

1 AN ACT concerning domestic violence, which may be referred
2 to as the Cindy Bischof Law.

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

5 Section 10. The State Finance Act is amended by adding
6 Section 5.710 as follows:

7 (30 ILCS 105/5.710 new)

8 Sec. 5.710. The Domestic Violence Surveillance Fund.

9 Section 20. The Code of Criminal Procedure of 1963 is
10 amended by changing Sections 110-5 and 112A-14 as follows:

11 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

12 Sec. 110-5. Determining the amount of bail and conditions
13 of release.

14 (a) In determining the amount of monetary bail or
15 conditions of release, if any, which will reasonably assure the
16 appearance of a defendant as required or the safety of any
17 other person or the community and the likelihood of compliance
18 by the defendant with all the conditions of bail, the court
19 shall, on the basis of available information, take into account
20 such matters as the nature and circumstances of the offense
21 charged, whether the evidence shows that as part of the offense

1 there was a use of violence or threatened use of violence,
2 whether the offense involved corruption of public officials or
3 employees, whether there was physical harm or threats of
4 physical harm to any public official, public employee, judge,
5 prosecutor, juror or witness, senior citizen, child or
6 handicapped person, whether evidence shows that during the
7 offense or during the arrest the defendant possessed or used a
8 firearm, machine gun, explosive or metal piercing ammunition or
9 explosive bomb device or any military or paramilitary armament,
10 whether the evidence shows that the offense committed was
11 related to or in furtherance of the criminal activities of an
12 organized gang or was motivated by the defendant's membership
13 in or allegiance to an organized gang, the condition of the
14 victim, any written statement submitted by the victim or
15 proffer or representation by the State regarding the impact
16 which the alleged criminal conduct has had on the victim and
17 the victim's concern, if any, with further contact with the
18 defendant if released on bail, whether the offense was based on
19 racial, religious, sexual orientation or ethnic hatred, the
20 likelihood of the filing of a greater charge, the likelihood of
21 conviction, the sentence applicable upon conviction, the
22 weight of the evidence against such defendant, whether there
23 exists motivation or ability to flee, whether there is any
24 verification as to prior residence, education, or family ties
25 in the local jurisdiction, in another county, state or foreign
26 country, the defendant's employment, financial resources,

1 character and mental condition, past conduct, prior use of
2 alias names or dates of birth, and length of residence in the
3 community, the consent of the defendant to periodic drug
4 testing in accordance with Section 110-6.5, whether a foreign
5 national defendant is lawfully admitted in the United States of
6 America, whether the government of the foreign national
7 maintains an extradition treaty with the United States by which
8 the foreign government will extradite to the United States its
9 national for a trial for a crime allegedly committed in the
10 United States, whether the defendant is currently subject to
11 deportation or exclusion under the immigration laws of the
12 United States, whether the defendant, although a United States
13 citizen, is considered under the law of any foreign state a
14 national of that state for the purposes of extradition or
15 non-extradition to the United States, the amount of unrecovered
16 proceeds lost as a result of the alleged offense, the source of
17 bail funds tendered or sought to be tendered for bail, whether
18 from the totality of the court's consideration, the loss of
19 funds posted or sought to be posted for bail will not deter the
20 defendant from flight, whether the evidence shows that the
21 defendant is engaged in significant possession, manufacture,
22 or delivery of a controlled substance or cannabis, either
23 individually or in consort with others, whether at the time of
24 the offense charged he was on bond or pre-trial release pending
25 trial, probation, periodic imprisonment or conditional
26 discharge pursuant to this Code or the comparable Code of any

1 other state or federal jurisdiction, whether the defendant is
2 on bond or pre-trial release pending the imposition or
3 execution of sentence or appeal of sentence for any offense
4 under the laws of Illinois or any other state or federal
5 jurisdiction, whether the defendant is under parole or
6 mandatory supervised release or work release from the Illinois
7 Department of Corrections or any penal institution or
8 corrections department of any state or federal jurisdiction,
9 the defendant's record of convictions, whether the defendant
10 has been convicted of a misdemeanor or ordinance offense in
11 Illinois or similar offense in other state or federal
12 jurisdiction within the 10 years preceding the current charge
13 or convicted of a felony in Illinois, whether the defendant was
14 convicted of an offense in another state or federal
15 jurisdiction that would be a felony if committed in Illinois
16 within the 20 years preceding the current charge or has been
17 convicted of such felony and released from the penitentiary
18 within 20 years preceding the current charge if a penitentiary
19 sentence was imposed in Illinois or other state or federal
20 jurisdiction, the defendant's records of juvenile adjudication
21 of delinquency in any jurisdiction, any record of appearance or
22 failure to appear by the defendant at court proceedings,
23 whether there was flight to avoid arrest or prosecution,
24 whether the defendant escaped or attempted to escape to avoid
25 arrest, whether the defendant refused to identify himself, or
26 whether there was a refusal by the defendant to be

1 fingerprinted as required by law. Information used by the court
2 in its findings or stated in or offered in connection with this
3 Section may be by way of proffer based upon reliable
4 information offered by the State or defendant. All evidence
5 shall be admissible if it is relevant and reliable regardless
6 of whether it would be admissible under the rules of evidence
7 applicable at criminal trials. If the State presents evidence
8 that the offense committed by the defendant was related to or
9 in furtherance of the criminal activities of an organized gang
10 or was motivated by the defendant's membership in or allegiance
11 to an organized gang, and if the court determines that the
12 evidence may be substantiated, the court shall prohibit the
13 defendant from associating with other members of the organized
14 gang as a condition of bail or release. For the purposes of
15 this Section, "organized gang" has the meaning ascribed to it
16 in Section 10 of the Illinois Streetgang Terrorism Omnibus
17 Prevention Act.

18 (b) The amount of bail shall be:

19 (1) Sufficient to assure compliance with the
20 conditions set forth in the bail bond, which shall include
21 the defendant's current address with a written
22 admonishment to the defendant that he or she must comply
23 with the provisions of Section 110-12 regarding any change
24 in his or her address. The defendant's address shall at all
25 times remain a matter of public record with the clerk of
26 the court.

1 (2) Not oppressive.

2 (3) Considerate of the financial ability of the
3 accused.

4 (4) When a person is charged with a drug related
5 offense involving possession or delivery of cannabis or
6 possession or delivery of a controlled substance as defined
7 in the Cannabis Control Act, the Illinois Controlled
8 Substances Act, or the Methamphetamine Control and
9 Community Protection Act, the full street value of the
10 drugs seized shall be considered. "Street value" shall be
11 determined by the court on the basis of a proffer by the
12 State based upon reliable information of a law enforcement
13 official contained in a written report as to the amount
14 seized and such proffer may be used by the court as to the
15 current street value of the smallest unit of the drug
16 seized.

17 (b-5) Upon the filing of a written request demonstrating
18 reasonable cause, the State's Attorney may request a source of
19 bail hearing either before or after the posting of any funds.
20 If the hearing is granted, before the posting of any bail, the
21 accused must file a written notice requesting that the court
22 conduct a source of bail hearing. The notice must be
23 accompanied by justifying affidavits stating the legitimate
24 and lawful source of funds for bail. At the hearing, the court
25 shall inquire into any matters stated in any justifying
26 affidavits, and may also inquire into matters appropriate to

1 the determination which shall include, but are not limited to,
2 the following:

3 (1) the background, character, reputation, and
4 relationship to the accused of any surety; and

5 (2) the source of any money or property deposited by
6 any surety, and whether any such money or property
7 constitutes the fruits of criminal or unlawful conduct; and

8 (3) the source of any money posted as cash bail, and
9 whether any such money constitutes the fruits of criminal
10 or unlawful conduct; and

11 (4) the background, character, reputation, and
12 relationship to the accused of the person posting cash
13 bail.

14 Upon setting the hearing, the court shall examine, under
15 oath, any persons who may possess material information.

16 The State's Attorney has a right to attend the hearing, to
17 call witnesses and to examine any witness in the proceeding.
18 The court shall, upon request of the State's Attorney, continue
19 the proceedings for a reasonable period to allow the State's
20 Attorney to investigate the matter raised in any testimony or
21 affidavit. If the hearing is granted after the accused has
22 posted bail, the court shall conduct a hearing consistent with
23 this subsection (b-5). At the conclusion of the hearing, the
24 court must issue an order either approving of disapproving the
25 bail.

26 (c) When a person is charged with an offense punishable by

1 fine only the amount of the bail shall not exceed double the
2 amount of the maximum penalty.

3 (d) When a person has been convicted of an offense and only
4 a fine has been imposed the amount of the bail shall not exceed
5 double the amount of the fine.

6 (e) The State may appeal any order granting bail or setting
7 a given amount for bail.

8 (f) When a person is charged with a violation of an order
9 of protection under Section 12-30 of the Criminal Code of 1961,
10 the court may order that the person, as a condition of bail, be
11 placed under electronic surveillance as provided in Section
12 5-8A-7 of the Unified Code of Corrections.

13 (Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04;
14 94-556, eff. 9-11-05.)

15 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

17 (a) Issuance of order. If the court finds that petitioner
18 has been abused by a family or household member, as defined in
19 this Article, an order of protection prohibiting such abuse
20 shall issue; provided that petitioner must also satisfy the
21 requirements of one of the following Sections, as appropriate:
22 Section 112A-17 on emergency orders, Section 112A-18 on interim
23 orders, or Section 112A-19 on plenary orders. Petitioner shall
24 not be denied an order of protection because petitioner or
25 respondent is a minor. The court, when determining whether or

1 not to issue an order of protection, shall not require physical
2 manifestations of abuse on the person of the victim.
3 Modification and extension of prior orders of protection shall
4 be in accordance with this Article.

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

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

18 (2) Grant of exclusive possession of residence.
19 Prohibit respondent from entering or remaining in any
20 residence or household of the petitioner, including one
21 owned or leased by respondent, if petitioner has a right to
22 occupancy thereof. The grant of exclusive possession of the
23 residence shall not affect title to real property, nor
24 shall the court be limited by the standard set forth in
25 Section 701 of the Illinois Marriage and Dissolution of
26 Marriage Act.

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

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

26 The balance of hardships is presumed to favor

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

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

21 If an order of protection grants petitioner exclusive
22 possession of the residence, or prohibits respondent from
23 entering the residence, or orders respondent to stay away
24 from petitioner or other protected persons, then the court
25 may allow respondent access to the residence to remove
26 items of clothing and personal adornment used exclusively

1 by respondent, medications, and other items as the court
2 directs. The right to access shall be exercised on only one
3 occasion as the court directs and in the presence of an
4 agreed-upon adult third party or law enforcement officer.

5 (4) Counseling. Require or recommend the respondent to
6 undergo counseling for a specified duration with a social
7 worker, psychologist, clinical psychologist, psychiatrist,
8 family service agency, alcohol or substance abuse program,
9 mental health center guidance counselor, agency providing
10 services to elders, program designed for domestic violence
11 abusers or any other guidance service the court deems
12 appropriate. The court may order the respondent in any
13 intimate partner relationship to report to a protocol
14 approved partner abuse intervention program for an
15 assessment and to follow all recommended treatment.

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

26 If a court finds, after a hearing, that respondent has

1 committed abuse (as defined in Section 112A-3) of a minor
2 child, there shall be a rebuttable presumption that
3 awarding physical care to respondent would not be in the
4 minor child's best interest.

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

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

15 (7) Visitation. Determine the visitation rights, if
16 any, of respondent in any case in which the court awards
17 physical care or temporary legal custody of a minor child
18 to petitioner. The court shall restrict or deny
19 respondent's visitation with a minor child if the court
20 finds that respondent has done or is likely to do any of
21 the following: (i) abuse or endanger the minor child during
22 visitation; (ii) use the visitation as an opportunity to
23 abuse or harass petitioner or petitioner's family or
24 household members; (iii) improperly conceal or detain the
25 minor child; or (iv) otherwise act in a manner that is not
26 in the best interests of the minor child. The court shall

1 not be limited by the standards set forth in Section 607.1
2 of the Illinois Marriage and Dissolution of Marriage Act.
3 If the court grants visitation, the order shall specify
4 dates and times for the visitation to take place or other
5 specific parameters or conditions that are appropriate. No
6 order for visitation shall refer merely to the term
7 "reasonable visitation".

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

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

23 (8) Removal or concealment of minor child. Prohibit
24 respondent from removing a minor child from the State or
25 concealing the child within the State.

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

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

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

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

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

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

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

25 (11) Protection of property. Forbid the respondent
26 from taking, transferring, encumbering, concealing,

1 damaging or otherwise disposing of any real or personal
2 property, except as explicitly authorized by the court, if:

3 (i) petitioner, but not respondent, owns the
4 property; or

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

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

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

17 (11.5) Protection of animals. Grant the petitioner the
18 exclusive care, custody, or control of any animal owned,
19 possessed, leased, kept, or held by either the petitioner
20 or the respondent or a minor child residing in the
21 residence or household of either the petitioner or the
22 respondent and order the respondent to stay away from the
23 animal and forbid the respondent from taking,
24 transferring, encumbering, concealing, harming, or
25 otherwise disposing of the animal.

26 (12) Order for payment of support. Order respondent to

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

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

22 (i) Losses affecting family needs. If a party is
23 entitled to seek maintenance, child support or
24 property distribution from the other party under the
25 Illinois Marriage and Dissolution of Marriage Act, as
26 now or hereafter amended, the court may order

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

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

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

17 (14.5) Prohibition of firearm possession.

18 (a) When a complaint is made under a request for an
19 order of protection, that the respondent has
20 threatened or is likely to use firearms illegally
21 against the petitioner, and the respondent is present
22 in court, or has failed to appear after receiving
23 actual notice, the court shall examine on oath the
24 petitioner, and any witnesses who may be produced. If
25 the court is satisfied that there is any danger of the
26 illegal use of firearms, it shall include in the order

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

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

22 (15) Prohibition of access to records. If an order of
23 protection prohibits respondent from having contact with
24 the minor child, or if petitioner's address is omitted
25 under subsection (b) of Section 112A-5, or if necessary to
26 prevent abuse or wrongful removal or concealment of a minor

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

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

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

20 (18) Order for risk assessment evaluation. Order the
21 respondent to undergo a risk assessment evaluation per
22 protocols set by the Illinois Department of Human Services
23 under such terms and conditions as the court may direct.

24 (c) Relevant factors; findings.

25 (1) In determining whether to grant a specific remedy,
26 other than payment of support, the court shall consider

1 relevant factors, including but not limited to the
2 following:

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

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

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

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

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

25 (iii) the effect on the relationship of the party,
26 and any minor child or dependent adult in the party's

1 care, to family, school, church and community.

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

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

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

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

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

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

1 sufficient to indicate abuse by respondent and to support
2 the granting of relief under the issuance of the emergency
3 order of protection.

4 (5) Never married parties. No rights or
5 responsibilities for a minor child born outside of marriage
6 attach to a putative father until a father and child
7 relationship has been established under the Illinois
8 Parentage Act of 1984. Absent such an adjudication, no
9 putative father shall be granted temporary custody of the
10 minor child, visitation with the minor child, or physical
11 care and possession of the minor child, nor shall an order
12 of payment for support of the minor child be entered.

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

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

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

1 (2) Respondent was voluntarily intoxicated;

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

6 (4) Petitioner did not act in self-defense or defense
7 of another;

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

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

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

16 (Source: P.A. 95-234, eff. 1-1-08.)

17 Section 25. The Unified Code of Corrections is amended by
18 changing Sections 3-3-7, 3-6-3, and 5-6-3 and by adding
19 Sections 5-8A-7 and 5-9-1.16 as follows:

20 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

21 (Text of Section after amendment by P.A. 95-464, 95-579,
22 and 95-640)

23 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised
24 Release.

1 (a) The conditions of parole or mandatory supervised
2 release shall be such as the Prisoner Review Board deems
3 necessary to assist the subject in leading a law-abiding life.
4 The conditions of every parole and mandatory supervised release
5 are that the subject:

6 (1) not violate any criminal statute of any
7 jurisdiction during the parole or release term;

8 (2) refrain from possessing a firearm or other
9 dangerous weapon;

10 (3) report to an agent of the Department of
11 Corrections;

12 (4) permit the agent to visit him or her at his or her
13 home, employment, or elsewhere to the extent necessary for
14 the agent to discharge his or her duties;

15 (5) attend or reside in a facility established for the
16 instruction or residence of persons on parole or mandatory
17 supervised release;

18 (6) secure permission before visiting or writing a
19 committed person in an Illinois Department of Corrections
20 facility;

21 (7) report all arrests to an agent of the Department of
22 Corrections as soon as permitted by the arresting authority
23 but in no event later than 24 hours after release from
24 custody;

25 (7.5) if convicted of a sex offense as defined in the
26 Sex Offender Management Board Act, the individual shall

1 undergo and successfully complete sex offender treatment
2 conducted in conformance with the standards developed by
3 the Sex Offender Management Board Act by a treatment
4 provider approved by the Board;

5 (7.6) if convicted of a sex offense as defined in the
6 Sex Offender Management Board Act, refrain from residing at
7 the same address or in the same condominium unit or
8 apartment unit or in the same condominium complex or
9 apartment complex with another person he or she knows or
10 reasonably should know is a convicted sex offender or has
11 been placed on supervision for a sex offense; the
12 provisions of this paragraph do not apply to a person
13 convicted of a sex offense who is placed in a Department of
14 Corrections licensed transitional housing facility for sex
15 offenders, or is in any facility operated or licensed by
16 the Department of Children and Family Services or by the
17 Department of Human Services, or is in any licensed medical
18 facility;

19 (7.7) if convicted for an offense that would qualify
20 the accused as a sexual predator under the Sex Offender
21 Registration Act on or after the effective date of this
22 amendatory Act of the 94th General Assembly, wear an
23 approved electronic monitoring device as defined in
24 Section 5-8A-2 for the duration of the person's parole,
25 mandatory supervised release term, or extended mandatory
26 supervised release term;

1 (7.8) if convicted for an offense committed on or after
2 the effective date of this amendatory Act of the 95th
3 General Assembly that would qualify the accused as a child
4 sex offender as defined in Section 11-9.3 or 11-9.4 of the
5 Criminal Code of 1961, refrain from communicating with or
6 contacting, by means of the Internet, a person who is not
7 related to the accused and whom the accused reasonably
8 believes to be under 18 years of age; for purposes of this
9 paragraph (7.8), "Internet" has the meaning ascribed to it
10 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
11 ~~Public Act 94-179~~; and a person is not related to the
12 accused if the person is not: (i) the spouse, brother, or
13 sister of the accused; (ii) a descendant of the accused;
14 (iii) a first or second cousin of the accused; or (iv) a
15 step-child or adopted child of the accused;

16 (7.9) ~~(7.8)~~ if convicted under Section 11-6, 11-20.1,
17 11-20.3, or 11-21 of the Criminal Code of 1961, consent to
18 search of computers, PDAs, cellular phones, and other
19 devices under his or her control that are capable of
20 accessing the Internet or storing electronic files, in
21 order to confirm Internet protocol addresses reported in
22 accordance with the Sex Offender Registration Act and
23 compliance with conditions in this Act;

24 (7.10) ~~(7.8)~~ if convicted for an offense that would
25 qualify the accused as a sex offender or sexual predator
26 under the Sex Offender Registration Act on or after the

1 effective date of this amendatory Act of the 95th General
2 Assembly, not possess prescription drugs for erectile
3 dysfunction;

4 (8) obtain permission of an agent of the Department of
5 Corrections before leaving the State of Illinois;

6 (9) obtain permission of an agent of the Department of
7 Corrections before changing his or her residence or
8 employment;

9 (10) consent to a search of his or her person,
10 property, or residence under his or her control;

11 (11) refrain from the use or possession of narcotics or
12 other controlled substances in any form, or both, or any
13 paraphernalia related to those substances and submit to a
14 urinalysis test as instructed by a parole agent of the
15 Department of Corrections;

16 (12) not frequent places where controlled substances
17 are illegally sold, used, distributed, or administered;

18 (13) not knowingly associate with other persons on
19 parole or mandatory supervised release without prior
20 written permission of his or her parole agent and not
21 associate with persons who are members of an organized gang
22 as that term is defined in the Illinois Streetgang
23 Terrorism Omnibus Prevention Act;

24 (14) provide true and accurate information, as it
25 relates to his or her adjustment in the community while on
26 parole or mandatory supervised release or to his or her

1 conduct while incarcerated, in response to inquiries by his
2 or her parole agent or of the Department of Corrections;

3 (15) follow any specific instructions provided by the
4 parole agent that are consistent with furthering
5 conditions set and approved by the Prisoner Review Board or
6 by law, exclusive of placement on electronic detention, to
7 achieve the goals and objectives of his or her parole or
8 mandatory supervised release or to protect the public.
9 These instructions by the parole agent may be modified at
10 any time, as the agent deems appropriate; ~~and~~

11 (16) if convicted of a sex offense as defined in
12 subsection (a-5) of Section 3-1-2 of this Code, unless the
13 offender is a parent or guardian of the person under 18
14 years of age present in the home and no non-familial minors
15 are present, not participate in a holiday event involving
16 children under 18 years of age, such as distributing candy
17 or other items to children on Halloween, wearing a Santa
18 Claus costume on or preceding Christmas, being employed as
19 a department store Santa Claus, or wearing an Easter Bunny
20 costume on or preceding Easter; ~~and-~~

21 (17) if convicted of a violation of an order of
22 protection under Section 12-30 of the Criminal Code of
23 1961, be placed under electronic surveillance as provided
24 in Section 5-8A-7 of this Code.

25 (b) The Board may in addition to other conditions require
26 that the subject:

1 (1) work or pursue a course of study or vocational
2 training;

3 (2) undergo medical or psychiatric treatment, or
4 treatment for drug addiction or alcoholism;

5 (3) attend or reside in a facility established for the
6 instruction or residence of persons on probation or parole;

7 (4) support his dependents;

8 (5) (blank);

9 (6) (blank);

10 (7) comply with the terms and conditions of an order of
11 protection issued pursuant to the Illinois Domestic
12 Violence Act of 1986, enacted by the 84th General Assembly,
13 or an order of protection issued by the court of another
14 state, tribe, or United States territory;

15 (7.5) if convicted for an offense committed on or after
16 the effective date of this amendatory Act of the 95th
17 General Assembly that would qualify the accused as a child
18 sex offender as defined in Section 11-9.3 or 11-9.4 of the
19 Criminal Code of 1961, refrain from communicating with or
20 contacting, by means of the Internet, a person who is
21 related to the accused and whom the accused reasonably
22 believes to be under 18 years of age; for purposes of this
23 paragraph (7.5), "Internet" has the meaning ascribed to it
24 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
25 ~~Public Act 94-179~~; and a person is related to the accused
26 if the person is: (i) the spouse, brother, or sister of the

1 accused; (ii) a descendant of the accused; (iii) a first or
2 second cousin of the accused; or (iv) a step-child or
3 adopted child of the accused; and

4 (8) in addition, if a minor:

5 (i) reside with his parents or in a foster home;

6 (ii) attend school;

7 (iii) attend a non-residential program for youth;

8 or

9 (iv) contribute to his own support at home or in a
10 foster home.

11 (b-1) In addition to the conditions set forth in
12 subsections (a) and (b), persons required to register as sex
13 offenders pursuant to the Sex Offender Registration Act, upon
14 release from the custody of the Illinois Department of
15 Corrections, may be required by the Board to comply with the
16 following specific conditions of release:

17 (1) reside only at a Department approved location;

18 (2) comply with all requirements of the Sex Offender
19 Registration Act;

20 (3) notify third parties of the risks that may be
21 occasioned by his or her criminal record;

22 (4) obtain the approval of an agent of the Department
23 of Corrections prior to accepting employment or pursuing a
24 course of study or vocational training and notify the
25 Department prior to any change in employment, study, or
26 training;

1 (5) not be employed or participate in any volunteer
2 activity that involves contact with children, except under
3 circumstances approved in advance and in writing by an
4 agent of the Department of Corrections;

5 (6) be electronically monitored for a minimum of 12
6 months from the date of release as determined by the Board;

7 (7) refrain from entering into a designated geographic
8 area except upon terms approved in advance by an agent of
9 the Department of Corrections. The terms may include
10 consideration of the purpose of the entry, the time of day,
11 and others accompanying the person;

12 (8) refrain from having any contact, including written
13 or oral communications, directly or indirectly, personally
14 or by telephone, letter, or through a third party with
15 certain specified persons including, but not limited to,
16 the victim or the victim's family without the prior written
17 approval of an agent of the Department of Corrections;

18 (9) refrain from all contact, directly or indirectly,
19 personally, by telephone, letter, or through a third party,
20 with minor children without prior identification and
21 approval of an agent of the Department of Corrections;

22 (10) neither possess or have under his or her control
23 any material that is sexually oriented, sexually
24 stimulating, or that shows male or female sex organs or any
25 pictures depicting children under 18 years of age nude or
26 any written or audio material describing sexual

1 intercourse or that depicts or alludes to sexual activity,
2 including but not limited to visual, auditory, telephonic,
3 or electronic media, or any matter obtained through access
4 to any computer or material linked to computer access use;

5 (11) not patronize any business providing sexually
6 stimulating or sexually oriented entertainment nor utilize
7 "900" or adult telephone numbers;

8 (12) not reside near, visit, or be in or about parks,
9 schools, day care centers, swimming pools, beaches,
10 theaters, or any other places where minor children
11 congregate without advance approval of an agent of the
12 Department of Corrections and immediately report any
13 incidental contact with minor children to the Department;

14 (13) not possess or have under his or her control
15 certain specified items of contraband related to the
16 incidence of sexually offending as determined by an agent
17 of the Department of Corrections;

18 (14) may be required to provide a written daily log of
19 activities if directed by an agent of the Department of
20 Corrections;

21 (15) comply with all other special conditions that the
22 Department may impose that restrict the person from
23 high-risk situations and limit access to potential
24 victims;

25 (16) take an annual polygraph exam;

26 (17) maintain a log of his or her travel; or

1 (18) obtain prior approval of his or her parole officer
2 before driving alone in a motor vehicle.

3 (c) The conditions under which the parole or mandatory
4 supervised release is to be served shall be communicated to the
5 person in writing prior to his release, and he shall sign the
6 same before release. A signed copy of these conditions,
7 including a copy of an order of protection where one had been
8 issued by the criminal court, shall be retained by the person
9 and another copy forwarded to the officer in charge of his
10 supervision.

11 (d) After a hearing under Section 3-3-9, the Prisoner
12 Review Board may modify or enlarge the conditions of parole or
13 mandatory supervised release.

14 (e) The Department shall inform all offenders committed to
15 the Department of the optional services available to them upon
16 release and shall assist inmates in availing themselves of such
17 optional services upon their release on a voluntary basis.

18 (f) When the subject is in compliance with all conditions
19 of his or her parole or mandatory supervised release, the
20 subject shall receive a reduction of the period of his or her
21 parole or mandatory supervised release of 90 days upon passage
22 of the high school level Test of General Educational
23 Development during the period of his or her parole or mandatory
24 supervised release. This reduction in the period of a subject's
25 term of parole or mandatory supervised release shall be
26 available only to subjects who have not previously earned a

1 high school diploma or who have not previously passed the high
2 school level Test of General Educational Development.

3 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
4 94-988, eff. 1-1-07; 95-464, eff. 6-1-08; 95-539, eff. 1-1-08;
5 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; revised 12-26-07.)

6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

7 (Text of Section after amendment by P.A. 95-585, 95-625,
8 and 95-640)

9 Sec. 3-6-3. Rules and Regulations for Early Release.

10 (a) (1) The Department of Corrections shall prescribe
11 rules and regulations for the early release on account of
12 good conduct of persons committed to the Department which
13 shall be subject to review by the Prisoner Review Board.

14 (2) The rules and regulations on early release shall
15 provide, with respect to offenses listed in clause (i),
16 (ii), or (iii) of this paragraph (2) committed on or after
17 June 19, 1998 or with respect to the offense listed in
18 clause (iv) of this paragraph (2) committed on or after
19 June 23, 2005 (the effective date of Public Act 94-71) or
20 with respect to offense listed in clause (vi) ~~(v)~~ committed
21 on or after June 1, 2008 (the effective date of Public Act
22 95-625) ~~this amendatory Act of the 95th General Assembly~~ or
23 with respect to the offense of being an armed habitual
24 criminal committed on or after August 2, 2005 (the
25 effective date of Public Act 94-398) or with respect to the

1 offenses listed in clause (v) of this paragraph (2)
2 committed on or after August 13, 2007 (the effective date
3 of Public Act 95-134) ~~this amendatory Act of the 95th~~
4 ~~General Assembly~~, the following:

5 (i) that a prisoner who is serving a term of
6 imprisonment for first degree murder or for the offense
7 of terrorism shall receive no good conduct credit and
8 shall serve the entire sentence imposed by the court;

9 (ii) that a prisoner serving a sentence for attempt
10 to commit first degree murder, solicitation of murder,
11 solicitation of murder for hire, intentional homicide
12 of an unborn child, predatory criminal sexual assault
13 of a child, aggravated criminal sexual assault,
14 criminal sexual assault, aggravated kidnapping,
15 aggravated battery with a firearm, heinous battery,
16 being an armed habitual criminal, aggravated battery
17 of a senior citizen, or aggravated battery of a child
18 shall receive no more than 4.5 days of good conduct
19 credit for each month of his or her sentence of
20 imprisonment;

21 (iii) that a prisoner serving a sentence for home
22 invasion, armed robbery, aggravated vehicular
23 hijacking, aggravated discharge of a firearm, or armed
24 violence with a category I weapon or category II
25 weapon, when the court has made and entered a finding,
26 pursuant to subsection (c-1) of Section 5-4-1 of this

1 Code, that the conduct leading to conviction for the
2 enumerated offense resulted in great bodily harm to a
3 victim, shall receive no more than 4.5 days of good
4 conduct credit for each month of his or her sentence of
5 imprisonment;

6 (iv) that a prisoner serving a sentence for
7 aggravated discharge of a firearm, whether or not the
8 conduct leading to conviction for the offense resulted
9 in great bodily harm to the victim, shall receive no
10 more than 4.5 days of good conduct credit for each
11 month of his or her sentence of imprisonment; ~~and~~

12 (v) that a person serving a sentence for
13 gunrunning, narcotics racketeering, controlled
14 substance trafficking, methamphetamine trafficking,
15 drug-induced homicide, aggravated
16 methamphetamine-related child endangerment, money
17 laundering pursuant to clause (c) (4) or (5) of Section
18 29B-1 of the Criminal Code of 1961, or a Class X felony
19 conviction for delivery of a controlled substance,
20 possession of a controlled substance with intent to
21 manufacture or deliver, calculated criminal drug
22 conspiracy, criminal drug conspiracy, street gang
23 criminal drug conspiracy, participation in
24 methamphetamine manufacturing, aggravated
25 participation in methamphetamine manufacturing,
26 delivery of methamphetamine, possession with intent to

1 deliver methamphetamine, aggravated delivery of
2 methamphetamine, aggravated possession with intent to
3 deliver methamphetamine, methamphetamine conspiracy
4 when the substance containing the controlled substance
5 or methamphetamine is 100 grams or more shall receive
6 no more than 7.5 days good conduct credit for each
7 month of his or her sentence of imprisonment; ~~and-~~

8 (vi) ~~(v)~~ that a prisoner serving a sentence for a
9 second or subsequent offense of luring a minor shall
10 receive no more than 4.5 days of good conduct credit
11 for each month of his or her sentence of imprisonment.

12 (2.1) For all offenses, other than those enumerated in
13 subdivision (a) (2) (i), (ii), or (iii) committed on or after
14 June 19, 1998 or subdivision (a) (2) (iv) committed on or
15 after June 23, 2005 (the effective date of Public Act
16 94-71) or subdivision (a) (2) (v) committed on or after
17 August 13, 2007 (the effective date of Public Act 95-134)
18 ~~this amendatory Act of the 95th General Assembly~~ or
19 subdivision (a) (2) (vi) ~~(v)~~ committed on or after June 1,
20 2008 (the effective date of Public Act 95-625) ~~this~~
21 ~~amendatory Act of the 95th General Assembly~~, and other than
22 the offense of reckless homicide as defined in subsection
23 (e) of Section 9-3 of the Criminal Code of 1961 committed
24 on or after January 1, 1999, or aggravated driving under
25 the influence of alcohol, other drug or drugs, or
26 intoxicating compound or compounds, or any combination

1 thereof as defined in subparagraph (F) of paragraph (1) of
2 subsection (d) of Section 11-501 of the Illinois Vehicle
3 Code, the rules and regulations shall provide that a
4 prisoner who is serving a term of imprisonment shall
5 receive one day of good conduct credit for each day of his
6 or her sentence of imprisonment or recommitment under
7 Section 3-3-9. Each day of good conduct credit shall reduce
8 by one day the prisoner's period of imprisonment or
9 recommitment under Section 3-3-9.

10 (2.2) A prisoner serving a term of natural life
11 imprisonment or a prisoner who has been sentenced to death
12 shall receive no good conduct credit.

13 (2.3) The rules and regulations on early release shall
14 provide that a prisoner who is serving a sentence for
15 reckless homicide as defined in subsection (e) of Section
16 9-3 of the Criminal Code of 1961 committed on or after
17 January 1, 1999, or aggravated driving under the influence
18 of alcohol, other drug or drugs, or intoxicating compound
19 or compounds, or any combination thereof as defined in
20 subparagraph (F) of paragraph (1) of subsection (d) of
21 Section 11-501 of the Illinois Vehicle Code, shall receive
22 no more than 4.5 days of good conduct credit for each month
23 of his or her sentence of imprisonment.

24 (2.4) The rules and regulations on early release shall
25 provide with respect to the offenses of aggravated battery
26 with a machine gun or a firearm equipped with any device or

1 attachment designed or used for silencing the report of a
2 firearm or aggravated discharge of a machine gun or a
3 firearm equipped with any device or attachment designed or
4 used for silencing the report of a firearm, committed on or
5 after July 15, 1999 (the effective date of Public Act
6 91-121), that a prisoner serving a sentence for any of
7 these offenses shall receive no more than 4.5 days of good
8 conduct credit for each month of his or her sentence of
9 imprisonment.

10 (2.5) The rules and regulations on early release shall
11 provide that a prisoner who is serving a sentence for
12 aggravated arson committed on or after July 27, 2001 (the
13 effective date of Public Act 92-176) shall receive no more
14 than 4.5 days of good conduct credit for each month of his
15 or her sentence of imprisonment.

16 (3) The rules and regulations shall also provide that
17 the Director may award up to 180 days additional good
18 conduct credit for meritorious service in specific
19 instances as the Director deems proper; except that no more
20 than 90 days of good conduct credit for meritorious service
21 shall be awarded to any prisoner who is serving a sentence
22 for conviction of first degree murder, reckless homicide
23 while under the influence of alcohol or any other drug, or
24 aggravated driving under the influence of alcohol, other
25 drug or drugs, or intoxicating compound or compounds, or
26 any combination thereof as defined in subparagraph (F) of

1 paragraph (1) of subsection (d) of Section 11-501 of the
2 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
3 predatory criminal sexual assault of a child, aggravated
4 criminal sexual assault, criminal sexual assault, deviate
5 sexual assault, aggravated criminal sexual abuse,
6 aggravated indecent liberties with a child, indecent
7 liberties with a child, child pornography, heinous
8 battery, aggravated battery of a spouse, aggravated
9 battery of a spouse with a firearm, stalking, aggravated
10 stalking, aggravated battery of a child, endangering the
11 life or health of a child, or cruelty to a child.
12 Notwithstanding the foregoing, good conduct credit for
13 meritorious service shall not be awarded on a sentence of
14 imprisonment imposed for conviction of: (i) one of the
15 offenses enumerated in subdivision (a)(2)(i), (ii), or
16 (iii) when the offense is committed on or after June 19,
17 1998 or subdivision (a)(2)(iv) when the offense is
18 committed on or after June 23, 2005 (the effective date of
19 Public Act 94-71) or subdivision (a)(2)(v) when the offense
20 is committed on or after August 13, 2007 (the effective
21 date of Public Act 95-134) ~~this amendatory Act of the 95th~~
22 ~~General Assembly~~ or subdivision (a)(2)(vi) ~~(v)~~ when the
23 offense is committed on or after June 1, 2008 (the
24 effective date of Public Act 95-625) ~~this amendatory Act of~~
25 ~~the 95th General Assembly~~, (ii) reckless homicide as
26 defined in subsection (e) of Section 9-3 of the Criminal

1 Code of 1961 when the offense is committed on or after
2 January 1, 1999, or aggravated driving under the influence
3 of alcohol, other drug or drugs, or intoxicating compound
4 or compounds, or any combination thereof as defined in
5 subparagraph (F) of paragraph (1) of subsection (d) of
6 Section 11-501 of the Illinois Vehicle Code, (iii) one of
7 the offenses enumerated in subdivision (a)(2.4) when the
8 offense is committed on or after July 15, 1999 (the
9 effective date of Public Act 91-121), or (iv) aggravated
10 arson when the offense is committed on or after July 27,
11 2001 (the effective date of Public Act 92-176).

12 (4) The rules and regulations shall also provide that
13 the good conduct credit accumulated and retained under
14 paragraph (2.1) of subsection (a) of this Section by any
15 inmate during specific periods of time in which such inmate
16 is engaged full-time in substance abuse programs,
17 correctional industry assignments, or educational programs
18 provided by the Department under this paragraph (4) and
19 satisfactorily completes the assigned program as
20 determined by the standards of the Department, shall be
21 multiplied by a factor of 1.25 for program participation
22 before August 11, 1993 and 1.50 for program participation
23 on or after that date. However, no inmate shall be eligible
24 for the additional good conduct credit under this paragraph
25 (4) or (4.1) of this subsection (a) while assigned to a
26 boot camp or electronic detention, or if convicted of an

1 offense enumerated in subdivision (a)(2)(i), (ii), or
2 (iii) of this Section that is committed on or after June
3 19, 1998 or subdivision (a)(2)(iv) of this Section that is
4 committed on or after June 23, 2005 (the effective date of
5 Public Act 94-71) or subdivision (a)(2)(v) of this Section
6 that is committed on or after August 13, 2007 (the
7 effective date of Public Act 95-134) ~~this amendatory Act of~~
8 ~~the 95th General Assembly~~ or subdivision (a)(2)(vi)(~~v~~)
9 when the offense is committed on or after June 1, 2008 (the
10 effective date of Public Act 95-625) ~~this amendatory Act of~~
11 ~~the 95th General Assembly~~, or if convicted of reckless
12 homicide as defined in subsection (e) of Section 9-3 of the
13 Criminal Code of 1961 if the offense is committed on or
14 after January 1, 1999, or aggravated driving under the
15 influence of alcohol, other drug or drugs, or intoxicating
16 compound or compounds, or any combination thereof as
17 defined in subparagraph (F) of paragraph (1) of subsection
18 (d) of Section 11-501 of the Illinois Vehicle Code, or if
19 convicted of an offense enumerated in paragraph (a)(2.4) of
20 this Section that is committed on or after July 15, 1999
21 (the effective date of Public Act 91-121), or first degree
22 murder, a Class X felony, criminal sexual assault, felony
23 criminal sexual abuse, aggravated criminal sexual abuse,
24 aggravated battery with a firearm, or any predecessor or
25 successor offenses with the same or substantially the same
26 elements, or any inchoate offenses relating to the

1 foregoing offenses. No inmate shall be eligible for the
2 additional good conduct credit under this paragraph (4) who
3 (i) has previously received increased good conduct credit
4 under this paragraph (4) and has subsequently been
5 convicted of a felony, or (ii) has previously served more
6 than one prior sentence of imprisonment for a felony in an
7 adult correctional facility.

8 Educational, vocational, substance abuse and
9 correctional industry programs under which good conduct
10 credit may be increased under this paragraph (4) and
11 paragraph (4.1) of this subsection (a) shall be evaluated
12 by the Department on the basis of documented standards. The
13 Department shall report the results of these evaluations to
14 the Governor and the General Assembly by September 30th of
15 each year. The reports shall include data relating to the
16 recidivism rate among program participants.

17 Availability of these programs shall be subject to the
18 limits of fiscal resources appropriated by the General
19 Assembly for these purposes. Eligible inmates who are
20 denied immediate admission shall be placed on a waiting
21 list under criteria established by the Department. The
22 inability of any inmate to become engaged in any such
23 programs by reason of insufficient program resources or for
24 any other reason established under the rules and
25 regulations of the Department shall not be deemed a cause
26 of action under which the Department or any employee or

1 agent of the Department shall be liable for damages to the
2 inmate.

3 (4.1) The rules and regulations shall also provide that
4 an additional 60 days of good conduct credit shall be
5 awarded to any prisoner who passes the high school level
6 Test of General Educational Development (GED) while the
7 prisoner is incarcerated. The good conduct credit awarded
8 under this paragraph (4.1) shall be in addition to, and
9 shall not affect, the award of good conduct under any other
10 paragraph of this Section, but shall also be pursuant to
11 the guidelines and restrictions set forth in paragraph (4)
12 of subsection (a) of this Section. The good conduct credit
13 provided for in this paragraph shall be available only to
14 those prisoners who have not previously earned a high
15 school diploma or a GED. If, after an award of the GED good
16 conduct credit has been made and the Department determines
17 that the prisoner was not eligible, then the award shall be
18 revoked.

19 (4.5) The rules and regulations on early release shall
20 also provide that when the court's sentencing order
21 recommends a prisoner for substance abuse treatment and the
22 crime was committed on or after September 1, 2003 (the
23 effective date of Public Act 93-354), the prisoner shall
24 receive no good conduct credit awarded under clause (3) of
25 this subsection (a) unless he or she participates in and
26 completes a substance abuse treatment program. The

1 Director may waive the requirement to participate in or
2 complete a substance abuse treatment program and award the
3 good conduct credit in specific instances if the prisoner
4 is not a good candidate for a substance abuse treatment
5 program for medical, programming, or operational reasons.
6 Availability of substance abuse treatment shall be subject
7 to the limits of fiscal resources appropriated by the
8 General Assembly for these purposes. If treatment is not
9 available and the requirement to participate and complete
10 the treatment has not been waived by the Director, the
11 prisoner shall be placed on a waiting list under criteria
12 established by the Department. The Director may allow a
13 prisoner placed on a waiting list to participate in and
14 complete a substance abuse education class or attend
15 substance abuse self-help meetings in lieu of a substance
16 abuse treatment program. A prisoner on a waiting list who
17 is not placed in a substance abuse program prior to release
18 may be eligible for a waiver and receive good conduct
19 credit under clause (3) of this subsection (a) at the
20 discretion of the Director.

21 (4.6) The rules and regulations on early release shall
22 also provide that a prisoner who has been convicted of a
23 sex offense as defined in Section 2 of the Sex Offender
24 Registration Act shall receive no good conduct credit
25 unless he or she either has successfully completed or is
26 participating in sex offender treatment as defined by the

1 Sex Offender Management Board. However, prisoners who are
2 waiting to receive such treatment, but who are unable to do
3 so due solely to the lack of resources on the part of the
4 Department, may, at the Director's sole discretion, be
5 awarded good conduct credit at such rate as the Director
6 shall determine.

7 (5) Whenever the Department is to release any inmate
8 earlier than it otherwise would because of a grant of good
9 conduct credit for meritorious service given at any time
10 during the term, the Department shall give reasonable
11 advance notice of the impending release to the State's
12 Attorney of the county where the prosecution of the inmate
13 took place.

14 (b) Whenever a person is or has been committed under
15 several convictions, with separate sentences, the sentences
16 shall be construed under Section 5-8-4 in granting and
17 forfeiting of good time.

18 (c) The Department shall prescribe rules and regulations
19 for revoking good conduct credit, or suspending or reducing the
20 rate of accumulation of good conduct credit for specific rule
21 violations, during imprisonment. These rules and regulations
22 shall provide that no inmate may be penalized more than one
23 year of good conduct credit for any one infraction.

24 When the Department seeks to revoke, suspend or reduce the
25 rate of accumulation of any good conduct credits for an alleged
26 infraction of its rules, it shall bring charges therefor

1 against the prisoner sought to be so deprived of good conduct
2 credits before the Prisoner Review Board as provided in
3 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
4 amount of credit at issue exceeds 30 days or when during any 12
5 month period, the cumulative amount of credit revoked exceeds
6 30 days except where the infraction is committed or discovered
7 within 60 days of scheduled release. In those cases, the
8 Department of Corrections may revoke up to 30 days of good
9 conduct credit. The Board may subsequently approve the
10 revocation of additional good conduct credit, if the Department
11 seeks to revoke good conduct credit in excess of 30 days.
12 However, the Board shall not be empowered to review the
13 Department's decision with respect to the loss of 30 days of
14 good conduct credit within any calendar year for any prisoner
15 or to increase any penalty beyond the length requested by the
16 Department.

17 The Director of the Department of Corrections, in
18 appropriate cases, may restore up to 30 days good conduct
19 credits which have been revoked, suspended or reduced. Any
20 restoration of good conduct credits in excess of 30 days shall
21 be subject to review by the Prisoner Review Board. However, the
22 Board may not restore good conduct credit in excess of the
23 amount requested by the Director.

24 Nothing contained in this Section shall prohibit the
25 Prisoner Review Board from ordering, pursuant to Section
26 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the

1 sentence imposed by the court that was not served due to the
2 accumulation of good conduct credit.

3 (d) If a lawsuit is filed by a prisoner in an Illinois or
4 federal court against the State, the Department of Corrections,
5 or the Prisoner Review Board, or against any of their officers
6 or employees, and the court makes a specific finding that a
7 pleading, motion, or other paper filed by the prisoner is
8 frivolous, the Department of Corrections shall conduct a
9 hearing to revoke up to 180 days of good conduct credit by
10 bringing charges against the prisoner sought to be deprived of
11 the good conduct credits before the Prisoner Review Board as
12 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
13 If the prisoner has not accumulated 180 days of good conduct
14 credit at the time of the finding, then the Prisoner Review
15 Board may revoke all good conduct credit accumulated by the
16 prisoner.

17 For purposes of this subsection (d):

18 (1) "Frivolous" means that a pleading, motion, or other
19 filing which purports to be a legal document filed by a
20 prisoner in his or her lawsuit meets any or all of the
21 following criteria:

22 (A) it lacks an arguable basis either in law or in
23 fact;

24 (B) it is being presented for any improper purpose,
25 such as to harass or to cause unnecessary delay or
26 needless increase in the cost of litigation;

1 (C) the claims, defenses, and other legal
2 contentions therein are not warranted by existing law
3 or by a nonfrivolous argument for the extension,
4 modification, or reversal of existing law or the
5 establishment of new law;

6 (D) the allegations and other factual contentions
7 do not have evidentiary support or, if specifically so
8 identified, are not likely to have evidentiary support
9 after a reasonable opportunity for further
10 investigation or discovery; or

11 (E) the denials of factual contentions are not
12 warranted on the evidence, or if specifically so
13 identified, are not reasonably based on a lack of
14 information or belief.

15 (2) "Lawsuit" means a motion pursuant to Section 116-3
16 of the Code of Criminal Procedure of 1963, a habeas corpus
17 action under Article X of the Code of Civil Procedure or
18 under federal law (28 U.S.C. 2254), a petition for claim
19 under the Court of Claims Act, an action under the federal
20 Civil Rights Act (42 U.S.C. 1983), or a second or
21 subsequent petition for post-conviction relief under
22 Article 122 of the Code of Criminal Procedure of 1963
23 whether filed with or without leave of court or a second or
24 subsequent petition for relief from judgment under Section
25 2-1401 of the Code of Civil Procedure.

26 (e) Nothing in Public Act 90-592 or 90-593 affects the

1 validity of Public Act 89-404.

2 (f) Whenever the Department is to release any inmate who
3 has been convicted of a violation of an order of protection
4 under Section 12-30 of the Criminal Code of 1961, earlier than
5 it otherwise would because of a grant of good conduct credit,
6 the Department, as a condition of such early release, shall
7 require that the person, upon release, be placed under
8 electronic surveillance as provided in Section 5-8A-7 of this
9 Code.

10 (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,
11 eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,
12 eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,
13 eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

14 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

15 (Text of Section after amendment by P.A. 95-464, 95-578,
16 and 95-696)

17 Sec. 5-6-3. Conditions of Probation and of Conditional
18 Discharge.

19 (a) The conditions of probation and of conditional
20 discharge shall be that the person:

21 (1) not violate any criminal statute of any
22 jurisdiction;

23 (2) report to or appear in person before such person or
24 agency as directed by the court;

25 (3) refrain from possessing a firearm or other

1 dangerous weapon;

2 (4) not leave the State without the consent of the
3 court or, in circumstances in which the reason for the
4 absence is of such an emergency nature that prior consent
5 by the court is not possible, without the prior
6 notification and approval of the person's probation
7 officer. Transfer of a person's probation or conditional
8 discharge supervision to another state is subject to
9 acceptance by the other state pursuant to the Interstate
10 Compact for Adult Offender Supervision;

11 (5) permit the probation officer to visit him at his
12 home or elsewhere to the extent necessary to discharge his
13 duties;

14 (6) perform no less than 30 hours of community service
15 and not more than 120 hours of community service, if
16 community service is available in the jurisdiction and is
17 funded and approved by the county board where the offense
18 was committed, where the offense was related to or in
19 furtherance of the criminal activities of an organized gang
20 and was motivated by the offender's membership in or
21 allegiance to an organized gang. The community service
22 shall include, but not be limited to, the cleanup and
23 repair of any damage caused by a violation of Section
24 21-1.3 of the Criminal Code of 1961 and similar damage to
25 property located within the municipality or county in which
26 the violation occurred. When possible and reasonable, the

1 community service should be performed in the offender's
2 neighborhood. For purposes of this Section, "organized
3 gang" has the meaning ascribed to it in Section 10 of the
4 Illinois Streetgang Terrorism Omnibus Prevention Act;

5 (7) if he or she is at least 17 years of age and has
6 been sentenced to probation or conditional discharge for a
7 misdemeanor or felony in a county of 3,000,000 or more
8 inhabitants and has not been previously convicted of a
9 misdemeanor or felony, may be required by the sentencing
10 court to attend educational courses designed to prepare the
11 defendant for a high school diploma and to work toward a
12 high school diploma or to work toward passing the high
13 school level Test of General Educational Development (GED)
14 or to work toward completing a vocational training program
15 approved by the court. The person on probation or
16 conditional discharge must attend a public institution of
17 education to obtain the educational or vocational training
18 required by this clause (7). The court shall revoke the
19 probation or conditional discharge of a person who wilfully
20 fails to comply with this clause (7). The person on
21 probation or conditional discharge shall be required to pay
22 for the cost of the educational courses or GED test, if a
23 fee is charged for those courses or test. The court shall
24 resentence the offender whose probation or conditional
25 discharge has been revoked as provided in Section 5-6-4.
26 This clause (7) does not apply to a person who has a high

1 school diploma or has successfully passed the GED test.
2 This clause (7) does not apply to a person who is
3 determined by the court to be developmentally disabled or
4 otherwise mentally incapable of completing the educational
5 or vocational program;

6 (8) if convicted of possession of a substance
7 prohibited by the Cannabis Control Act, the Illinois
8 Controlled Substances Act, or the Methamphetamine Control
9 and Community Protection Act after a previous conviction or
10 disposition of supervision for possession of a substance
11 prohibited by the Cannabis Control Act or Illinois
12 Controlled Substances Act or after a sentence of probation
13 under Section 10 of the Cannabis Control Act, Section 410
14 of the Illinois Controlled Substances Act, or Section 70 of
15 the Methamphetamine Control and Community Protection Act
16 and upon a finding by the court that the person is
17 addicted, undergo treatment at a substance abuse program
18 approved by the court;

19 (8.5) if convicted of a felony sex offense as defined
20 in the Sex Offender Management Board Act, the person shall
21 undergo and successfully complete sex offender treatment
22 by a treatment provider approved by the Board and conducted
23 in conformance with the standards developed under the Sex
24 Offender Management Board Act;

25 (8.6) if convicted of a sex offense as defined in the
26 Sex Offender Management Board Act, refrain from residing at

1 the same address or in the same condominium unit or
2 apartment unit or in the same condominium complex or
3 apartment complex with another person he or she knows or
4 reasonably should know is a convicted sex offender or has
5 been placed on supervision for a sex offense; the
6 provisions of this paragraph do not apply to a person
7 convicted of a sex offense who is placed in a Department of
8 Corrections licensed transitional housing facility for sex
9 offenders;

10 (8.7) if convicted for an offense committed on or after
11 the effective date of this amendatory Act of the 95th
12 General Assembly that would qualify the accused as a child
13 sex offender as defined in Section 11-9.3 or 11-9.4 of the
14 Criminal Code of 1961, refrain from communicating with or
15 contacting, by means of the Internet, a person who is not
16 related to the accused and whom the accused reasonably
17 believes to be under 18 years of age; for purposes of this
18 paragraph (8.7), "Internet" has the meaning ascribed to it
19 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
20 ~~Public Act 94-179~~; and a person is not related to the
21 accused if the person is not: (i) the spouse, brother, or
22 sister of the accused; (ii) a descendant of the accused;
23 (iii) a first or second cousin of the accused; or (iv) a
24 step-child or adopted child of the accused;

25 (9) if convicted of a felony, physically surrender at a
26 time and place designated by the court, his or her Firearm

1 Owner's Identification Card and any and all firearms in his
2 or her possession; and

3 (10) if convicted of a sex offense as defined in
4 subsection (a-5) of Section 3-1-2 of this Code, unless the
5 offender is a parent or guardian of the person under 18
6 years of age present in the home and no non-familial minors
7 are present, not participate in a holiday event involving
8 children under 18 years of age, such as distributing candy
9 or other items to children on Halloween, wearing a Santa
10 Claus costume on or preceding Christmas, being employed as
11 a department store Santa Claus, or wearing an Easter Bunny
12 costume on or preceding Easter.

13 (b) The Court may in addition to other reasonable
14 conditions relating to the nature of the offense or the
15 rehabilitation of the defendant as determined for each
16 defendant in the proper discretion of the Court require that
17 the person:

18 (1) serve a term of periodic imprisonment under Article
19 7 for a period not to exceed that specified in paragraph
20 (d) of Section 5-7-1;

21 (2) pay a fine and costs;

22 (3) work or pursue a course of study or vocational
23 training;

24 (4) undergo medical, psychological or psychiatric
25 treatment; or treatment for drug addiction or alcoholism;

26 (5) attend or reside in a facility established for the

1 instruction or residence of defendants on probation;

2 (6) support his dependents;

3 (7) and in addition, if a minor:

4 (i) reside with his parents or in a foster home;

5 (ii) attend school;

6 (iii) attend a non-residential program for youth;

7 (iv) contribute to his own support at home or in a
8 foster home;

9 (v) with the consent of the superintendent of the
10 facility, attend an educational program at a facility
11 other than the school in which the offense was
12 committed if he or she is convicted of a crime of
13 violence as defined in Section 2 of the Crime Victims
14 Compensation Act committed in a school, on the real
15 property comprising a school, or within 1,000 feet of
16 the real property comprising a school;

17 (8) make restitution as provided in Section 5-5-6 of
18 this Code;

19 (9) perform some reasonable public or community
20 service;

21 (10) serve a term of home confinement. In addition to
22 any other applicable condition of probation or conditional
23 discharge, the conditions of home confinement shall be that
24 the offender:

25 (i) remain within the interior premises of the
26 place designated for his confinement during the hours

1 designated by the court;

2 (ii) admit any person or agent designated by the
3 court into the offender's place of confinement at any
4 time for purposes of verifying the offender's
5 compliance with the conditions of his confinement; and

6 (iii) if further deemed necessary by the court or
7 the Probation or Court Services Department, be placed
8 on an approved electronic monitoring device, subject
9 to Article 8A of Chapter V;

10 (iv) for persons convicted of any alcohol,
11 cannabis or controlled substance violation who are
12 placed on an approved monitoring device as a condition
13 of probation or conditional discharge, the court shall
14 impose a reasonable fee for each day of the use of the
15 device, as established by the county board in
16 subsection (g) of this Section, unless after
17 determining the inability of the offender to pay the
18 fee, the court assesses a lesser fee or no fee as the
19 case may be. This fee shall be imposed in addition to
20 the fees imposed under subsections (g) and (i) of this
21 Section. The fee shall be collected by the clerk of the
22 circuit court. The clerk of the circuit court shall pay
23 all monies collected from this fee to the county
24 treasurer for deposit in the substance abuse services
25 fund under Section 5-1086.1 of the Counties Code; and

26 (v) for persons convicted of offenses other than

1 those referenced in clause (iv) above and who are
2 placed on an approved monitoring device as a condition
3 of probation or conditional discharge, the court shall
4 impose a reasonable fee for each day of the use of the
5 device, as established by the county board in
6 subsection (g) of this Section, unless after
7 determining the inability of the defendant to pay the
8 fee, the court assesses a lesser fee or no fee as the
9 case may be. This fee shall be imposed in addition to
10 the fees imposed under subsections (g) and (i) of this
11 Section. The fee shall be collected by the clerk of the
12 circuit court. The clerk of the circuit court shall pay
13 all monies collected from this fee to the county
14 treasurer who shall use the monies collected to defray
15 the costs of corrections. The county treasurer shall
16 deposit the fee collected in the county working cash
17 fund under Section 6-27001 or Section 6-29002 of the
18 Counties Code, as the case may be.

19 (11) comply with the terms and conditions of an order
20 of protection issued by the court pursuant to the Illinois
21 Domestic Violence Act of 1986, as now or hereafter amended,
22 or an order of protection issued by the court of another
23 state, tribe, or United States territory. A copy of the
24 order of protection shall be transmitted to the probation
25 officer or agency having responsibility for the case;

26 (12) reimburse any "local anti-crime program" as

1 defined in Section 7 of the Anti-Crime Advisory Council Act
2 for any reasonable expenses incurred by the program on the
3 offender's case, not to exceed the maximum amount of the
4 fine authorized for the offense for which the defendant was
5 sentenced;

6 (13) contribute a reasonable sum of money, not to
7 exceed the maximum amount of the fine authorized for the
8 offense for which the defendant was sentenced, (i) to a
9 "local anti-crime program", as defined in Section 7 of the
10 Anti-Crime Advisory Council Act, or (ii) for offenses under
11 the jurisdiction of the Department of Natural Resources, to
12 the fund established by the Department of Natural Resources
13 for the purchase of evidence for investigation purposes and
14 to conduct investigations as outlined in Section 805-105 of
15 the Department of Natural Resources (Conservation) Law;

16 (14) refrain from entering into a designated
17 geographic area except upon such terms as the court finds
18 appropriate. Such terms may include consideration of the
19 purpose of the entry, the time of day, other persons
20 accompanying the defendant, and advance approval by a
21 probation officer, if the defendant has been placed on
22 probation or advance approval by the court, if the
23 defendant was placed on conditional discharge;

24 (15) refrain from having any contact, directly or
25 indirectly, with certain specified persons or particular
26 types of persons, including but not limited to members of

1 street gangs and drug users or dealers;

2 (16) refrain from having in his or her body the
3 presence of any illicit drug prohibited by the Cannabis
4 Control Act, the Illinois Controlled Substances Act, or the
5 Methamphetamine Control and Community Protection Act,
6 unless prescribed by a physician, and submit samples of his
7 or her blood or urine or both for tests to determine the
8 presence of any illicit drug; and

9 (17) if convicted for an offense committed on or after
10 the effective date of this amendatory Act of the 95th
11 General Assembly that would qualify the accused as a child
12 sex offender as defined in Section 11-9.3 or 11-9.4 of the
13 Criminal Code of 1961, refrain from communicating with or
14 contacting, by means of the Internet, a person who is
15 related to the accused and whom the accused reasonably
16 believes to be under 18 years of age; for purposes of this
17 paragraph (17), "Internet" has the meaning ascribed to it
18 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~
19 ~~Public Act 94-179~~; and a person is related to the accused
20 if the person is: (i) the spouse, brother, or sister of the
21 accused; (ii) a descendant of the accused; (iii) a first or
22 second cousin of the accused; or (iv) a step-child or
23 adopted child of the accused.

24 (c) The court may as a condition of probation or of
25 conditional discharge require that a person under 18 years of
26 age found guilty of any alcohol, cannabis or controlled

1 substance violation, refrain from acquiring a driver's license
2 during the period of probation or conditional discharge. If
3 such person is in possession of a permit or license, the court
4 may require that the minor refrain from driving or operating
5 any motor vehicle during the period of probation or conditional
6 discharge, except as may be necessary in the course of the
7 minor's lawful employment.

8 (d) An offender sentenced to probation or to conditional
9 discharge shall be given a certificate setting forth the
10 conditions thereof.

11 (e) Except where the offender has committed a fourth or
12 subsequent violation of subsection (c) of Section 6-303 of the
13 Illinois Vehicle Code, the court shall not require as a
14 condition of the sentence of probation or conditional discharge
15 that the offender be committed to a period of imprisonment in
16 excess of 6 months. This 6 month limit shall not include
17 periods of confinement given pursuant to a sentence of county
18 impact incarceration under Section 5-8-1.2.

19 Persons committed to imprisonment as a condition of
20 probation or conditional discharge shall not be committed to
21 the Department of Corrections.

22 (f) The court may combine a sentence of periodic
23 imprisonment under Article 7 or a sentence to a county impact
24 incarceration program under Article 8 with a sentence of
25 probation or conditional discharge.

26 (g) An offender sentenced to probation or to conditional

1 discharge and who during the term of either undergoes mandatory
2 drug or alcohol testing, or both, or is assigned to be placed
3 on an approved electronic monitoring device, shall be ordered
4 to pay all costs incidental to such mandatory drug or alcohol
5 testing, or both, and all costs incidental to such approved
6 electronic monitoring in accordance with the defendant's
7 ability to pay those costs. The county board with the
8 concurrence of the Chief Judge of the judicial circuit in which
9 the county is located shall establish reasonable fees for the
10 cost of maintenance, testing, and incidental expenses related
11 to the mandatory drug or alcohol testing, or both, and all
12 costs incidental to approved electronic monitoring, involved
13 in a successful probation program for the county. The
14 concurrence of the Chief Judge shall be in the form of an
15 administrative order. The fees shall be collected by the clerk
16 of the circuit court. The clerk of the circuit court shall pay
17 all moneys collected from these fees to the county treasurer
18 who shall use the moneys collected to defray the costs of drug
19 testing, alcohol testing, and electronic monitoring. The
20 county treasurer shall deposit the fees collected in the county
21 working cash fund under Section 6-27001 or Section 6-29002 of
22 the Counties Code, as the case may be.

23 (h) Jurisdiction over an offender may be transferred from
24 the sentencing court to the court of another circuit with the
25 concurrence of both courts. Further transfers or retransfers of
26 jurisdiction are also authorized in the same manner. The court

1 to which jurisdiction has been transferred shall have the same
2 powers as the sentencing court.

3 (i) The court shall impose upon an offender sentenced to
4 probation after January 1, 1989 or to conditional discharge
5 after January 1, 1992 or to community service under the
6 supervision of a probation or court services department after
7 January 1, 2004, as a condition of such probation or
8 conditional discharge or supervised community service, a fee of
9 \$50 for each month of probation or conditional discharge
10 supervision or supervised community service ordered by the
11 court, unless after determining the inability of the person
12 sentenced to probation or conditional discharge or supervised
13 community service to pay the fee, the court assesses a lesser
14 fee. The court may not impose the fee on a minor who is made a
15 ward of the State under the Juvenile Court Act of 1987 while
16 the minor is in placement. The fee shall be imposed only upon
17 an offender who is actively supervised by the probation and
18 court services department. The fee shall be collected by the
19 clerk of the circuit court. The clerk of the circuit court
20 shall pay all monies collected from this fee to the county
21 treasurer for deposit in the probation and court services fund
22 under Section 15.1 of the Probation and Probation Officers Act.

23 A circuit court may not impose a probation fee under this
24 subsection (i) in excess of \$25 per month unless: (1) the
25 circuit court has adopted, by administrative order issued by
26 the chief judge, a standard probation fee guide determining an

1 offender's ability to pay, under guidelines developed by the
2 Administrative Office of the Illinois Courts; and (2) the
3 circuit court has authorized, by administrative order issued by
4 the chief judge, the creation of a Crime Victim's Services
5 Fund, to be administered by the Chief Judge or his or her
6 designee, for services to crime victims and their families. Of
7 the amount collected as a probation fee, up to \$5 of that fee
8 collected per month may be used to provide services to crime
9 victims and their families.

10 This amendatory Act of the 93rd General Assembly deletes
11 the \$10 increase in the fee under this subsection that was
12 imposed by Public Act 93-616. This deletion is intended to
13 control over any other Act of the 93rd General Assembly that
14 retains or incorporates that fee increase.

15 (i-5) In addition to the fees imposed under subsection (i)
16 of this Section, in the case of an offender convicted of a
17 felony sex offense (as defined in the Sex Offender Management
18 Board Act) or an offense that the court or probation department
19 has determined to be sexually motivated (as defined in the Sex
20 Offender Management Board Act), the court or the probation
21 department shall assess additional fees to pay for all costs of
22 treatment, assessment, evaluation for risk and treatment, and
23 monitoring the offender, based on that offender's ability to
24 pay those costs either as they occur or under a payment plan.

25 (j) All fines and costs imposed under this Section for any
26 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle

1 Code, or a similar provision of a local ordinance, and any
2 violation of the Child Passenger Protection Act, or a similar
3 provision of a local ordinance, shall be collected and
4 disbursed by the circuit clerk as provided under Section 27.5
5 of the Clerks of Courts Act.

6 (k) Any offender who is sentenced to probation or
7 conditional discharge for a felony sex offense as defined in
8 the Sex Offender Management Board Act or any offense that the
9 court or probation department has determined to be sexually
10 motivated as defined in the Sex Offender Management Board Act
11 shall be required to refrain from any contact, directly or
12 indirectly, with any persons specified by the court and shall
13 be available for all evaluations and treatment programs
14 required by the court or the probation department.

15 (l) The court may order an offender who is sentenced to
16 probation or conditional discharge for a violation of an order
17 of protection be placed under electronic surveillance as
18 provided in Section 5-8A-7 of this Code.

19 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;
20 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff.
21 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; revised
22 12-26-07.)

23 (730 ILCS 5/5-8A-7 new)

24 Sec. 5-8A-7. Domestic violence surveillance program. If
25 the Prisoner Review Board, Department of Corrections, or court

1 (the supervising authority) orders electronic surveillance as
2 a condition of parole, mandatory supervised release, early
3 release, probation, or conditional discharge for a violation of
4 an order of protection or as a condition of bail for a person
5 charged with a violation of an order of protection, the
6 supervising authority must use a system that requires the
7 defendant to carry or wear a global positioning system device,
8 provides the victim with an electronic receptor device, and
9 actively monitors and identifies the offender's current
10 location and timely reports or records the offender's presence
11 and alerts the supervising authority and the victim of the
12 offender's presence in a place prohibited in the order of
13 protection and the offender's departure from specified
14 geographic limitations.

15 (730 ILCS 5/5-9-1.16 new)

16 Sec. 5-9-1.16. Protective order violation fines.

17 (a) There shall be added to every penalty imposed in
18 sentencing for a violation of an order of protection under
19 Section 12-30 of the Criminal Code of 1961 an additional fine
20 to be set in an amount not less than \$200 to be imposed upon a
21 plea of guilty or finding of guilty resulting in a judgment of
22 conviction.

23 (b) Such additional amount shall be assessed by the court
24 imposing sentence and shall be collected by the Circuit Clerk
25 in addition to the fine, if any, and costs in the case to be

1 used by the supervising authority in implementing the domestic
2 violence surveillance program. Each such additional penalty
3 shall be remitted by the Circuit Clerk within one month after
4 receipt to the State Treasurer for deposit into the Domestic
5 Violence Surveillance Fund. The Circuit Clerk shall retain 10%
6 of such penalty to cover the costs incurred in administering
7 and enforcing this Section. Such additional penalty shall not
8 be considered a part of the fine for purposes of any reduction
9 in the fine for time served either before or after sentencing.

10 (c) Not later than March 1 of each year the Clerk of the
11 Circuit Court shall submit to the State Comptroller a report of
12 the amount of funds remitted by him or her to the State
13 Treasurer under this Section during the preceding calendar
14 year. Except as otherwise provided by Supreme Court Rules, if a
15 court in sentencing an offender levies a gross amount for fine,
16 costs, fees and penalties, the amount of the additional penalty
17 provided for herein shall be collected from the amount
18 remaining after deducting from the gross amount levied all fees
19 of the Circuit Clerk, the State's Attorney and the Sheriff.
20 After deducting from the gross amount levied the fees and
21 additional penalty provided for herein, less any other
22 additional penalties provided by law, the clerk shall remit the
23 net balance remaining to the State Treasurer for deposit into
24 the Domestic Violence Surveillance Fund.

25 (d) Moneys in the Domestic Violence Surveillance Fund shall
26 be used by the supervising authority of a respondent ordered to

1 carry or wear a global positioning system device for a
2 violation of an order of protection under Section 12-30 of the
3 Criminal Code of 1961 to offset the costs of such surveillance
4 of the respondent.

5 (e) For purposes of this Section "fees of the Circuit
6 Clerk" shall include, if applicable, the fee provided for under
7 Section 27.3a of the Clerks of Courts Act and the fee, if
8 applicable, payable to the county in which the violation
9 occurred under Section 5-1101 of the Counties Code.

10 Section 26. The Probation and Probation Officers Act is
11 amended by changing Section 15 as follows:

12 (730 ILCS 110/15) (from Ch. 38, par. 204-7)

13 Sec. 15. (1) The Supreme Court of Illinois may establish a
14 Division of Probation Services whose purpose shall be the
15 development, establishment, promulgation, and enforcement of
16 uniform standards for probation services in this State, and to
17 otherwise carry out the intent of this Act. The Division may:

18 (a) establish qualifications for chief probation
19 officers and other probation and court services personnel
20 as to hiring, promotion, and training.

21 (b) make available, on a timely basis, lists of those
22 applicants whose qualifications meet the regulations
23 referred to herein, including on said lists all candidates
24 found qualified.

1 (c) establish a means of verifying the conditions for
2 reimbursement under this Act and develop criteria for
3 approved costs for reimbursement.

4 (d) develop standards and approve employee
5 compensation schedules for probation and court services
6 departments.

7 (e) employ sufficient personnel in the Division to
8 carry out the functions of the Division.

9 (f) establish a system of training and establish
10 standards for personnel orientation and training.

11 (g) develop standards for a system of record keeping
12 for cases and programs, gather statistics, establish a
13 system of uniform forms, and develop research for planning
14 of Probation Services.

15 (h) develop standards to assure adequate support
16 personnel, office space, equipment and supplies, travel
17 expenses, and other essential items necessary for
18 Probation and Court Services Departments to carry out their
19 duties.

20 (i) review and approve annual plans submitted by
21 Probation and Court Services Departments.

22 (j) monitor and evaluate all programs operated by
23 Probation and Court Services Departments, and may include
24 in the program evaluation criteria such factors as the
25 percentage of Probation sentences for felons convicted of
26 Probationable offenses.

1 (k) seek the cooperation of local and State government
2 and private agencies to improve the quality of probation
3 and court services.

4 (l) where appropriate, establish programs and
5 corresponding standards designed to generally improve the
6 quality of probation and court services and reduce the rate
7 of adult or juvenile offenders committed to the Department
8 of Corrections.

9 (m) establish such other standards and regulations and
10 do all acts necessary to carry out the intent and purposes
11 of this Act.

12 (n) develop standards to implement the Domestic
13 Violence Surveillance Program established under Section
14 5-8A-7 of the Unified Code of Corrections including (i)
15 procurement of equipment and other services necessary to
16 implement the program and (ii) development of uniform
17 standards for the delivery of the program through county
18 probation departments.

19 The Division shall establish a model list of structured
20 intermediate sanctions that may be imposed by a probation
21 agency for violations of terms and conditions of a sentence of
22 probation, conditional discharge, or supervision.

23 The State of Illinois shall provide for the costs of
24 personnel, travel, equipment, telecommunications, postage,
25 commodities, printing, space, contractual services and other
26 related costs necessary to carry out the intent of this Act.

1 (2) (a) The chief judge of each circuit shall provide
2 full-time probation services for all counties within the
3 circuit, in a manner consistent with the annual probation plan,
4 the standards, policies, and regulations established by the
5 Supreme Court. A probation district of two or more counties
6 within a circuit may be created for the purposes of providing
7 full-time probation services. Every county or group of counties
8 within a circuit shall maintain a probation department which
9 shall be under the authority of the Chief Judge of the circuit
10 or some other judge designated by the Chief Judge. The Chief
11 Judge, through the Probation and Court Services Department
12 shall submit annual plans to the Division for probation and
13 related services.

14 (b) The Chief Judge of each circuit shall appoint the Chief
15 Probation Officer and all other probation officers for his or
16 her circuit from lists of qualified applicants supplied by the
17 Supreme Court. Candidates for chief managing officer and other
18 probation officer positions must apply with both the Chief
19 Judge of the circuit and the Supreme Court.

20 (3) A Probation and Court Service Department shall apply to
21 the Supreme Court for funds for basic services, and may apply
22 for funds for new and expanded programs or Individualized
23 Services and Programs. Costs shall be reimbursed monthly based
24 on a plan and budget approved by the Supreme Court. No
25 Department may be reimbursed for costs which exceed or are not
26 provided for in the approved annual plan and budget. After the

1 effective date of this amendatory Act of 1985, each county must
2 provide basic services in accordance with the annual plan and
3 standards created by the division. No department may receive
4 funds for new or expanded programs or individualized services
5 and programs unless they are in compliance with standards as
6 enumerated in paragraph (h) of subsection (1) of this Section,
7 the annual plan, and standards for basic services.

8 (4) The Division shall reimburse the county or counties for
9 probation services as follows:

10 (a) 100% of the salary of all chief managing officers
11 designated as such by the Chief Judge and the division.

12 (b) 100% of the salary for all probation officer and
13 supervisor positions approved for reimbursement by the
14 division after April 1, 1984, to meet workload standards
15 and to implement intensive sanction and probation
16 supervision programs and other basic services as defined in
17 this Act.

18 (c) 100% of the salary for all secure detention
19 personnel and non-secure group home personnel approved for
20 reimbursement after December 1, 1990. For all such
21 positions approved for reimbursement before December 1,
22 1990, the counties shall be reimbursed \$1,250 per month
23 beginning July 1, 1995, and an additional \$250 per month
24 beginning each July 1st thereafter until the positions
25 receive 100% salary reimbursement. Allocation of such
26 positions will be based on comparative need considering

1 capacity, staff/resident ratio, physical plant and
2 program.

3 (d) \$1,000 per month for salaries for the remaining
4 probation officer positions engaged in basic services and
5 new or expanded services. All such positions shall be
6 approved by the division in accordance with this Act and
7 division standards.

8 (e) 100% of the travel expenses in accordance with
9 Division standards for all Probation positions approved
10 under paragraph (b) of subsection 4 of this Section.

11 (f) If the amount of funds reimbursed to the county
12 under paragraphs (a) through (e) of subsection 4 of this
13 Section on an annual basis is less than the amount the
14 county had received during the 12 month period immediately
15 prior to the effective date of this amendatory Act of 1985,
16 then the Division shall reimburse the amount of the
17 difference to the county. The effect of paragraph (b) of
18 subsection 7 of this Section shall be considered in
19 implementing this supplemental reimbursement provision.

20 (5) The Division shall provide funds beginning on April 1,
21 1987 for the counties to provide Individualized Services and
22 Programs as provided in Section 16 of this Act.

23 (6) A Probation and Court Services Department in order to
24 be eligible for the reimbursement must submit to the Supreme
25 Court an application containing such information and in such a
26 form and by such dates as the Supreme Court may require.

1 Departments to be eligible for funding must satisfy the
2 following conditions:

3 (a) The Department shall have on file with the Supreme
4 Court an annual Probation plan for continuing, improved,
5 and new Probation and Court Services Programs approved by
6 the Supreme Court or its designee. This plan shall indicate
7 the manner in which Probation and Court Services will be
8 delivered and improved, consistent with the minimum
9 standards and regulations for Probation and Court
10 Services, as established by the Supreme Court. In counties
11 with more than one Probation and Court Services Department
12 eligible to receive funds, all Departments within that
13 county must submit plans which are approved by the Supreme
14 Court.

15 (b) The annual probation plan shall seek to generally
16 improve the quality of probation services and to reduce the
17 commitment of adult offenders to the Department of
18 Corrections and to reduce the commitment of juvenile
19 offenders to the Department of Juvenile Justice and shall
20 require, when appropriate, coordination with the
21 Department of Corrections, the Department of Juvenile
22 Justice, and the Department of Children and Family Services
23 in the development and use of community resources,
24 information systems, case review and permanency planning
25 systems to avoid the duplication of services.

26 (c) The Department shall be in compliance with

1 standards developed by the Supreme Court for basic, new and
2 expanded services, training, personnel hiring and
3 promotion.

4 (d) The Department shall in its annual plan indicate
5 the manner in which it will support the rights of crime
6 victims and in which manner it will implement Article I,
7 Section 8.1 of the Illinois Constitution and in what manner
8 it will coordinate crime victims' support services with
9 other criminal justice agencies within its jurisdiction,
10 including but not limited to, the State's Attorney, the
11 Sheriff and any municipal police department.

12 (7) No statement shall be verified by the Supreme Court or
13 its designee or vouchered by the Comptroller unless each of the
14 following conditions have been met:

15 (a) The probation officer is a full-time employee
16 appointed by the Chief Judge to provide probation services.

17 (b) The probation officer, in order to be eligible for
18 State reimbursement, is receiving a salary of at least
19 \$17,000 per year.

20 (c) The probation officer is appointed or was
21 reappointed in accordance with minimum qualifications or
22 criteria established by the Supreme Court; however, all
23 probation officers appointed prior to January 1, 1978,
24 shall be exempted from the minimum requirements
25 established by the Supreme Court. Payments shall be made to
26 counties employing these exempted probation officers as

1 long as they are employed in the position held on the
2 effective date of this amendatory Act of 1985. Promotions
3 shall be governed by minimum qualifications established by
4 the Supreme Court.

5 (d) The Department has an established compensation
6 schedule approved by the Supreme Court. The compensation
7 schedule shall include salary ranges with necessary
8 increments to compensate each employee. The increments
9 shall, within the salary ranges, be based on such factors
10 as bona fide occupational qualifications, performance, and
11 length of service. Each position in the Department shall be
12 placed on the compensation schedule according to job duties
13 and responsibilities of such position. The policy and
14 procedures of the compensation schedule shall be made
15 available to each employee.

16 (8) In order to obtain full reimbursement of all approved
17 costs, each Department must continue to employ at least the
18 same number of probation officers and probation managers as
19 were authorized for employment for the fiscal year which
20 includes January 1, 1985. This number shall be designated as
21 the base amount of the Department. No positions approved by the
22 Division under paragraph (b) of subsection 4 will be included
23 in the base amount. In the event that the Department employs
24 fewer Probation officers and Probation managers than the base
25 amount for a period of 90 days, funding received by the
26 Department under subsection 4 of this Section may be reduced on

1 a monthly basis by the amount of the current salaries of any
2 positions below the base amount.

3 (9) Before the 15th day of each month, the treasurer of any
4 county which has a Probation and Court Services Department, or
5 the treasurer of the most populous county, in the case of a
6 Probation or Court Services Department funded by more than one
7 county, shall submit an itemized statement of all approved
8 costs incurred in the delivery of Basic Probation and Court
9 Services under this Act to the Supreme Court. The treasurer may
10 also submit an itemized statement of all approved costs
11 incurred in the delivery of new and expanded Probation and
12 Court Services as well as Individualized Services and Programs.
13 The Supreme Court or its designee shall verify compliance with
14 this Section and shall examine and audit the monthly statement
15 and, upon finding them to be correct, shall forward them to the
16 Comptroller for payment to the county treasurer. In the case of
17 payment to a treasurer of a county which is the most populous
18 of counties sharing the salary and expenses of a Probation and
19 Court Services Department, the treasurer shall divide the money
20 between the counties in a manner that reflects each county's
21 share of the cost incurred by the Department.

22 (10) The county treasurer must certify that funds received
23 under this Section shall be used solely to maintain and improve
24 Probation and Court Services. The county or circuit shall
25 remain in compliance with all standards, policies and
26 regulations established by the Supreme Court. If at any time

1 the Supreme Court determines that a county or circuit is not in
2 compliance, the Supreme Court shall immediately notify the
3 Chief Judge, county board chairman and the Director of Court
4 Services Chief Probation Officer. If after 90 days of written
5 notice the noncompliance still exists, the Supreme Court shall
6 be required to reduce the amount of monthly reimbursement by
7 10%. An additional 10% reduction of monthly reimbursement shall
8 occur for each consecutive month of noncompliance. Except as
9 provided in subsection 5 of Section 15, funding to counties
10 shall commence on April 1, 1986. Funds received under this Act
11 shall be used to provide for Probation Department expenses
12 including those required under Section 13 of this Act. The
13 Mandatory Arbitration Fund may be used to provide for Probation
14 Department expenses, including those required under Section 13
15 of this Act.

16 (11) The respective counties shall be responsible for
17 capital and space costs, fringe benefits, clerical costs,
18 equipment, telecommunications, postage, commodities and
19 printing.

20 (12) For purposes of this Act only, probation officers
21 shall be considered peace officers. In the exercise of their
22 official duties, probation officers, sheriffs, and police
23 officers may, anywhere within the State, arrest any probationer
24 who is in violation of any of the conditions of his or her
25 probation, conditional discharge, or supervision, and it shall
26 be the duty of the officer making the arrest to take the

1 probationer before the Court having jurisdiction over the
2 probationer for further order.

3 (Source: P.A. 94-91, eff. 7-1-05; 94-696, eff. 6-1-06; 94-839,
4 eff. 6-6-06; 95-707, eff. 1-11-08.)

5 Section 30. The Illinois Domestic Violence Act of 1986 is
6 amended by changing Section 214 as follows:

7 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

8 Sec. 214. Order of protection; remedies.

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

24 (b) Remedies and standards. The remedies to be included in

1 an order of protection shall be determined in accordance with
2 this Section and one of the following Sections, as appropriate:
3 Section 217 on emergency orders, Section 218 on interim orders,
4 and Section 219 on plenary orders. The remedies listed in this
5 subsection shall be in addition to other civil or criminal
6 remedies available to petitioner.

7 (1) Prohibition of abuse, neglect, or exploitation.
8 Prohibit respondent's harassment, interference with
9 personal liberty, intimidation of a dependent, physical
10 abuse, or willful deprivation, neglect or exploitation, as
11 defined in this Act, or stalking of the petitioner, as
12 defined in Section 12-7.3 of the Criminal Code of 1961, if
13 such abuse, neglect, exploitation, or stalking has
14 occurred or otherwise appears likely to occur if not
15 prohibited.

16 (2) Grant of exclusive possession of residence.
17 Prohibit respondent from entering or remaining in any
18 residence or household of the petitioner, including one
19 owned or leased by respondent, if petitioner has a right to
20 occupancy thereof. The grant of exclusive possession of the
21 residence shall not affect title to real property, nor
22 shall the court be limited by the standard set forth in
23 Section 701 of the Illinois Marriage and Dissolution of
24 Marriage Act.

25 (A) Right to occupancy. A party has a right to
26 occupancy of a residence or household if it is solely

1 or jointly owned or leased by that party, that party's
2 spouse, a person with a legal duty to support that
3 party or a minor child in that party's care, or by any
4 person or entity other than the opposing party that
5 authorizes that party's occupancy (e.g., a domestic
6 violence shelter). Standards set forth in subparagraph
7 (B) shall not preclude equitable relief.

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

24 The balance of hardships is presumed to favor
25 possession by petitioner unless the presumption is
26 rebutted by a preponderance of the evidence, showing

1 that the hardships to respondent substantially
2 outweigh the hardships to petitioner and any minor
3 child or dependent adult in petitioner's care. The
4 court, on the request of petitioner or on its own
5 motion, may order respondent to provide suitable,
6 accessible, alternate housing for petitioner instead
7 of excluding respondent from a mutual residence or
8 household.

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

19 If an order of protection grants petitioner exclusive
20 possession of the residence, or prohibits respondent from
21 entering the residence, or orders respondent to stay away
22 from petitioner or other protected persons, then the court
23 may allow respondent access to the residence to remove
24 items of clothing and personal adornment used exclusively
25 by respondent, medications, and other items as the court
26 directs. The right to access shall be exercised on only one

1 occasion as the court directs and in the presence of an
2 agreed-upon adult third party or law enforcement officer.

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

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

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

26 (6) Temporary legal custody. Award temporary legal

1 custody to petitioner in accordance with this Section, the
2 Illinois Marriage and Dissolution of Marriage Act, the
3 Illinois Parentage Act of 1984, and this State's Uniform
4 Child-Custody Jurisdiction and Enforcement Act.

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

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

1 order for visitation shall refer merely to the term
2 "reasonable visitation".

3 Petitioner may deny respondent access to the minor
4 child if, when respondent arrives for visitation,
5 respondent is under the influence of drugs or alcohol and
6 constitutes a threat to the safety and well-being of
7 petitioner or petitioner's minor children or is behaving in
8 a violent or abusive manner.

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

18 (8) Removal or concealment of minor child. Prohibit
19 respondent from removing a minor child from the State or
20 concealing the child within the State.

21 (9) Order to appear. Order the respondent to appear in
22 court, alone or with a minor child, to prevent abuse,
23 neglect, removal or concealment of the child, to return the
24 child to the custody or care of the petitioner or to permit
25 any court-ordered interview or examination of the child or
26 the respondent.

1 (10) Possession of personal property. Grant petitioner
2 exclusive possession of personal property and, if
3 respondent has possession or control, direct respondent to
4 promptly make it available to petitioner, if:

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

7 (ii) the parties own the property jointly; sharing
8 it would risk abuse of petitioner by respondent or is
9 impracticable; and the balance of hardships favors
10 temporary possession by petitioner.

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

18 No order under this provision shall affect title to
19 property.

20 (11) Protection of property. Forbid the respondent
21 from taking, transferring, encumbering, concealing,
22 damaging or otherwise disposing of any real or personal
23 property, except as explicitly authorized by the court, if:

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

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

1 balance of hardships favors granting this remedy.

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

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

12 (11.5) Protection of animals. Grant the petitioner the
13 exclusive care, custody, or control of any animal owned,
14 possessed, leased, kept, or held by either the petitioner
15 or the respondent or a minor child residing in the
16 residence or household of either the petitioner or the
17 respondent and order the respondent to stay away from the
18 animal and forbid the respondent from taking,
19 transferring, encumbering, concealing, harming, or
20 otherwise disposing of the animal.

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

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

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

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

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

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

13 (14.5) Prohibition of firearm possession.

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

1 issue a warrant for seizure of any firearm in the
2 possession of the respondent. The period of
3 safekeeping shall be for a stated period of time not to
4 exceed 2 years. The firearm or firearms shall be
5 returned to the respondent at the end of the stated
6 period or at expiration of the order of protection,
7 whichever is sooner.

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

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

1 (16) Order for payment of shelter services. Order
2 respondent to reimburse a shelter providing temporary
3 housing and counseling services to the petitioner for the
4 cost of the services, as certified by the shelter and
5 deemed reasonable by the court.

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

16 (18) Order for risk assessment evaluation. Order the
17 respondent to undergo a risk assessment evaluation per
18 protocols set by the Illinois Department of Human Services
19 under such terms and conditions as the court may direct.

20 (c) Relevant factors; findings.

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

25 (i) the nature, frequency, severity, pattern and
26 consequences of the respondent's past abuse, neglect

1 or exploitation of the petitioner or any family or
2 household member, including the concealment of his or
3 her location in order to evade service of process or
4 notice, and the likelihood of danger of future abuse,
5 neglect, or exploitation to petitioner or any member of
6 petitioner's or respondent's family or household; and

7 (ii) the danger that any minor child will be abused
8 or neglected or improperly removed from the
9 jurisdiction, improperly concealed within the State or
10 improperly separated from the child's primary
11 caretaker.

12 (2) In comparing relative hardships resulting to the
13 parties from loss of possession of the family home, the
14 court shall consider relevant factors, including but not
15 limited to the following:

16 (i) availability, accessibility, cost, safety,
17 adequacy, location and other characteristics of
18 alternate housing for each party and any minor child or
19 dependent adult in the party's care;

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

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

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

1 set forth the following:

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

5 (ii) Whether the conduct or actions of respondent,
6 unless prohibited, will likely cause irreparable harm
7 or continued abuse.

8 (iii) Whether it is necessary to grant the
9 requested relief in order to protect petitioner or
10 other alleged abused persons.

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

16 When a verified petition for an emergency order of
17 protection in accordance with the requirements of Sections
18 203 and 217 is presented to the court, the court shall
19 examine petitioner on oath or affirmation. An emergency
20 order of protection shall be issued by the court if it
21 appears from the contents of the petition and the
22 examination of petitioner that the averments are
23 sufficient to indicate abuse by respondent and to support
24 the granting of relief under the issuance of the emergency
25 order of protection.

26 (5) Never married parties. No rights or

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

24 (d) Balance of hardships; findings. If the court finds that
25 the balance of hardships does not support the granting of a
26 remedy governed by paragraph (2), (3), (10), (11), or (16) of

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

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

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

12 (2) Respondent was voluntarily intoxicated;

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

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

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

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

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

1 or exploitation if the parties had not been family or
2 household members.

3 (Source: P.A. 95-234, eff. 1-1-08.)