



Sen. Heather Steans

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1 AMENDMENT TO HOUSE BILL 3991

2 AMENDMENT NO. _____. Amend House Bill 3991 by replacing
3 all of page 15 and lines 1 through 8 on page 16 with the
4 following:

5 "(14.5) Prohibition of firearm possession.

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

1 satisfied that there is any danger of the illegal use
2 of firearms, and the respondent is present in court, it
3 shall issue an order that the respondent's Firearms
4 Owner's Identification Card be turned over to the local
5 law enforcement agency for safekeeping. If the court is
6 satisfied that there is any danger of the illegal use
7 of firearms, and if ~~if~~ the respondent is not present in
8 court ~~has failed to appear,~~ the court shall issue a
9 warrant for seizure of the respondent's Firearms
10 Owner's Identification Card and any firearm in the
11 possession of the respondent, except as provided in
12 subsection (b), be turned over to the local law
13 enforcement agency for safekeeping. The period of
14 safekeeping shall be for a stated period of time not to
15 exceed 2 years. The firearm or firearms shall be
16 returned to the respondent at the end of the stated
17 period or at expiration of the order of protection,
18 whichever is sooner.

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

1 court order.

2 (c) Upon expiration of the period of safekeeping,
3 if the firearms or Firearms Owner's Identification
4 Card cannot be returned to respondent because
5 respondent cannot be located, fails to respond to
6 requests to retrieve the firearms, or is not lawfully
7 eligible to possess a firearm, upon petition from the
8 local law enforcement agency, the court may order the
9 local law enforcement agency to destroy the firearms,
10 use the firearms for training purposes, or for any
11 other application as deemed appropriate by the local
12 law enforcement agency; or that the firearms be turned
13 over to a third party who is lawfully eligible to
14 possess firearms, and who does not reside with
15 respondent."; and

16 on page 21, line 2, by replacing "Section 214" with "Sections
17 214 and 217"; and

18 on page 22, line 13, by replacing "residence or household" with
19 "residence, ~~or~~ household, or premises"; and

20 on page 22, line 16, by inserting ", household, or premises"
21 after "residence"; and

22 on page 37, by inserting immediately below line 26 the

1 following:

2 "(750 ILCS 60/217) (from Ch. 40, par. 2312-17)

3 Sec. 217. Emergency order of protection.

4 (a) Prerequisites. An emergency order of protection shall
5 issue if petitioner satisfies the requirements of this
6 subsection for one or more of the requested remedies. For each
7 remedy requested, petitioner shall establish that:

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

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

10 (3) There is good cause to grant the remedy, regardless
11 of prior service of process or of notice upon the
12 respondent, because:

13 (i) For the remedies of "prohibition of abuse"
14 described in Section 214(b)(1), "stay away order and
15 additional prohibitions" described in Section
16 214(b)(3), "removal or concealment of minor child"
17 described in Section 214(b)(8), "order to appear"
18 described in Section 214(b)(9), "physical care and
19 possession of the minor child" described in Section
20 214(b)(5), "protection of property" described in
21 Section 214(b)(11), "prohibition of entry" described
22 in Section 214(b)(14), "prohibition of firearm
23 possession" described in Section 214(b)(14.5),
24 "prohibition of access to records" described in
25 Section 214(b)(15), and "injunctive relief" described

1 in Section 214(b)(16), the harm which that remedy is
2 intended to prevent would be likely to occur if the
3 respondent were given any prior notice, or greater
4 notice than was actually given, of the petitioner's
5 efforts to obtain judicial relief;

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

21 (iii) For the remedy of "possession of personal
22 property" described in Section 214(b)(10), improper
23 disposition of the personal property would be likely to
24 occur if respondent were given any prior notice, or
25 greater notice than was actually given, of
26 petitioner's efforts to obtain judicial relief, or

1 petitioner has an immediate and pressing need for
2 possession of that property.

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

5 (b) Appearance by respondent. If respondent appears in
6 court for this hearing for an emergency order, he or she may
7 elect to file a general appearance and testify. Any resulting
8 order may be an emergency order, governed by this Section.
9 Notwithstanding the requirements of this Section, if all
10 requirements of Section 218 have been met, the court may issue
11 a 30-day interim order.

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

13 (1) Prerequisites. When the court is unavailable at the
14 close of business, the petitioner may file a petition for a
15 21-day emergency order before any available circuit judge
16 or associate judge who may grant relief under this Act. If
17 the judge finds that there is an immediate and present
18 danger of abuse to petitioner and that petitioner has
19 satisfied the prerequisites set forth in subsection (a) of
20 Section 217, that judge may issue an emergency order of
21 protection.

22 (1.5) Issuance of order. The chief judge of the circuit
23 court may designate for each county in the circuit at least
24 one judge to be reasonably available to issue orally, by
25 telephone, by facsimile, or otherwise, an emergency order
26 of protection at all times, whether or not the court is in

1 session.

2 (2) Certification and transfer. Any order issued under
3 this Section and any documentation in support thereof shall
4 be certified on the next court day to the appropriate
5 court. The clerk of that court shall immediately assign a
6 case number, file the petition, order and other documents
7 with the court, and enter the order of record and file it
8 with the sheriff for service, in accordance with Section
9 222. Filing the petition shall commence proceedings for
10 further relief under Section 202. Failure to comply with
11 the requirements of this subsection shall not affect the
12 validity of the order.

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