

1 AN ACT concerning firearms.

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

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

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

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

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

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

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

1 (d) A person addicted to narcotics;

2 (e) A person who has been a patient of a mental institution
3 within the past 5 years or has been adjudicated as a mental
4 defective;

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

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

11 (g) A person who is mentally retarded;

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

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

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

22 (1) admitted to the United States for lawful hunting or
23 sporting purposes;

24 (2) an official representative of a foreign government
25 who is:

26 (A) accredited to the United States Government or

1 the Government's mission to an international
2 organization having its headquarters in the United
3 States; or

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

6 (3) an official of a foreign government or
7 distinguished foreign visitor who has been so designated by
8 the Department of State;

9 (4) a foreign law enforcement officer of a friendly
10 foreign government entering the United States on official
11 business; or

12 (5) one who has received a waiver from the Attorney
13 General of the United States pursuant to 18 U.S.C.
14 922 (y) (3);

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

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

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

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

1 (n) A person who is prohibited from acquiring or possessing
2 firearms or firearm ammunition by any Illinois State statute or
3 by federal law;

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

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

11 (Source: P.A. 95-581, eff. 6-1-08.)

12 (430 ILCS 65/8.2 new)

13 Sec. 8.2. Firearm Owner's Identification Card denial or
14 revocation. The Department of State Police shall deny an
15 application or shall revoke and seize a Firearm Owner's
16 Identification Card previously issued under this Act if the
17 Department finds that the applicant or person to whom such card
18 was issued is or was at the time of issuance subject to an
19 existing order of protection.

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

22 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

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

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

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

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

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

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

19 (B) Presumption of hardships. If petitioner and
20 respondent each has the right to occupancy of a
21 residence or household, the court shall balance (i) the
22 hardships to respondent and any minor child or
23 dependent adult in respondent's care resulting from
24 entry of this remedy with (ii) the hardships to
25 petitioner and any minor child or dependent adult in
26 petitioner's care resulting from continued exposure to

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

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

20 (3) Stay away order and additional prohibitions. Order
21 respondent to stay away from petitioner or any other person
22 protected by the order of protection, or prohibit
23 respondent from entering or remaining present at
24 petitioner's school, place of employment, or other
25 specified places at times when petitioner is present, or
26 both, if reasonable, given the balance of hardships.

1 Hardships need not be balanced for the court to enter a
2 stay away order or prohibit entry if respondent has no
3 right to enter the premises.

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

14 (4) Counseling. Require or recommend the respondent to
15 undergo counseling for a specified duration with a social
16 worker, psychologist, clinical psychologist, psychiatrist,
17 family service agency, alcohol or substance abuse program,
18 mental health center guidance counselor, agency providing
19 services to elders, program designed for domestic violence
20 abusers or any other guidance service the court deems
21 appropriate. The court may order the respondent in any
22 intimate partner relationship to report to an Illinois
23 Department of Human Services protocol approved partner
24 abuse intervention program for an assessment and to follow
25 all recommended treatment.

26 (5) Physical care and possession of the minor child. In

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

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 physical care to respondent would not be in the
14 minor child's best interest.

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

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

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

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

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

24 If necessary to protect any member of petitioner's
25 family or household from future abuse, respondent shall be
26 prohibited from coming to petitioner's residence to meet

1 the minor child for visitation, and the parties shall
2 submit to the court their recommendations for reasonable
3 alternative arrangements for visitation. A person may be
4 approved to supervise visitation only after filing an
5 affidavit accepting that responsibility and acknowledging
6 accountability to the court.

7 (8) Removal or concealment of minor child. Prohibit
8 respondent from removing a minor child from the State or
9 concealing the child within the State.

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

16 (10) Possession of personal property. Grant petitioner
17 exclusive possession of personal property and, if
18 respondent has possession or control, direct respondent to
19 promptly make it available to petitioner, if:

20 (i) petitioner, but not respondent, owns the
21 property; or

22 (ii) the parties own the property jointly; sharing
23 it would risk abuse of petitioner by respondent or is
24 impracticable; and the balance of hardships favors
25 temporary possession by petitioner.

26 If petitioner's sole claim to ownership of the property

1 is that it is marital property, the court may award
2 petitioner temporary possession thereof under the
3 standards of subparagraph (ii) of this paragraph only if a
4 proper proceeding has been filed under the Illinois
5 Marriage and Dissolution of Marriage Act, as now or
6 hereafter amended.

7 No order under this provision shall affect title to
8 property.

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

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

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

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

23 The court may further prohibit respondent from
24 improperly using the financial or other resources of an
25 aged member of the family or household for the profit or
26 advantage of respondent or of any other person.

1 (11.5) Protection of animals. Grant the petitioner the
2 exclusive care, custody, or control of any animal owned,
3 possessed, leased, kept, or held by either the petitioner
4 or the respondent or a minor child residing in the
5 residence or household of either the petitioner or the
6 respondent and order the respondent to stay away from the
7 animal and forbid the respondent from taking,
8 transferring, encumbering, concealing, harming, or
9 otherwise disposing of the animal.

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

24 (13) Order for payment of losses. Order respondent to
25 pay petitioner for losses suffered as a direct result of
26 the abuse. Such losses shall include, but not be limited

1 to, medical expenses, lost earnings or other support,
2 repair or replacement of property damaged or taken,
3 reasonable attorney's fees, court costs and moving or other
4 travel expenses, including additional reasonable expenses
5 for temporary shelter and restaurant meals.

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

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

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

1 (14.5) Prohibition of firearm possession.

2 (a) When a complaint is made under a request for an
3 order of protection, that the respondent has
4 threatened or is likely to use firearms illegally
5 against the petitioner, ~~and the respondent is present~~
6 ~~in court, or has failed to appear after receiving~~
7 ~~actual notice,~~ the court shall examine on oath the
8 petitioner, and any witnesses who may be produced. If
9 the court is satisfied that there is any danger of the
10 illegal use of firearms, and the respondent is present
11 in court, it shall issue an order that any firearms in
12 the possession of the respondent, except as provided in
13 subsection (b), be turned over to the local law
14 enforcement agency for safekeeping. If the court is
15 satisfied that there is any danger of the illegal use
16 of firearms, and the respondent is present in court, it
17 shall issue an order that the respondent's Firearm
18 Owner's Identification Card be turned over to the local
19 law enforcement agency for safekeeping. If the court is
20 satisfied that there is any danger of the illegal use
21 of firearms, and if ~~if~~ the respondent is not present in
22 court ~~has failed to appear,~~ the court shall issue a
23 warrant for seizure of the respondent's Firearm
24 Owner's Identification Card and any firearm in the
25 possession of the respondent, except as provided in
26 subsection (b), be turned over to the local law

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

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

16 (c) Upon expiration of the period of safekeeping,
17 if the firearms or Firearm Owner's Identification Card
18 cannot be returned to respondent because respondent
19 cannot be located, fails to respond to requests to
20 retrieve the firearms, or is not lawfully eligible to
21 possess a firearm, upon petition from the local law
22 enforcement agency, the court may order the local law
23 enforcement agency to destroy the firearms, use the
24 firearms for training purposes, or for any other
25 application as deemed appropriate by the local law
26 enforcement agency; or that the firearms be turned over

1 to a third party who is lawfully eligible to possess
2 firearms, and who does not reside with respondent.

3 (15) Prohibition of access to records. If an order of
4 protection prohibits respondent from having contact with
5 the minor child, or if petitioner's address is omitted
6 under subsection (b) of Section 112A-5, or if necessary to
7 prevent abuse or wrongful removal or concealment of a minor
8 child, the order shall deny respondent access to, and
9 prohibit respondent from inspecting, obtaining, or
10 attempting to inspect or obtain, school or any other
11 records of the minor child who is in the care of
12 petitioner.

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

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

1 (c) Relevant factors; findings.

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

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

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

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

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

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

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

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

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

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

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

23 When a verified petition for an emergency order of
24 protection in accordance with the requirements of Sections
25 112A-5 and 112A-17 is presented to the court, the court
26 shall examine petitioner on oath or affirmation. An

1 emergency order of protection shall be issued by the court
2 if it appears from the contents of the petition and the
3 examination of petitioner that the averments are
4 sufficient to indicate abuse by respondent and to support
5 the granting of relief under the issuance of the emergency
6 order of protection.

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

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

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

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

4 (2) Respondent was voluntarily intoxicated;

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

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

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

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

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

19 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09.)

20 Section 15. The Illinois Domestic Violence Act of 1986 is
21 amended by changing Sections 214 and 217 as follows:

22 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

23 Sec. 214. Order of protection; remedies.

24 (a) Issuance of order. If the court finds that petitioner

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

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

22 (1) Prohibition of abuse, neglect, or exploitation.
23 Prohibit respondent's harassment, interference with
24 personal liberty, intimidation of a dependent, physical
25 abuse, or willful deprivation, neglect or exploitation, as
26 defined in this Act, or stalking of the petitioner, as

1 defined in Section 12-7.3 of the Criminal Code of 1961, if
2 such abuse, neglect, exploitation, or stalking has
3 occurred or otherwise appears likely to occur if not
4 prohibited.

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

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

23 (B) Presumption of hardships. If petitioner and
24 respondent each has the right to occupancy of a
25 residence or household, the court shall balance (i) the
26 hardships to respondent and any minor child or

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

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

24 (3) Stay away order and additional prohibitions. Order
25 respondent to stay away from petitioner or any other person
26 protected by the order of protection, or prohibit

1 respondent from entering or remaining present at
2 petitioner's school, place of employment, or other
3 specified places at times when petitioner is present, or
4 both, if reasonable, given the balance of hardships.
5 Hardships need not be balanced for the court to enter a
6 stay away order or prohibit entry if respondent has no
7 right to enter the premises.

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

18 (4) Counseling. Require or recommend the respondent to
19 undergo counseling for a specified duration with a social
20 worker, psychologist, clinical psychologist, psychiatrist,
21 family service agency, alcohol or substance abuse program,
22 mental health center guidance counselor, agency providing
23 services to elders, program designed for domestic violence
24 abusers or any other guidance service the court deems
25 appropriate. The Court may order the respondent in any
26 intimate partner relationship to report to an Illinois

1 Department of Human Services protocol approved partner
2 abuse intervention program for an assessment and to follow
3 all recommended treatment.

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

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

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

24 If a court finds, after a hearing, that respondent has
25 committed abuse (as defined in Section 103) of a minor
26 child, there shall be a rebuttable presumption that

1 awarding temporary legal custody to respondent would not be
2 in the child's best interest.

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

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

1 a violent or abusive manner.

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

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

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

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

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

26 (ii) the parties own the property jointly; sharing

1 it would risk abuse of petitioner by respondent or is
2 impracticable; and the balance of hardships favors
3 temporary possession by petitioner.

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

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

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

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

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

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

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

5 (11.5) Protection of animals. Grant the petitioner the
6 exclusive care, custody, or control of any animal owned,
7 possessed, leased, kept, or held by either the petitioner
8 or the respondent or a minor child residing in the
9 residence or household of either the petitioner or the
10 respondent and order the respondent to stay away from the
11 animal and forbid the respondent from taking,
12 transferring, encumbering, concealing, harming, or
13 otherwise disposing of the animal.

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

1 otherwise provided in the custody order.

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

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

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

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

6 (14.5) Prohibition of firearm possession.

7 (a) When a complaint is made under a request for an
8 order of protection, that the respondent has
9 threatened or is likely to use firearms illegally
10 against the petitioner, and the respondent is present
11 in court, or has failed to appear after receiving
12 actual notice, the court shall examine on oath the
13 petitioner, and any witnesses who may be produced. If
14 the court is satisfied that there is any danger of the
15 illegal use of firearms, it shall issue an order that
16 any firearms and any Firearm Owner's Identification
17 Card in the possession of the respondent, except as
18 provided in subsection (b), be turned over to the local
19 law enforcement agency for safekeeping. If the
20 respondent has failed to appear, the court shall issue
21 a warrant for seizure of any firearm and Firearm
22 Owner's Identification Card in the possession of the
23 respondent. The period of safekeeping shall be for a
24 stated period of time not to exceed 2 years. The
25 firearm or firearms and Firearm Owner's Identification
26 Card shall be returned to the respondent at the end of

1 the stated period or at expiration of the order of
2 protection, whichever is sooner.

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

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

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

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

11 (c) Relevant factors; findings.

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

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

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

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

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

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

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

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

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

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

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

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

1 other alleged abused persons.

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

7 When a verified petition for an emergency order of
8 protection in accordance with the requirements of Sections
9 203 and 217 is presented to the court, the court shall
10 examine petitioner on oath or affirmation. An emergency
11 order of protection shall be issued by the court if it
12 appears from the contents of the petition and the
13 examination of petitioner that the averments are
14 sufficient to indicate abuse by respondent and to support
15 the granting of relief under the issuance of the emergency
16 order of protection.

17 (5) Never married parties. No rights or
18 responsibilities for a minor child born outside of marriage
19 attach to a putative father until a father and child
20 relationship has been established under the Illinois
21 Parentage Act of 1984, the Illinois Public Aid Code,
22 Section 12 of the Vital Records Act, the Juvenile Court Act
23 of 1987, the Probate Act of 1985, the Revised Uniform
24 Reciprocal Enforcement of Support Act, the Uniform
25 Interstate Family Support Act, the Expedited Child Support
26 Act of 1990, any judicial, administrative, or other act of

1 another state or territory, any other Illinois statute, or
2 by any foreign nation establishing the father and child
3 relationship, any other proceeding substantially in
4 conformity with the Personal Responsibility and Work
5 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),
6 or where both parties appeared in open court or at an
7 administrative hearing acknowledging under oath or
8 admitting by affirmation the existence of a father and
9 child relationship. Absent such an adjudication, finding,
10 or acknowledgement, no putative father shall be granted
11 temporary custody of the minor child, visitation with the
12 minor child, or physical care and possession of the minor
13 child, nor shall an order of payment for support of the
14 minor child be entered.

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

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

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

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

3 (2) Respondent was voluntarily intoxicated;

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

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

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

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

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

20 (Source: P.A. 95-234, eff. 1-1-08; 95-773, eff. 1-1-09.)

21 (750 ILCS 60/217) (from Ch. 40, par. 2312-17)

22 Sec. 217. Emergency order of protection.

23 (a) Prerequisites. An emergency order of protection shall
24 issue if petitioner satisfies the requirements of this
25 subsection for one or more of the requested remedies. For each

1 remedy requested, petitioner shall establish that:

2 (1) The court has jurisdiction under Section 208;

3 (2) The requirements of Section 214 are satisfied; and

4 (3) There is good cause to grant the remedy, regardless
5 of prior service of process or of notice upon the
6 respondent, because:

7 (i) For the remedies of "prohibition of abuse"
8 described in Section 214(b)(1), "stay away order and
9 additional prohibitions" described in Section
10 214(b)(3), "removal or concealment of minor child"
11 described in Section 214(b)(8), "order to appear"
12 described in Section 214(b)(9), "physical care and
13 possession of the minor child" described in Section
14 214(b)(5), "protection of property" described in
15 Section 214(b)(11), "prohibition of entry" described
16 in Section 214(b)(14), "prohibition of firearm
17 possession" described in Section 214(b)(14.5),
18 "prohibition of access to records" described in
19 Section 214(b)(15), and "injunctive relief" described
20 in Section 214(b)(16), the harm which that remedy is
21 intended to prevent would be likely to occur if the
22 respondent were given any prior notice, or greater
23 notice than was actually given, of the petitioner's
24 efforts to obtain judicial relief;

25 (ii) For the remedy of "grant of exclusive
26 possession of residence" described in Section

1 214(b)(2), the immediate danger of further abuse of
2 petitioner by respondent, if petitioner chooses or had
3 chosen to remain in the residence or household while
4 respondent was given any prior notice or greater notice
5 than was actually given of petitioner's efforts to
6 obtain judicial relief, outweighs the hardships to
7 respondent of an emergency order granting petitioner
8 exclusive possession of the residence or household.
9 This remedy shall not be denied because petitioner has
10 or could obtain temporary shelter elsewhere while
11 prior notice is given to respondent, unless the
12 hardships to respondent from exclusion from the home
13 substantially outweigh those to petitioner;

14 (iii) For the remedy of "possession of personal
15 property" described in Section 214(b)(10), improper
16 disposition of the personal property would be likely to
17 occur if respondent were given any prior notice, or
18 greater notice than was actually given, of
19 petitioner's efforts to obtain judicial relief, or
20 petitioner has an immediate and pressing need for
21 possession of that property.

22 An emergency order may not include the counseling, legal
23 custody, payment of support or monetary compensation remedies.

24 (b) Appearance by respondent. If respondent appears in
25 court for this hearing for an emergency order, he or she may
26 elect to file a general appearance and testify. Any resulting

1 order may be an emergency order, governed by this Section.
2 Notwithstanding the requirements of this Section, if all
3 requirements of Section 218 have been met, the court may issue
4 a 30-day interim order.

5 (c) Emergency orders: court holidays and evenings.

6 (1) Prerequisites. When the court is unavailable at the
7 close of business, the petitioner may file a petition for a
8 21-day emergency order before any available circuit judge
9 or associate judge who may grant relief under this Act. If
10 the judge finds that there is an immediate and present
11 danger of abuse to petitioner and that petitioner has
12 satisfied the prerequisites set forth in subsection (a) of
13 Section 217, that judge may issue an emergency order of
14 protection.

15 (1.5) Issuance of order. The chief judge of the circuit
16 court may designate for each county in the circuit at least
17 one judge to be reasonably available to issue orally, by
18 telephone, by facsimile, or otherwise, an emergency order
19 of protection at all times, whether or not the court is in
20 session.

21 (2) Certification and transfer. Any order issued under
22 this Section and any documentation in support thereof shall
23 be certified on the next court day to the appropriate
24 court. The clerk of that court shall immediately assign a
25 case number, file the petition, order and other documents
26 with the court, and enter the order of record and file it

1 with the sheriff for service, in accordance with Section
2 222. Filing the petition shall commence proceedings for
3 further relief under Section 202. Failure to comply with
4 the requirements of this subsection shall not affect the
5 validity of the order.

6 (Source: P.A. 90-392, eff. 1-1-98.)