 2-25.

20 Unless the order of disposition expressly so provides, it
21 does not operate to close proceedings on the pending petition,
22 but is subject to modification, not inconsistent with Section
23 2-28, until final closing and discharge of the proceedings
24 under Section 2-31.

25 (3) The court also shall enter any other orders necessary
26 to fulfill the service plan, including, but not limited to, (i)

1 orders requiring parties to cooperate with services, (ii)
2 restraining orders controlling the conduct of any party likely
3 to frustrate the achievement of the goal, and (iii) visiting
4 orders. Unless otherwise specifically authorized by law, the
5 court is not empowered under this subsection (3) to order
6 specific placements, specific services, or specific service
7 providers to be included in the plan. If the court concludes
8 that the Department of Children and Family Services has abused
9 its discretion in setting the current service plan or
10 permanency goal for the minor, the court shall enter specific
11 findings in writing based on the evidence and shall enter an
12 order for the Department to develop and implement a new
13 permanency goal and service plan consistent with the court's
14 findings. The new service plan shall be filed with the court
15 and served on all parties. The court shall continue the matter
16 until the new service plan is filed.

17 (3.5) In addition to any other order of disposition, the
18 court may order the minor or the minor's parent, guardian,
19 custodian, or other responsible relative to undergo counseling
20 as the court deems appropriate, based on the evidence, in order
21 to achieve the purposes of this Act.

22 (4) In addition to any other order of disposition, the
23 court may order any minor adjudicated neglected with respect to
24 his or her own injurious behavior to make restitution, in
25 monetary or non-monetary form, under the terms and conditions
26 of Section 5-5-6 of the Unified Code of Corrections, except

1 that the "presentence hearing" referred to therein shall be the
2 dispositional hearing for purposes of this Section. The parent,
3 guardian or legal custodian of the minor may pay some or all of
4 such restitution on the minor's behalf.

5 (5) Any order for disposition where the minor is committed
6 or placed in accordance with Section 2-27 shall provide for the
7 parents or guardian of the estate of such minor to pay to the
8 legal custodian or guardian of the person of the minor such
9 sums as are determined by the custodian or guardian of the
10 person of the minor as necessary for the minor's needs. Such
11 payments may not exceed the maximum amounts provided for by
12 Section 9.1 of the Children and Family Services Act.

13 (6) Whenever the order of disposition requires the minor to
14 attend school or participate in a program of training, the
15 truant officer or designated school official shall regularly
16 report to the court if the minor is a chronic or habitual
17 truant under Section 26-2a of the School Code.

18 (7) The court may terminate the parental rights of a parent
19 at the initial dispositional hearing if all of the conditions
20 in subsection (5) of Section 2-21 are met.

21 (Source: P.A. 89-17, eff. 5-31-95; 89-235, eff. 8-4-95; 90-27,
22 eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98; 90-655,
23 eff. 7-30-98; revised 10-9-03.)

24 (705 ILCS 405/3-21) (from Ch. 37, par. 803-21)

25 Sec. 3-21. Continuance under supervision.

1 (1) The court may enter an order of continuance under
2 supervision (a) upon an admission or stipulation by the
3 appropriate respondent or minor respondent of the facts
4 supporting the petition and before proceeding to findings and
5 adjudication, or after hearing the evidence at the adjudicatory
6 hearing but before noting in the minutes of proceedings a
7 finding of whether or not the minor is a person requiring
8 authoritative intervention; and (b) in the absence of objection
9 made in open court by the minor, his parent, guardian,
10 custodian, responsible relative, defense attorney or the
11 State's Attorney.

12 (2) If the minor, his parent, guardian, custodian,
13 responsible relative, defense attorney or State's Attorney,
14 objects in open court to any such continuance and insists upon
15 proceeding to findings and adjudication, the court shall so
16 proceed.

17 (3) Nothing in this Section limits the power of the court
18 to order a continuance of the hearing for the production of
19 additional evidence or for any other proper reason.

20 (4) When a hearing where a minor is alleged to be a minor
21 requiring authoritative intervention is continued pursuant to
22 this Section, the court may permit the minor to remain in his
23 home subject to such conditions concerning his conduct and
24 supervision as the court may require by order.

25 (4.5) As a condition of supervision under this Section, the
26 court may order the minor or the minor's parent, guardian,

1 custodian, or other responsible relative to undergo counseling
2 as the court deems appropriate, based on the evidence, in order
3 to achieve the purposes of this Act.

4 (5) If a petition is filed charging a violation of a
5 condition of the continuance under supervision, the court shall
6 conduct a hearing. If the court finds that such condition of
7 supervision has not been fulfilled the court may proceed to
8 findings and adjudication and disposition. The filing of a
9 petition for violation of a condition of the continuance under
10 supervision shall toll the period of continuance under
11 supervision until the final determination of the charge, and
12 the term of the continuance under supervision shall not run
13 until the hearing and disposition of the petition for
14 violation; provided where the petition alleges conduct that
15 does not constitute a criminal offense, the hearing must be
16 held within 15 days of the filing of the petition unless a
17 delay in such hearing has been occasioned by the minor, in
18 which case the delay shall continue the tolling of the period
19 of continuance under supervision for the period of such delay.

20 (6) The court must impose upon a minor under an order of
21 continuance under supervision or an order of disposition under
22 this Article III, as a condition of the order, a fee of \$25 for
23 each month or partial month of supervision with a probation
24 officer. If the court determines the inability of the minor, or
25 the parent, guardian, or legal custodian of the minor to pay
26 the fee, the court may impose a lesser fee. The court may not

1 impose the fee on a minor who is made a ward of the State under
2 this Act. The fee may be imposed only upon a minor who is
3 actively supervised by the probation and court services
4 department. The fee must be collected by the clerk of the
5 circuit court. The clerk of the circuit court must pay all
6 monies collected from this fee to the county treasurer for
7 deposit into the probation and court services fund under
8 Section 15.1 of the Probation and Probation Officers Act.

9 (Source: P.A. 92-329, eff. 8-9-01.)

10 (705 ILCS 405/3-24) (from Ch. 37, par. 803-24)

11 Sec. 3-24. Kinds of dispositional orders.

12 (1) The following kinds of orders of disposition may be
13 made in respect to wards of the court: A minor found to be
14 requiring authoritative intervention under Section 3-3 may be
15 (a) committed to the Department of Children and Family
16 Services, subject to Section 5 of the Children and Family
17 Services Act; (b) placed under supervision and released to his
18 or her parents, guardian or legal custodian; (c) placed in
19 accordance with Section 3-28 with or without also being placed
20 under supervision. Conditions of supervision may be modified or
21 terminated by the court if it deems that the best interests of
22 the minor and the public will be served thereby; (d) ordered
23 partially or completely emancipated in accordance with the
24 provisions of the Emancipation of ~~Mature~~ Minors Act; or (e)
25 subject to having his or her driver's license or driving

1 privilege suspended for such time as determined by the Court
2 but only until he or she attains 18 years of age.

3 (2) Any order of disposition may provide for protective
4 supervision under Section 3-25 and may include an order of
5 protection under Section 3-26.

6 (3) Unless the order of disposition expressly so provides,
7 it does not operate to close proceedings on the pending
8 petition, but is subject to modification until final closing
9 and discharge of the proceedings under Section 3-32.

10 (3.5) In addition to any other order of disposition, the
11 court may order the minor or the minor's parent, guardian,
12 custodian, or other responsible relative to undergo counseling
13 as the court deems appropriate, based on the evidence, in order
14 to achieve the purposes of this Act.

15 (4) In addition to any other order of disposition, the
16 court may order any person found to be a minor requiring
17 authoritative intervention under Section 3-3 to make
18 restitution, in monetary or non-monetary form, under the terms
19 and conditions of Section 5-5-6 of the Unified Code of
20 Corrections, except that the "presentence hearing" referred to
21 therein shall be the dispositional hearing for purposes of this
22 Section. The parent, guardian or legal custodian of the minor
23 may pay some or all of such restitution on the minor's behalf.

24 (5) Any order for disposition where the minor is committed
25 or placed in accordance with Section 3-28 shall provide for the
26 parents or guardian of the estate of such minor to pay to the

1 legal custodian or guardian of the person of the minor such
2 sums as are determined by the custodian or guardian of the
3 person of the minor as necessary for the minor's needs. Such
4 payments may not exceed the maximum amounts provided for by
5 Section 9.1 of the Children and Family Services Act.

6 (6) Whenever the order of disposition requires the minor to
7 attend school or participate in a program of training, the
8 truant officer or designated school official shall regularly
9 report to the court if the minor is a chronic or habitual
10 truant under Section 26-2a of the School Code.

11 (7) The court must impose upon a minor under an order of
12 continuance under supervision or an order of disposition under
13 this Article III, as a condition of the order, a fee of \$25 for
14 each month or partial month of supervision with a probation
15 officer. If the court determines the inability of the minor, or
16 the parent, guardian, or legal custodian of the minor to pay
17 the fee, the court may impose a lesser fee. The court may not
18 impose the fee on a minor who is made a ward of the State under
19 this Act. The fee may be imposed only upon a minor who is
20 actively supervised by the probation and court services
21 department. The fee must be collected by the clerk of the
22 circuit court. The clerk of the circuit court must pay all
23 monies collected from this fee to the county treasurer for
24 deposit into the probation and court services fund under
25 Section 15.1 of the Probation and Probation Officers Act.

26 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

1 (705 ILCS 405/4-18) (from Ch. 37, par. 804-18)

2 Sec. 4-18. Continuance under supervision.

3 (1) The court may enter an order of continuance under
4 supervision (a) upon an admission or stipulation by the
5 appropriate respondent or minor respondent of the facts
6 supporting the petition and before proceeding to findings and
7 adjudication, or after hearing the evidence at the adjudicatory
8 hearing but before noting in the minutes of the proceeding a
9 finding of whether or not the minor is an addict, and (b) in
10 the absence of objection made in open court by the minor, his
11 parent, guardian, custodian, responsible relative, defense
12 attorney or the State's Attorney.

13 (2) If the minor, his parent, guardian, custodian,
14 responsible relative, defense attorney or State's Attorney,
15 objects in open court to any such continuance and insists upon
16 proceeding to findings and adjudication, the court shall so
17 proceed.

18 (3) Nothing in this Section limits the power of the court
19 to order a continuance of the hearing for the production of
20 additional evidence or for any other proper reason.

21 (4) When a hearing is continued pursuant to this Section,
22 the court may permit the minor to remain in his home subject to
23 such conditions concerning his conduct and supervision as the
24 court may require by order.

25 (4.5) As a condition of supervision under this Section, the

1 court may order the minor or the minor's parent, guardian,
2 custodian, or other responsible relative to undergo counseling
3 as the court deems appropriate, based on the evidence, in order
4 to achieve the purposes of this Act.

5 (5) If a petition is filed charging a violation of a
6 condition of the continuance under supervision, the court shall
7 conduct a hearing. If the court finds that such condition of
8 supervision has not been fulfilled the court may proceed to
9 findings and adjudication and disposition. The filing of a
10 petition for violation of a condition of the continuance under
11 supervision shall toll the period of continuance under
12 supervision until the final determination of the charge, and
13 the term of the continuance under supervision shall not run
14 until the hearing and disposition of the petition for
15 violation; provided where the petition alleges conduct that
16 does not constitute a criminal offense, the hearing must be
17 held within 15 days of the filing of the petition unless a
18 delay in such hearing has been occasioned by the minor, in
19 which case the delay shall continue the tolling of the period
20 of continuance under supervision for the period of such delay.

21 (6) The court must impose upon a minor under an order of
22 continuance under supervision or an order of disposition under
23 this Article IV, as a condition of the order, a fee of \$25 for
24 each month or partial month of supervision with a probation
25 officer. If the court determines the inability of the minor, or
26 the parent, guardian, or legal custodian of the minor to pay

1 the fee, the court may impose a lesser fee. The court may not
2 impose the fee on a minor who is made a ward of the State under
3 this Act. The fee may be imposed only upon a minor who is
4 actively supervised by the probation and court services
5 department. The fee must be collected by the clerk of the
6 circuit court. The clerk of the circuit court must pay all
7 monies collected from this fee to the county treasurer for
8 deposit into the probation and court services fund under
9 Section 15.1 of the Probation and Probation Officers Act.

10 (Source: P.A. 92-329, eff. 8-9-01.)

11 (705 ILCS 405/4-21) (from Ch. 37, par. 804-21)

12 Sec. 4-21. Kinds of dispositional orders.

13 (1) A minor found to be addicted under Section 4-3 may be
14 (a) committed to the Department of Children and Family
15 Services, subject to Section 5 of the Children and Family
16 Services Act; (b) placed under supervision and released to his
17 or her parents, guardian or legal custodian; (c) placed in
18 accordance with Section 4-25 with or without also being placed
19 under supervision. Conditions of supervision may be modified or
20 terminated by the court if it deems that the best interests of
21 the minor and the public will be served thereby; (d) required
22 to attend an approved alcohol or drug abuse treatment or
23 counseling program on an inpatient or outpatient basis instead
24 of or in addition to the disposition otherwise provided for in
25 this paragraph; (e) ordered partially or completely

1 emancipated in accordance with the provisions of the
2 Emancipation of ~~Mature~~ Minors Act; or (f) subject to having his
3 or her driver's license or driving privilege suspended for such
4 time as determined by the Court but only until he or she
5 attains 18 years of age. No disposition under this subsection
6 shall provide for the minor's placement in a secure facility.

7 (2) Any order of disposition may provide for protective
8 supervision under Section 4-22 and may include an order of
9 protection under Section 4-23.

10 (3) Unless the order of disposition expressly so provides,
11 it does not operate to close proceedings on the pending
12 petition, but is subject to modification until final closing
13 and discharge of the proceedings under Section 4-29.

14 (3.5) In addition to any other order of disposition, the
15 court may order the minor or the minor's parent, guardian,
16 custodian, or other responsible relative to undergo counseling
17 as the court deems appropriate, based on the evidence, in order
18 to achieve the purposes of this Act.

19 (4) In addition to any other order of disposition, the
20 court may order any minor found to be addicted under this
21 Article as neglected with respect to his or her own injurious
22 behavior, to make restitution, in monetary or non-monetary
23 form, under the terms and conditions of Section 5-5-6 of the
24 Unified Code of Corrections, except that the "presentence
25 hearing" referred to therein shall be the dispositional hearing
26 for purposes of this Section. The parent, guardian or legal

1 custodian of the minor may pay some or all of such restitution
2 on the minor's behalf.

3 (5) Any order for disposition where the minor is placed in
4 accordance with Section 4-25 shall provide for the parents or
5 guardian of the estate of such minor to pay to the legal
6 custodian or guardian of the person of the minor such sums as
7 are determined by the custodian or guardian of the person of
8 the minor as necessary for the minor's needs. Such payments may
9 not exceed the maximum amounts provided for by Section 9.1 of
10 the Children and Family Services Act.

11 (6) Whenever the order of disposition requires the minor to
12 attend school or participate in a program of training, the
13 truant officer or designated school official shall regularly
14 report to the court if the minor is a chronic or habitual
15 truant under Section 26-2a of the School Code.

16 (7) The court must impose upon a minor under an order of
17 continuance under supervision or an order of disposition under
18 this Article IV, as a condition of the order, a fee of \$25 for
19 each month or partial month of supervision with a probation
20 officer. If the court determines the inability of the minor, or
21 the parent, guardian, or legal custodian of the minor to pay
22 the fee, the court may impose a lesser fee. The court may not
23 impose the fee on a minor who is made a ward of the State under
24 this Act. The fee may be imposed only upon a minor who is
25 actively supervised by the probation and court services
26 department. The fee must be collected by the clerk of the

1 circuit court. The clerk of the circuit court must pay all
2 monies collected from this fee to the county treasurer for
3 deposit into the probation and court services fund under
4 Section 15.1 of the Probation and Probation Officers Act.

5 (Source: P.A. 92-329, eff. 8-9-01; revised 10-9-03.)

6 Section 20. The Code of Criminal Procedure of 1963 is
7 amended by changing Sections 112A-7 and 112A-14 as follows:

8 (725 ILCS 5/112A-7) (from Ch. 38, par. 112A-7)

9 Sec. 112A-7. Trial by jury. In accordance with the Code of
10 Civil Procedure, the petitioner or the respondent may demand a
11 ~~There shall be no right to~~ trial by jury of the issues of fact
12 in any proceeding to obtain, modify, vacate or extend an any
13 order of protection under this Article. However, Nothing in
14 this Section shall deny any existing right to trial by jury in
15 a criminal proceeding.

16 (Source: P.A. 87-895; 87-1186; 88-45.)

17 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

19 (a) Issuance of order. If the court finds that petitioner
20 has been abused by a family or household member, as defined in
21 this Article, an order of protection prohibiting such abuse
22 shall issue; provided that petitioner must also satisfy the
23 requirements of one of the following Sections, as appropriate:

1 Section 112A-17 on emergency orders, Section 112A-18 on interim
2 orders, or Section 112A-19 on plenary orders. Petitioner shall
3 not be denied an order of protection because petitioner or
4 respondent is a minor. The court, when determining whether or
5 not to issue an order of protection, shall not require physical
6 manifestations of abuse on the person of the victim.
7 Modification and extension of prior orders of protection shall
8 be in accordance with this Article.

9 (b) Remedies and standards. The remedies to be included in
10 an order of protection shall be determined in accordance with
11 this Section and one of the following Sections, as appropriate:
12 Section 112A-17 on emergency orders, Section 112A-18 on interim
13 orders, and Section 112A-19 on plenary orders. The remedies
14 listed in this subsection shall be in addition to other civil
15 or criminal remedies available to petitioner.

16 (1) Prohibition of abuse. Prohibit respondent's
17 harassment, interference with personal liberty,
18 intimidation of a dependent, physical abuse or willful
19 deprivation, as defined in this Article, if such abuse has
20 occurred or otherwise appears likely to occur if not
21 prohibited.

22 (2) Grant of exclusive possession of residence.
23 Prohibit respondent from entering or remaining in any
24 residence or household of the petitioner, including one
25 owned or leased by respondent, if petitioner has a right to
26 occupancy thereof. The grant of exclusive possession of the

1 residence shall not affect title to real property, nor
2 shall the court be limited by the standard set forth in
3 Section 701 of the Illinois Marriage and Dissolution of
4 Marriage Act.

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

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

1 the accessibility of the residence or household.
2 Hardships need not be balanced if respondent does not
3 have a right to occupancy.

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

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

25 If an order of protection grants petitioner exclusive
26 possession of the residence, or prohibits respondent from

1 entering the residence, or orders respondent to stay away
2 from petitioner or other protected persons, then the court
3 may allow respondent access to the residence to remove
4 items of clothing and personal adornment used exclusively
5 by respondent, medications, and other items as the court
6 directs. The right to access shall be exercised on only one
7 occasion as the court directs and in the presence of an
8 agreed-upon adult third party or law enforcement officer.

9 (4) Counseling. Require or recommend the respondent to
10 undergo counseling for a specified duration with a social
11 worker, psychologist, clinical psychologist, psychiatrist,
12 family service agency, alcohol or substance abuse program,
13 mental health center guidance counselor, agency providing
14 services to elders, program designed for domestic violence
15 abusers or any other guidance service the court deems
16 appropriate. The court may also require or recommend that
17 the petitioner undergo counseling as the court deems
18 appropriate, based on the evidence.

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

1 a minor child from, the physical care of a parent or person
2 in loco parentis.

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

8 (6) Temporary legal custody. Award temporary legal
9 custody to petitioner in accordance with this Section, the
10 Illinois Marriage and Dissolution of Marriage Act, the
11 Illinois Parentage Act of 1984, and this State's Uniform
12 Child-Custody Jurisdiction and Enforcement Act.

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

18 (7) Visitation. Determine the visitation rights, if
19 any, of respondent in any case in which the court awards
20 physical care or temporary legal custody of a minor child
21 to petitioner. The court shall restrict or deny
22 respondent's visitation with a minor child if the court
23 finds that respondent has done or is likely to do any of
24 the following: (i) abuse or endanger the minor child during
25 visitation; (ii) use the visitation as an opportunity to
26 abuse or harass petitioner or petitioner's family or

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

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

26 (8) Removal or concealment of minor child. Prohibit

1 respondent from removing a minor child from the State or
2 concealing the child within the State.

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

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

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

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

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

26 No order under this provision shall affect title to

1 property.

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

6 (i) petitioner, but not respondent, owns the
7 property; or

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

10 If petitioner's sole claim to ownership of the property
11 is that it is marital property, the court may grant
12 petitioner relief under subparagraph (ii) of this
13 paragraph only if a proper proceeding has been filed under
14 the Illinois Marriage and Dissolution of Marriage Act, as
15 now or hereafter amended.

16 The court may further prohibit respondent from
17 improperly using the financial or other resources of an
18 aged member of the family or household for the profit or
19 advantage of respondent or of any other person.

20 (12) Order for payment of support. Order respondent to
21 pay temporary support for the petitioner or any child in
22 the petitioner's care or custody, when the respondent has a
23 legal obligation to support that person, in accordance with
24 the Illinois Marriage and Dissolution of Marriage Act,
25 which shall govern, among other matters, the amount of
26 support, payment through the clerk and withholding of

1 income to secure payment. An order for child support may be
2 granted to a petitioner with lawful physical care or
3 custody of a child, or an order or agreement for physical
4 care or custody, prior to entry of an order for legal
5 custody. Such a support order shall expire upon entry of a
6 valid order granting legal custody to another, unless
7 otherwise provided in the custody order.

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

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

25 (ii) Recovery of expenses. In the case of an
26 improper concealment or removal of a minor child, the

1 court may order respondent to pay the reasonable
2 expenses incurred or to be incurred in the search for
3 and recovery of the minor child, including but not
4 limited to legal fees, court costs, private
5 investigator fees, and travel costs.

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

11 (14.5) Prohibition of firearm possession. (a) When a
12 complaint is made under a request for an order of
13 protection, that the respondent has threatened or is likely
14 to use firearms illegally against the petitioner, and the
15 respondent is present in court, or has failed to appear
16 after receiving actual notice, the court shall examine on
17 oath the petitioner, and any witnesses who may be produced.
18 If the court is satisfied that there is any danger of the
19 illegal use of firearms, it shall include in the order of
20 protection the requirement that any firearms in the
21 possession of the respondent, except as provided in
22 subsection (b), be turned over to the local law enforcement
23 agency for safekeeping. If the respondent fails to appear,
24 or refuses or fails to surrender his or her firearms, the
25 court shall issue a warrant for seizure of any firearm in
26 the possession of the respondent. The period of safekeeping

1 shall be for a stated period of time not to exceed 2 years.
2 The firearm or firearms shall be returned to the respondent
3 at the end of the stated period or at expiration of the
4 order of protection, whichever is sooner. (b) If the
5 respondent is a peace officer as defined in Section 2-13 of
6 the Criminal Code of 1961, the court shall order that any
7 firearms used by the respondent in the performance of his
8 or her duties as a peace officer be surrendered to the
9 chief law enforcement executive of the agency in which the
10 respondent is employed, who shall retain the firearms for
11 safekeeping for the stated period not to exceed 2 years as
12 set forth in the court order.

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

23 (16) Order for payment of shelter services. Order
24 respondent to reimburse a shelter providing temporary
25 housing and counseling services to the petitioner for the
26 cost of the services, as certified by the shelter and

1 deemed reasonable by the court.

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

11 (c) Relevant factors; findings.

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

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

24 (ii) the danger that any minor child will be abused
25 or neglected or improperly removed from the
26 jurisdiction, improperly concealed within the State or

1 improperly separated from the child's primary
2 caretaker.

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

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

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

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

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

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

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

25 (iii) Whether it is necessary to grant the
26 requested relief in order to protect petitioner or

1 other alleged abused persons.

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

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

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

26 (d) Balance of hardships; findings. If the court finds that

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

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

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

14 (2) Respondent was voluntarily intoxicated;

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

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

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

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

25 (7) Conduct by any family or household member excused
26 the abuse by respondent, unless that same conduct would

1 have excused such abuse if the parties had not been family
2 or household members.

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

4 Section 25. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by adding Sections 307, 404.05, 411.5,
6 and 452.5 and by changing Sections 510 and 606 as follows:

7 (750 ILCS 5/307 new)

8 Sec. 307. Trial by jury. In accordance with the Code of
9 Civil Procedure, a party to an action for a declaration of
10 invalidity of marriage may demand a trial by jury as to the
11 issues of fact raised in the action.

12 (750 ILCS 5/404.05 new)

13 Sec. 404.05. Counseling. Whether or not the court
14 concludes that there is a prospect of reconciliation, the court
15 may order the petitioner, the respondent, or a child of the
16 parties to undergo counseling as the court deems appropriate,
17 based on the evidence.

18 (750 ILCS 5/411.5 new)

19 Sec. 411.5. Trial by jury. In accordance with the Code of
20 Civil Procedure, a party to an action for dissolution of
21 marriage or for legal separation may demand a trial by jury as
22 to the issues of fact raised in the action. This Section does

1 not apply, however, to an action in which the parties have
2 filed a petition for simplified dissolution under Part IV-A.

3 (750 ILCS 5/452.5 new)

4 Sec. 452.5. No trial by jury. There is no right to a trial
5 by jury in an action in which the parties have filed a petition
6 for simplified dissolution under this Part IV-A.

7 (750 ILCS 5/510) (from Ch. 40, par. 510)

8 Sec. 510. Modification and termination of provisions for
9 maintenance, support, educational expenses, and property
10 disposition.

11 (a) Except as otherwise provided in paragraph (f) of
12 Section 502 and in subsection (b), clause (3) of Section 505.2,
13 the provisions of any judgment respecting maintenance or
14 support may be modified only as to installments accruing
15 subsequent to due notice by the moving party of the filing of
16 the motion for modification. An order for child support may be
17 modified as follows:

18 (1) upon a showing of a substantial change in
19 circumstances; and

20 (2) without the necessity of showing a substantial
21 change in circumstances, as follows:

22 (A) upon a showing of an inconsistency of at least
23 20%, but no less than \$10 per month, between the amount
24 of the existing order and the amount of child support

1 that results from application of the guidelines
2 specified in Section 505 of this Act unless the
3 inconsistency is due to the fact that the amount of the
4 existing order resulted from a deviation from the
5 guideline amount and there has not been a change in the
6 circumstances that resulted in that deviation; or

7 (B) Upon a showing of a need to provide for the
8 health care needs of the child under the order through
9 health insurance or other means. In no event shall the
10 eligibility for or receipt of medical assistance be
11 considered to meet the need to provide for the child's
12 health care needs.

13 The provisions of subparagraph (a) (2) (A) shall apply only
14 in cases in which a party is receiving child support
15 enforcement services from the ~~Illinois~~ Department of
16 Healthcare and Family Services ~~Public Aid~~ under Article X of
17 the Illinois Public Aid Code, and only when at least 36 months
18 have elapsed since the order for child support was entered or
19 last modified.

20 (a-5) An order for maintenance may be modified or
21 terminated only upon a showing of a substantial change in
22 circumstances. In all such proceedings, as well as in
23 proceedings in which maintenance is being reviewed, the court
24 shall consider the applicable factors set forth in subsection
25 (a) of Section 504 and the following factors:

26 (1) any change in the employment status of either party

1 and whether the change has been made in good faith;

2 (2) the efforts, if any, made by the party receiving
3 maintenance to become self-supporting, and the
4 reasonableness of the efforts where they are appropriate;

5 (3) any impairment of the present and future earning
6 capacity of either party;

7 (4) the tax consequences of the maintenance payments
8 upon the respective economic circumstances of the parties;

9 (5) the duration of the maintenance payments
10 previously paid (and remaining to be paid) relative to the
11 length of the marriage;

12 (6) the property, including retirement benefits,
13 awarded to each party under the judgment of dissolution of
14 marriage, judgment of legal separation, or judgment of
15 declaration of invalidity of marriage and the present
16 status of the property;

17 (7) the increase or decrease in each party's income
18 since the prior judgment or order from which a review,
19 modification, or termination is being sought;

20 (8) the property acquired and currently owned by each
21 party after the entry of the judgment of dissolution of
22 marriage, judgment of legal separation, or judgment of
23 declaration of invalidity of marriage; and

24 (9) any other factor that the court expressly finds to
25 be just and equitable.

26 (b) The provisions as to property disposition may not be

1 revoked or modified, unless the court finds the existence of
2 conditions that justify the reopening of a judgment under the
3 laws of this State.

4 (c) Unless otherwise agreed by the parties in a written
5 agreement set forth in the judgment or otherwise approved by
6 the court, the obligation to pay future maintenance is
7 terminated upon the death of either party, or the remarriage of
8 the party receiving maintenance, or if the party receiving
9 maintenance cohabits with another person on a resident,
10 continuing conjugal basis.

11 (d) Unless otherwise provided in this Act, or as agreed in
12 writing or expressly provided in the judgment, provisions for
13 the support of a child are terminated by emancipation of the
14 child, or if the child has attained the age of 18 and is still
15 attending high school, provisions for the support of the child
16 are terminated upon the date that the child graduates from high
17 school or the date the child attains the age of 19, whichever
18 is earlier, but not by the death of a parent obligated to
19 support or educate the child. An existing obligation to pay for
20 support or educational expenses, or both, is not terminated by
21 the death of a parent. When a parent obligated to pay support
22 or educational expenses, or both, dies, the amount of support
23 or educational expenses, or both, may be enforced, modified,
24 revoked or commuted to a lump sum payment, as equity may
25 require, and that determination may be provided for at the time
26 of the dissolution of the marriage or thereafter.

1 (e) The right to petition for support or educational
2 expenses, or both, under Sections 505 and 513 is not
3 extinguished by the death of a parent. Upon a petition filed
4 before or after a parent's death, the court may award sums of
5 money out of the decedent's estate for the child's support or
6 educational expenses, or both, as equity may require. The time
7 within which a claim may be filed against the estate of a
8 decedent under Sections 505 and 513 and subsection (d) and this
9 subsection shall be governed by the provisions of the Probate
10 Act of 1975, as a barrable, noncontingent claim.

11 (f) A petition to modify or terminate child support,
12 custody, or visitation shall not delay any child support
13 enforcement litigation or supplementary proceeding on behalf
14 of the obligee, including, but not limited to, a petition for a
15 rule to show cause, for non-wage garnishment, or for a
16 restraining order.

17 (g) In accordance with the Code of Civil Procedure, a party
18 to an action to modify or terminate maintenance or support,
19 including educational expenses, may demand a trial by jury as
20 to the issues of fact raised in the action.

21 (Source: P.A. 92-289, eff. 8-9-01; 92-590, eff. 7-1-02; 92-651,
22 eff. 7-11-02; 92-876, eff. 6-1-03; 93-353, eff. 1-1-04; revised
23 12-15-05.)

24 (750 ILCS 5/606) (from Ch. 40, par. 606)

25 Sec. 606. Hearings.

1 (a) Custody proceedings shall receive priority in being set
2 for hearing.

3 (b) The court may tax as costs the payment of necessary
4 travel and other expenses incurred by any person whose presence
5 at the hearing the court deems necessary to determine the best
6 interest of the child.

7 (c) The court, ~~without a jury,~~ shall determine questions of
8 law and fact, except that in accordance with the Code of Civil
9 Procedure, a party to a custody proceeding may demand a trial
10 by jury as to the issues of fact raised in the proceeding. If
11 the court ~~it~~ finds that a public hearing may be detrimental to
12 the child's best interest, the court may exclude the public
13 from a custody hearing, but may admit any person who has a
14 direct and legitimate interest in the particular case or a
15 legitimate educational or research interest in the work of the
16 court.

17 (d) If the court finds it necessary, in order to protect
18 the child's welfare, that the record of any interview, report,
19 investigation, or testimony in a custody proceeding be kept
20 secret, the court may make an appropriate order sealing the
21 record.

22 (e) Previous statements made by the child relating to any
23 allegations that the child is an abused or neglected child
24 within the meaning of the Abused and Neglected Child Reporting
25 Act, or an abused or neglected minor within the meaning of the
26 Juvenile Court Act of 1987, shall be admissible in evidence in

1 a hearing concerning custody of or visitation with the child.
2 No such statement, however, if uncorroborated and not subject
3 to cross-examination, shall be sufficient in itself to support
4 a finding of abuse or neglect.

5 (Source: P.A. 87-1081.)

6 (750 ILCS 5/103 rep.)

7 Section 26. The Illinois Marriage and Dissolution of
8 Marriage Act is amended by repealing Section 103.

9 Section 30. The Illinois Uniform Premarital Agreement Act
10 is amended by adding Sections 8.5 and 8.10 as follows:

11 (750 ILCS 10/8.5 new)

12 Sec. 8.5. Trial by jury. In accordance with the Code of
13 Civil Procedure, a party to an action asserting a claim for
14 relief under a premarital agreement may demand a trial by jury
15 as to the issues of fact raised in the action.

16 (750 ILCS 10/8.10 new)

17 Sec. 8.10. Counseling. In an action asserting a claim for
18 relief under a premarital agreement, the court may order one or
19 both of the parties to undergo counseling as the court deems
20 appropriate, based on the evidence.

21 Section 35. The Uniform Interstate Family Support Act is

1 amended by changing Section 301 as follows:

2 (750 ILCS 22/301)

3 Sec. 301. Proceedings under Act.

4 (a) Except as otherwise provided in this Act, this Article
5 applies to all proceedings under this Act.

6 (b) An individual obligee or a support enforcement agency
7 may initiate a proceeding authorized under this Act by filing a
8 petition in an initiating tribunal for forwarding to a
9 responding tribunal or by filing a petition or a comparable
10 pleading directly in a tribunal of another state which has or
11 can obtain personal jurisdiction over the obligor.

12 (c) In accordance with the Code of Civil Procedure, a party
13 to a proceeding described in subsection (b) may demand a trial
14 by jury as to the issues of fact raised in the proceeding.

15 (Source: P.A. 93-479, eff. 1-1-04, operative 7-1-04.)

16 Section 40. The Income Withholding for Support Act is
17 amended by changing Section 40 as follows:

18 (750 ILCS 28/40)

19 Sec. 40. Petitions to contest withholding or to modify,
20 suspend, terminate, or correct income withholding notices.

21 (a) When an obligor files a petition to contest
22 withholding, the court, after due notice to all parties, shall
23 hear the matter as soon as practicable and shall enter an order

1 granting or denying relief, ordering service of an amended
2 income withholding notice, where applicable, or otherwise
3 resolving the matter. In accordance with the Code of Civil
4 Procedure, a party to a proceeding to contest withholding under
5 this subsection may demand a trial by jury as to the issues of
6 fact raised in the proceeding.

7 The court shall deny the obligor's petition if the court
8 finds that when the income withholding notice was mailed, sent
9 by facsimile transmission or other electronic means, or placed
10 for personal delivery to or service on the payor:

11 (1) a delinquency existed; or

12 (2) the parties' written agreement providing an
13 alternative arrangement to immediate withholding under
14 subsection (a) of Section 20 no longer ensured payment of
15 support.

16 (b) At any time, an obligor, obligee, public office or
17 Clerk of the Circuit Court may petition the court to:

18 (1) modify, suspend or terminate the income
19 withholding notice because of a modification, suspension
20 or termination of the underlying order for support; or

21 (2) modify the amount of income to be withheld to
22 reflect payment in full or in part of the delinquency or
23 arrearage by income withholding or otherwise; or

24 (3) suspend the income withholding notice because of
25 inability to deliver income withheld to the obligee due to
26 the obligee's failure to provide a mailing address or other

1 means of delivery.

2 (c) At any time an obligor may petition the court to
3 correct a term contained in an income withholding notice to
4 conform to that stated in the underlying order for support for:

5 (1) the amount of current support;

6 (2) the amount of the arrearage;

7 (3) the periodic amount for payment of the arrearage;

8 or

9 (4) the periodic amount for payment of the delinquency.

10 (d) The obligor, obligee or public office shall serve on
11 the payor, in the manner provided for service of income
12 withholding notices in subsection (g) of Section 20, a copy of
13 any order entered pursuant to this Section that affects the
14 duties of the payor.

15 (e) At any time, a public office or Clerk of the Circuit
16 Court may serve a notice on the payor to:

17 (1) cease withholding of income for payment of current
18 support for a child when the support obligation for that
19 child has automatically ceased under the order for support
20 through emancipation or otherwise; or

21 (2) cease withholding of income for payment of
22 delinquency or arrearage when the delinquency or arrearage
23 has been paid in full.

24 (f) The notice provided for under subsection (e) of this
25 Section shall be served on the payor in the manner provided for
26 service of income withholding notices in subsection (g) of

1 Section 20, and a copy shall be provided to the obligor and the
2 obligee.

3 (g) The income withholding notice shall continue to be
4 binding upon the payor until service of an amended income
5 withholding notice or any order of the court or notice entered
6 or provided for under this Section.

7 (Source: P.A. 90-673, eff. 1-1-99.)

8 Section 45. The Emancipation of Minors Act is amended by
9 adding Section 7.5 and changing Section 9 as follows:

10 (750 ILCS 30/7.5 new)

11 Sec. 7.5. Trial by jury. In accordance with the Code of
12 Civil Procedure, a party to a proceeding for emancipation under
13 this Act may demand a trial by jury as to the issues of fact
14 raised in the proceeding.

15 (750 ILCS 30/9) (from Ch. 40, par. 2209)

16 Sec. 9. Hearing on petition.

17 (a) Mature minor. Before proceeding to a hearing on the
18 petition for emancipation of a mature minor the court shall
19 advise all persons present of the nature of the proceedings,
20 and their rights and responsibilities if an order of
21 emancipation should be entered.

22 If, after the hearing, the court determines that the minor
23 is a mature minor who is of sound mind and has the capacity and

1 maturity to manage his own affairs including his finances, and
2 that the best interests of the minor and his family will be
3 promoted by declaring the minor an emancipated minor, the court
4 shall enter a finding that the minor is an emancipated minor
5 within the meaning of this Act, or that the mature minor is
6 partially emancipated with such limitations as the court by
7 order deems appropriate. The court may also order that the
8 emancipated or partially emancipated minor or the minor's
9 parent or parents or guardian undergo counseling as the court
10 deems appropriate, based on the evidence. No order of complete
11 or partial emancipation may be entered under this Act if there
12 is any objection by the minor, his parents or guardian.

13 (b) Homeless minor. Upon the verified petition of a
14 homeless minor, the court shall immediately grant partial
15 emancipation for the sole purpose of allowing the homeless
16 minor to consent to the receipt of services and shelter or
17 housing provided by the youth transitional housing program
18 named in the petition and to other services that the youth
19 transitional housing program may arrange by referral. The court
20 may require that a youth transitional housing program employee
21 appear before the court at the time of the filing of the
22 petition and may inquire into the facts asserted in the
23 petition. No other hearing shall be scheduled in the case of a
24 petition affecting a homeless minor, unless, after notice, a
25 parent or guardian requests such a hearing. If such a hearing
26 is requested, then the homeless minor must be present at the

1 hearing. After the granting of partial emancipation to a
2 homeless youth, if the youth transitional housing program
3 determines that its facility and services are no longer
4 appropriate for the minor or that another program is more
5 appropriate for the minor, the program shall notify the court
6 and the court, after a hearing, may modify its order. At any
7 hearing under this subsection (b), the court may also order
8 that the minor or the minor's parent or parents or guardian
9 undergo counseling as the court deems appropriate, based on the
10 evidence.

11 (Source: P.A. 93-105, eff. 7-8-03.)

12 Section 50. The Illinois Parentage Act of 1984 is amended
13 by changing Sections 13 and 14 as follows:

14 (750 ILCS 45/13) (from Ch. 40, par. 2513)

15 Sec. 13. Civil Action.

16 (a) An action under this Act is a civil action governed by
17 the provisions of the "Code of Civil Procedure", approved
18 August 19, 1981, as amended, and the Supreme Court rules
19 applicable thereto, except where otherwise specified in this
20 Act.

21 (b) In accordance with the Code of Civil Procedure, a party
22 to an action under this Act may demand a trial by jury as to the
23 issues of fact raised in the action. ~~Trial by jury is not~~
24 ~~available under this Act.~~

1 (c) Certified copies of the bills for costs incurred for
2 pregnancy and childbirth shall be admitted into evidence at
3 judicial or administrative proceedings without foundation
4 testimony or other proof of authenticity or accuracy.

5 (Source: P.A. 90-18, eff. 7-1-97.)

6 (750 ILCS 45/14) (from Ch. 40, par. 2514)

7 Sec. 14. Judgment.

8 (a) (1) The judgment shall contain or explicitly reserve
9 provisions concerning any duty and amount of child support and
10 may contain provisions concerning the custody and guardianship
11 of the child, visitation privileges with the child, the
12 furnishing of bond or other security for the payment of the
13 judgment, which the court shall determine in accordance with
14 the relevant factors set forth in the Illinois Marriage and
15 Dissolution of Marriage Act and any other applicable law of
16 Illinois, to guide the court in a finding in the best interests
17 of the child. In determining custody, joint custody, removal,
18 or visitation, the court shall apply the relevant standards of
19 the Illinois Marriage and Dissolution of Marriage Act,
20 including Section 609. Specifically, in determining the amount
21 of any child support award or child health insurance coverage,
22 the court shall use the guidelines and standards set forth in
23 subsection (a) of Section 505 and in Section 505.2 of the
24 Illinois Marriage and Dissolution of Marriage Act. For purposes
25 of Section 505 of the Illinois Marriage and Dissolution of

1 Marriage Act, "net income" of the non-custodial parent shall
2 include any benefits available to that person under the
3 Illinois Public Aid Code or from other federal, State or local
4 government-funded programs. The court shall, in any event and
5 regardless of the amount of the non-custodial parent's net
6 income, in its judgment order the non-custodial parent to pay
7 child support to the custodial parent in a minimum amount of
8 not less than \$10 per month, as long as such an order is
9 consistent with the requirements of Title IV, Part D of the
10 Social Security Act. In an action brought within 2 years after
11 a child's birth, the judgment or order may direct either parent
12 to pay the reasonable expenses incurred by either parent
13 related to the mother's pregnancy and the delivery of the
14 child. The judgment or order shall contain the father's social
15 security number, which the father shall disclose to the court;
16 however, failure to include the father's social security number
17 on the judgment or order does not invalidate the judgment or
18 order.

19 (2) If a judgment of parentage contains no explicit award
20 of custody, the establishment of a support obligation or of
21 visitation rights in one parent shall be considered a judgment
22 granting custody to the other parent. If the parentage judgment
23 contains no such provisions, custody shall be presumed to be
24 with the mother; however, the presumption shall not apply if
25 the father has had physical custody for at least 6 months prior
26 to the date that the mother seeks to enforce custodial rights.

1 (3) The court may also order that the child or the child's
2 parent or parents undergo counseling as the court deems
3 appropriate, based on the evidence.

4 (b) The court shall order all child support payments,
5 determined in accordance with such guidelines, to commence with
6 the date summons is served. The level of current periodic
7 support payments shall not be reduced because of payments set
8 for the period prior to the date of entry of the support order.
9 The Court may order any child support payments to be made for a
10 period prior to the commencement of the action. In determining
11 whether and the extent to which the payments shall be made for
12 any prior period, the court shall consider all relevant facts,
13 including the factors for determining the amount of support
14 specified in the Illinois Marriage and Dissolution of Marriage
15 Act and other equitable factors including but not limited to:

16 (1) The father's prior knowledge of the fact and
17 circumstances of the child's birth.

18 (2) The father's prior willingness or refusal to help
19 raise or support the child.

20 (3) The extent to which the mother or the public agency
21 bringing the action previously informed the father of the
22 child's needs or attempted to seek or require his help in
23 raising or supporting the child.

24 (4) The reasons the mother or the public agency did not
25 file the action earlier.

26 (5) The extent to which the father would be prejudiced

1 by the delay in bringing the action.

2 For purposes of determining the amount of child support to
3 be paid for any period before the date the order for current
4 child support is entered, there is a rebuttable presumption
5 that the father's net income for the prior period was the same
6 as his net income at the time the order for current child
7 support is entered.

8 If (i) the non-custodial parent was properly served with a
9 request for discovery of financial information relating to the
10 non-custodial parent's ability to provide child support, (ii)
11 the non-custodial parent failed to comply with the request,
12 despite having been ordered to do so by the court, and (iii)
13 the non-custodial parent is not present at the hearing to
14 determine support despite having received proper notice, then
15 any relevant financial information concerning the
16 non-custodial parent's ability to provide child support that
17 was obtained pursuant to subpoena and proper notice shall be
18 admitted into evidence without the need to establish any
19 further foundation for its admission.

20 (c) Any new or existing support order entered by the court
21 under this Section shall be deemed to be a series of judgments
22 against the person obligated to pay support thereunder, each
23 judgment to be in the amount of each payment or installment of
24 support and each such judgment to be deemed entered as of the
25 date the corresponding payment or installment becomes due under
26 the terms of the support order. Each judgment shall have the

1 full force, effect and attributes of any other judgment of this
2 State, including the ability to be enforced. A lien arises by
3 operation of law against the real and personal property of the
4 noncustodial parent for each installment of overdue support
5 owed by the noncustodial parent.

6 (d) If the judgment or order of the court is at variance
7 with the child's birth certificate, the court shall order that
8 a new birth certificate be issued under the Vital Records Act.

9 (e) On request of the mother and the father, the court
10 shall order a change in the child's name. After hearing
11 evidence the court may stay payment of support during the
12 period of the father's minority or period of disability.

13 (f) If, upon a showing of proper service, the father fails
14 to appear in court, or otherwise appear as provided by law, the
15 court may proceed to hear the cause upon testimony of the
16 mother or other parties taken in open court and shall enter a
17 judgment by default. The court may reserve any order as to the
18 amount of child support until the father has received notice,
19 by regular mail, of a hearing on the matter.

20 (g) A one-time charge of 20% is imposable upon the amount
21 of past-due child support owed on July 1, 1988 which has
22 accrued under a support order entered by the court. The charge
23 shall be imposed in accordance with the provisions of Section
24 10-21 of the Illinois Public Aid Code and shall be enforced by
25 the court upon petition.

26 (h) All orders for support, when entered or modified, shall

1 include a provision requiring the non-custodial parent to
2 notify the court and, in cases in which party is receiving
3 child support enforcement services under Article X of the
4 Illinois Public Aid Code, the Department of Healthcare and
5 Family Services, within 7 days, (i) of the name and address of
6 any new employer of the non-custodial parent, (ii) whether the
7 non-custodial parent has access to health insurance coverage
8 through the employer or other group coverage and, if so, the
9 policy name and number and the names of persons covered under
10 the policy, and (iii) of any new residential or mailing address
11 or telephone number of the non-custodial parent. In any
12 subsequent action to enforce a support order, upon a sufficient
13 showing that a diligent effort has been made to ascertain the
14 location of the non-custodial parent, service of process or
15 provision of notice necessary in the case may be made at the
16 last known address of the non-custodial parent in any manner
17 expressly provided by the Code of Civil Procedure or this Act,
18 which service shall be sufficient for purposes of due process.

19 (i) An order for support shall include a date on which the
20 current support obligation terminates. The termination date
21 shall be no earlier than the date on which the child covered by
22 the order will attain the age of 18. However, if the child will
23 not graduate from high school until after attaining the age of
24 18, then the termination date shall be no earlier than the
25 earlier of the date on which the child's high school graduation
26 will occur or the date on which the child will attain the age

1 of 19. The order for support shall state that the termination
2 date does not apply to any arrearage that may remain unpaid on
3 that date. Nothing in this subsection shall be construed to
4 prevent the court from modifying the order or terminating the
5 order in the event the child is otherwise emancipated.

6 (i-5) If there is an unpaid arrearage or delinquency (as
7 those terms are defined in the Income Withholding for Support
8 Act) equal to at least one month's support obligation on the
9 termination date stated in the order for support or, if there
10 is no termination date stated in the order, on the date the
11 child attains the age of majority or is otherwise emancipated,
12 the periodic amount required to be paid for current support of
13 that child immediately prior to that date shall automatically
14 continue to be an obligation, not as current support but as
15 periodic payment toward satisfaction of the unpaid arrearage or
16 delinquency. That periodic payment shall be in addition to any
17 periodic payment previously required for satisfaction of the
18 arrearage or delinquency. The total periodic amount to be paid
19 toward satisfaction of the arrearage or delinquency may be
20 enforced and collected by any method provided by law for
21 enforcement and collection of child support, including but not
22 limited to income withholding under the Income Withholding for
23 Support Act. Each order for support entered or modified on or
24 after the effective date of this amendatory Act of the 93rd
25 General Assembly must contain a statement notifying the parties
26 of the requirements of this subsection. Failure to include the

1 statement in the order for support does not affect the validity
2 of the order or the operation of the provisions of this
3 subsection with regard to the order. This subsection shall not
4 be construed to prevent or affect the establishment or
5 modification of an order for support of a minor child or the
6 establishment or modification of an order for support of a
7 non-minor child or educational expenses under Section 513 of
8 the Illinois Marriage and Dissolution of Marriage Act.

9 (j) An order entered under this Section shall include a
10 provision requiring the obligor to report to the obligee and to
11 the clerk of court within 10 days each time the obligor obtains
12 new employment, and each time the obligor's employment is
13 terminated for any reason. The report shall be in writing and
14 shall, in the case of new employment, include the name and
15 address of the new employer. Failure to report new employment
16 or the termination of current employment, if coupled with
17 nonpayment of support for a period in excess of 60 days, is
18 indirect criminal contempt. For any obligor arrested for
19 failure to report new employment bond shall be set in the
20 amount of the child support that should have been paid during
21 the period of unreported employment. An order entered under
22 this Section shall also include a provision requiring the
23 obligor and obligee parents to advise each other of a change in
24 residence within 5 days of the change except when the court
25 finds that the physical, mental, or emotional health of a party
26 or that of a minor child, or both, would be seriously

1 endangered by disclosure of the party's address.

2 (Source: P.A. 93-139, eff. 7-10-03; 93-1061, eff. 1-1-05;
3 94-923, eff. 1-1-07; 94-1061, eff. 1-1-07; revised 8-3-06.)

4 Section 55. The Adoption Act is amended by adding Section
5 5.5 as follows:

6 (750 ILCS 50/5.5 new)

7 Sec. 5.5. Trial by jury. In accordance with the Code of
8 Civil Procedure, a party to a proceeding for adoption under
9 this Act may demand a trial by jury as to the issues of fact
10 raised in the proceeding.

11 Section 60. The Illinois Domestic Violence Act of 1986 is
12 amended by changing Sections 206 and 214 as follows:

13 (750 ILCS 60/206) (from Ch. 40, par. 2312-6)

14 Sec. 206. Trial by jury. In accordance with the Code of
15 Civil Procedure, the petitioner or the respondent may demand a
16 ~~There shall be no right to~~ trial by jury of the issues of fact
17 in any proceeding to obtain, modify, vacate or extend an any
18 order of protection under this Act. However, Nothing in this
19 Section shall deny any existing right to trial by jury in a
20 criminal proceeding.

21 (Source: P.A. 87-1186.)

1 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

2 Sec. 214. Order of protection; remedies.

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

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

25 (1) Prohibition of abuse, neglect, or exploitation.

26 Prohibit respondent's harassment, interference with

1 personal liberty, intimidation of a dependent, physical
2 abuse, or willful deprivation, neglect or exploitation, as
3 defined in this Act, or stalking of the petitioner, as
4 defined in Section 12-7.3 of the Criminal Code of 1961, if
5 such abuse, neglect, exploitation, or stalking has
6 occurred or otherwise appears likely to occur if not
7 prohibited.

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

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

26 (B) Presumption of hardships. If petitioner and

1 respondent each has the right to occupancy of a
2 residence or household, the court shall balance (i) the
3 hardships to respondent and any minor child or
4 dependent adult in respondent's care resulting from
5 entry of this remedy with (ii) the hardships to
6 petitioner and any minor child or dependent adult in
7 petitioner's care resulting from continued exposure to
8 the risk of abuse (should petitioner remain at the
9 residence or household) or from loss of possession of
10 the residence or household (should petitioner leave to
11 avoid the risk of abuse). When determining the balance
12 of hardships, the court shall also take into account
13 the accessibility of the residence or household.
14 Hardships need not be balanced if respondent does not
15 have a right to occupancy.

16 The balance of hardships is presumed to favor
17 possession by petitioner unless the presumption is
18 rebutted by a preponderance of the evidence, showing
19 that the hardships to respondent substantially
20 outweigh the hardships to petitioner and any minor
21 child or dependent adult in petitioner's care. The
22 court, on the request of petitioner or on its own
23 motion, may order respondent to provide suitable,
24 accessible, alternate housing for petitioner instead
25 of excluding respondent from a mutual residence or
26 household.

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

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

21 (4) Counseling. Require or recommend the respondent to
22 undergo counseling for a specified duration with a social
23 worker, psychologist, clinical psychologist, psychiatrist,
24 family service agency, alcohol or substance abuse program,
25 mental health center guidance counselor, agency providing
26 services to elders, program designed for domestic violence

1 abusers or any other guidance service the court deems
2 appropriate. The court may also require or recommend that
3 the petitioner undergo counseling as the court deems
4 appropriate, based on the evidence.

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

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

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

25 If a court finds, after a hearing, that respondent has
26 committed abuse (as defined in Section 103) of a minor

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

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

1 petitioner or petitioner's minor children or is behaving in
2 a violent or abusive manner.

3 If necessary to protect any member of petitioner's
4 family or household from future abuse, respondent shall be
5 prohibited from coming to petitioner's residence to meet
6 the minor child for visitation, and the parties shall
7 submit to the court their recommendations for reasonable
8 alternative arrangements for visitation. A person may be
9 approved to supervise visitation only after filing an
10 affidavit accepting that responsibility and acknowledging
11 accountability to the court.

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

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

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

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

1 (ii) the parties own the property jointly; sharing
2 it would risk abuse of petitioner by respondent or is
3 impracticable; and the balance of hardships favors
4 temporary possession by petitioner.

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

12 No order under this provision shall affect title to
13 property.

14 (11) Protection of property. Forbid the respondent
15 from taking, transferring, encumbering, concealing,
16 damaging or otherwise disposing of any real or personal
17 property, except as explicitly authorized by the court, if:

18 (i) petitioner, but not respondent, owns the
19 property; or

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

22 If petitioner's sole claim to ownership of the property
23 is that it is marital property, the court may grant
24 petitioner relief under subparagraph (ii) of this
25 paragraph only if a proper proceeding has been filed under
26 the Illinois Marriage and Dissolution of Marriage Act, as

1 now or hereafter amended.

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

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

20 (13) Order for payment of losses. Order respondent to
21 pay petitioner for losses suffered as a direct result of
22 the abuse, neglect, or exploitation. Such losses shall
23 include, but not be limited to, medical expenses, lost
24 earnings or other support, repair or replacement of
25 property damaged or taken, reasonable attorney's fees,
26 court costs and moving or other travel expenses, including

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

3 (i) Losses affecting family needs. If a party is
4 entitled to seek maintenance, child support or
5 property distribution from the other party under the
6 Illinois Marriage and Dissolution of Marriage Act, as
7 now or hereafter amended, the court may order
8 respondent to reimburse petitioner's actual losses, to
9 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, the
14 court may order respondent to pay the reasonable
15 expenses incurred or to be incurred in the search for
16 and recovery of the minor child, including but not
17 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 well-being
23 of the petitioner or the petitioner's children.

24 (14.5) Prohibition of firearm possession.

25 (a) When a complaint is made under a request for an
26 order of protection, that the respondent has

1 threatened or is likely to use firearms illegally
2 against the petitioner, and the respondent is present
3 in court, or has failed to appear after receiving
4 actual notice, the court shall examine on oath the
5 petitioner, and any witnesses who may be produced. If
6 the court is satisfied that there is any danger of the
7 illegal use of firearms, it shall issue an order that
8 any firearms in the possession of the respondent,
9 except as provided in subsection (b), be turned over to
10 the local law enforcement agency for safekeeping. If
11 the respondent has failed to appear, the court shall
12 issue a warrant for seizure of any firearm in the
13 possession of the respondent. The period of
14 safekeeping shall be for a stated period of time not to
15 exceed 2 years. The firearm or firearms shall be
16 returned to the respondent at the end of the stated
17 period or at expiration of the order of protection,
18 whichever is sooner.

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

1 court order.

2 (15) Prohibition of access to records. If an order of
3 protection prohibits respondent from having contact with
4 the minor child, or if petitioner's address is omitted
5 under subsection (b) of Section 203, or if necessary to
6 prevent abuse or wrongful removal or concealment of a minor
7 child, the order shall deny respondent access to, and
8 prohibit respondent from inspecting, obtaining, or
9 attempting to inspect or obtain, school or any other
10 records of the minor child who is in the care of
11 petitioner.

12 (16) Order for payment of shelter services. Order
13 respondent to reimburse a shelter providing temporary
14 housing and counseling services to the petitioner for the
15 cost of the services, as certified by the shelter and
16 deemed reasonable by the court.

17 (17) Order for injunctive relief. Enter injunctive
18 relief necessary or appropriate to prevent further abuse of
19 a family or household member or further abuse, neglect, or
20 exploitation of a high-risk adult with disabilities or to
21 effectuate one of the granted remedies, if supported by the
22 balance of hardships. If the harm to be prevented by the
23 injunction is abuse or any other harm that one of the
24 remedies listed in paragraphs (1) through (16) of this
25 subsection is designed to prevent, no further evidence is
26 necessary that the harm is an irreparable injury.

1 (c) Relevant factors; findings.

2 (1) In determining whether to grant a specific remedy,
3 other than payment of support, the court shall consider
4 relevant factors, including but not limited to the
5 following:

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

14 (ii) the danger that any minor child will be abused
15 or neglected or improperly removed from the
16 jurisdiction, improperly concealed within the State or
17 improperly separated from the child's primary
18 caretaker.

19 (2) In comparing relative hardships resulting to the
20 parties from loss of possession of the family home, the
21 court shall consider relevant factors, including but not
22 limited to the following:

23 (i) availability, accessibility, cost, safety,
24 adequacy, location and other characteristics of
25 alternate housing for each party and any minor child or
26 dependent adult in the party's care;

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of
24 protection in accordance with the requirements of Sections
25 203 and 217 is presented to the court, the court shall
26 examine petitioner on oath or affirmation. An emergency

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

7 (5) Never married parties. No rights or
8 responsibilities for a minor child born outside of marriage
9 attach to a putative father until a father and child
10 relationship has been established under the Illinois
11 Parentage Act of 1984, the Illinois Public Aid Code,
12 Section 12 of the Vital Records Act, the Juvenile Court Act
13 of 1987, the Probate Act of 1985, the Revised Uniform
14 Reciprocal Enforcement of Support Act, the Uniform
15 Interstate Family Support Act, the Expedited Child Support
16 Act of 1990, any judicial, administrative, or other act of
17 another state or territory, any other Illinois statute, or
18 by any foreign nation establishing the father and child
19 relationship, any other proceeding substantially in
20 conformity with the Personal Responsibility and Work
21 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
22 or where both parties appeared in open court or at an
23 administrative hearing acknowledging under oath or
24 admitting by affirmation the existence of a father and
25 child relationship. Absent such an adjudication, finding,
26 or acknowledgement, no putative father shall be granted

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

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

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

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

19 (2) Respondent was voluntarily intoxicated;

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

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

26 (5) Petitioner left the residence or household to avoid

1 further abuse, neglect, or exploitation by respondent;

2 (6) Petitioner did not leave the residence or household
3 to avoid further abuse, neglect, or exploitation by
4 respondent;

5 (7) Conduct by any family or household member excused
6 the abuse, neglect, or exploitation by respondent, unless
7 that same conduct would have excused such abuse, neglect,
8 or exploitation if the parties had not been family or
9 household members.

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

1		INDEX
2		Statutes amended in order of appearance
3	305 ILCS 5/10-10	from Ch. 23, par. 10-10
4	705 ILCS 35/4.4 new	
5	705 ILCS 405/1-5	from Ch. 37, par. 801-5
6	705 ILCS 405/2-20	from Ch. 37, par. 802-20
7	705 ILCS 405/2-23	from Ch. 37, par. 802-23
8	705 ILCS 405/3-21	from Ch. 37, par. 803-21
9	705 ILCS 405/3-24	from Ch. 37, par. 803-24
10	705 ILCS 405/4-18	from Ch. 37, par. 804-18
11	705 ILCS 405/4-21	from Ch. 37, par. 804-21
12	725 ILCS 5/112A-7	from Ch. 38, par. 112A-7
13	725 ILCS 5/112A-14	from Ch. 38, par. 112A-14
14	750 ILCS 5/307 new	
15	750 ILCS 5/404.05 new	
16	750 ILCS 5/411.5 new	
17	750 ILCS 5/452.5 new	
18	750 ILCS 5/510	from Ch. 40, par. 510
19	750 ILCS 5/606	from Ch. 40, par. 606
20	750 ILCS 5/103 rep.	
21	750 ILCS 10/8.5 new	
22	750 ILCS 10/8.10 new	
23	750 ILCS 22/301	
24	750 ILCS 28/40	
25	750 ILCS 30/7.5 new	

- 1 750 ILCS 30/9 from Ch. 40, par. 2209
- 2 750 ILCS 45/13 from Ch. 40, par. 2513
- 3 750 ILCS 45/14 from Ch. 40, par. 2514
- 4 750 ILCS 50/5.5 new
- 5 750 ILCS 60/206 from Ch. 40, par. 2312-6
- 6 750 ILCS 60/214 from Ch. 40, par. 2312-14