



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5883

by Rep. Martin J. Moylan

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-4	from Ch. 38, par. 112A-4
725 ILCS 5/112A-20	from Ch. 38, par. 112A-20
750 ILCS 60/201	from Ch. 40, par. 2312-1
750 ILCS 60/220	from Ch. 40, par. 2312-20

Amends the Code of Criminal Procedure of 1963 and the Illinois Domestic Violence Act of 1986. Provides that a petition for an order of protection may be filed by the State's Attorney on behalf of a person who has been abused by a family or household member. Provides that the court may, on its own motion, on behalf of a person who has been abused by a family or household member issue an order of protection. Lengthens duration of plenary order of protection in a criminal case to no longer than 10 years after sentence completion (rather than 2 years).

LRB098 17788 MRW 52910 b

1 AN ACT concerning orders of protection.

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

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Sections 112A-4 and 112A-20 as follows:

6 (725 ILCS 5/112A-4) (from Ch. 38, par. 112A-4)

7 Sec. 112A-4. Persons protected by this article.

8 (a) The following persons are protected by this Article:

9 (i) any person abused by a family or household member;

10 (ii) any minor child or dependent adult in the care of  
11 such person; and

12 (iii) any person residing or employed at a private home  
13 or public shelter which is housing an abused family or  
14 household member.

15 (b) A petition for an order of protection may be filed ~~only~~  
16 by:

17 (1) a person who has been abused by a family or  
18 household member;

19 (2) ~~or by~~ any person on behalf of a minor child or an  
20 adult who has been abused by a family or household member  
21 and who, because of age, health, disability, or  
22 inaccessibility, cannot file the petition; or

23 (3) the State's Attorney on behalf of a person who has

1       been abused by a family or household member.

2       However, any petition properly filed under this Article may  
3 seek protection for any additional persons protected by this  
4 Article.

5       (c) The court may, on its own motion, on behalf of a person  
6 who has been abused by a family or household member issue an  
7 order of protection under this Article.

8       (Source: P.A. 87-1186.)

9       (725 ILCS 5/112A-20) (from Ch. 38, par. 112A-20)

10       Sec. 112A-20. Duration and extension of orders.

11       (a) Duration of emergency and interim orders. Unless  
12 re-opened or extended or voided by entry of an order of greater  
13 duration:

14             (1) Emergency orders issued under Section 112A-17  
15 shall be effective for not less than 14 nor more than 21  
16 days;

17             (2) Interim orders shall be effective for up to 30  
18 days.

19       (b) Duration of plenary orders. Except as otherwise  
20 provided in this Section, a plenary order of protection shall  
21 be valid for a fixed period of time not to exceed 2 years. A  
22 plenary order of protection entered in conjunction with a  
23 criminal prosecution shall remain in effect as follows:

24             (1) if entered during pre-trial release, until  
25 disposition, withdrawal, or dismissal of the underlying

1 charge; if, however, the case is continued as an  
2 independent cause of action, the order's duration may be  
3 for a fixed period of time not to exceed 2 years;

4 (2) if in effect in conjunction with a bond forfeiture  
5 warrant, until final disposition or an additional period of  
6 time not exceeding 2 years; no order of protection,  
7 however, shall be terminated by a dismissal that is  
8 accompanied by the issuance of a bond forfeiture warrant;

9 (3) until expiration of any supervision, conditional  
10 discharge, probation, periodic imprisonment, parole,  
11 aftercare release, or mandatory supervised release and for  
12 an additional period of time thereafter not exceeding 10 ~~2~~  
13 years; or

14 (4) until the date set by the court for expiration of  
15 any sentence of imprisonment and subsequent parole,  
16 aftercare release, or mandatory supervised release and for  
17 an additional period of time thereafter not exceeding 10 ~~2~~  
18 years.

19 (c) Computation of time. The duration of an order of  
20 protection shall not be reduced by the duration of any prior  
21 order of protection.

22 (d) Law enforcement records. When a plenary order of  
23 protection expires upon the occurrence of a specified event,  
24 rather than upon a specified date as provided in subsection  
25 (b), no expiration date shall be entered in Department of State  
26 Police records. To remove the plenary order from those records,

1 either party shall request the clerk of the court to file a  
2 certified copy of an order stating that the specified event has  
3 occurred or that the plenary order has been vacated or modified  
4 with the sheriff, and the sheriff shall direct that law  
5 enforcement records shall be promptly corrected in accordance  
6 with the filed order.

7 (e) Extension of Orders. Any emergency, interim or plenary  
8 order of protection may be extended one or more times, as  
9 required, provided that the requirements of Section 112A-17,  
10 112A-18 or 112A-19, as appropriate, are satisfied. If the  
11 motion for extension is uncontested and petitioner seeks no  
12 modification of the order, the order may be extended on the  
13 basis of petitioner's motion or affidavit stating that there  
14 has been no material change in relevant circumstances since  
15 entry of the order and stating the reason for the requested  
16 extension. An extension of a plenary order of protection may be  
17 granted, upon good cause shown, to remain in effect until the  
18 order of protection is vacated or modified. Extensions may be  
19 granted only in open court and not under the provisions of  
20 Section 112A-17(c), which applies only when the court is  
21 unavailable at the close of business or on a court holiday.

22 (f) Termination date. Any order of protection which would  
23 expire on a court holiday shall instead expire at the close of  
24 the next court business day.

25 (g) Statement of purpose. The practice of dismissing or  
26 suspending a criminal prosecution in exchange for issuing an

1 order of protection undermines the purposes of this Article.  
2 This Section shall not be construed as encouraging that  
3 practice.

4 (Source: P.A. 98-558, eff. 1-1-14.)

5 Section 10. The Illinois Domestic Violence Act of 1986 is  
6 amended by changing Sections 201 and 220 as follows:

7 (750 ILCS 60/201) (from Ch. 40, par. 2312-1)

8 Sec. 201. Persons protected by this Act.

9 (a) The following persons are protected by this Act:

10 (i) any person abused by a family or household member;

11 (ii) any high-risk adult with disabilities who is  
12 abused, neglected, or exploited by a family or household  
13 member;

14 (iii) any minor child or dependent adult in the care of  
15 such person; and

16 (iv) any person residing or employed at a private home  
17 or public shelter which is housing an abused family or  
18 household member.

19 (b) A petition for an order of protection may be filed  
20 ~~only~~: (i) by a person who has been abused by a family or  
21 household member or by any person on behalf of a minor child or  
22 an adult who has been abused by a family or household member  
23 and who, because of age, health, disability, or  
24 inaccessibility, cannot file the petition, ~~or~~ (ii) by any

1 person on behalf of a high-risk adult with disabilities who has  
2 been abused, neglected, or exploited by a family or household  
3 member, or (iii) by the State's Attorney on behalf of a person  
4 who has been abused by a family or household member.

5 However, any petition properly filed under this Act may  
6 seek protection for any additional persons protected by this  
7 Act.

8 (c) The court may, on its own motion, on behalf of a person  
9 who has been abused by a family or household member issue an  
10 order of protection under this Act.

11 (Source: P.A. 86-542; 87-1186.)

12 (750 ILCS 60/220) (from Ch. 40, par. 2312-20)

13 Sec. 220. Duration and extension of orders.

14 (a) Duration of emergency and interim orders. Unless  
15 re-opened or extended or voided by entry of an order of greater  
16 duration:

17 (1) Emergency orders issued under Section 217 shall be  
18 effective for not less than 14 nor more than 21 days;

19 (2) Interim orders shall be effective for up to 30  
20 days.

21 (b) Duration of plenary orders. Except as otherwise  
22 provided in this Section, a plenary order of protection shall  
23 be valid for a fixed period of time, not to exceed two years.

24 (1) A plenary order of protection entered in  
25 conjunction with another civil proceeding shall remain in

1 effect as follows:

2 (i) if entered as preliminary relief in that other  
3 proceeding, until entry of final judgment in that other  
4 proceeding;

5 (ii) if incorporated into the final judgment in  
6 that other proceeding, until the order of protection is  
7 vacated or modified; or

8 (iii) if incorporated in an order for involuntary  
9 commitment, until termination of both the involuntary  
10 commitment and any voluntary commitment, or for a fixed  
11 period of time not exceeding 2 years.

12 (2) A plenary order of protection entered in  
13 conjunction with a criminal prosecution shall remain in  
14 effect as follows:

15 (i) if entered during pre-trial release, until  
16 disposition, withdrawal, or dismissal of the  
17 underlying charge; if, however, the case is continued  
18 as an independent cause of action, the order's duration  
19 may be for a fixed period of time not to exceed 2  
20 years;

21 (ii) if in effect in conjunction with a bond  
22 forfeiture warrant, until final disposition or an  
23 additional period of time not exceeding 2 years; no  
24 order of protection, however, shall be terminated by a  
25 dismissal that is accompanied by the issuance of a bond  
26 forfeiture warrant;



1 (iii) until expiration of any supervision,  
2 conditional discharge, probation, periodic  
3 imprisonment, parole, aftercare release, or mandatory  
4 supervised release and for an additional period of time  
5 thereafter not exceeding 10 ~~2~~ years; or

6 (iv) until the date set by the court for expiration  
7 of any sentence of imprisonment and subsequent parole,  
8 aftercare release, or mandatory supervised release and  
9 for an additional period of time thereafter not  
10 exceeding 10 ~~2~~ years.

11 (c) Computation of time. The duration of an order of  
12 protection shall not be reduced by the duration of any prior  
13 order of protection.

14 (d) Law enforcement records. When a plenary order of  
15 protection expires upon the occurrence of a specified event,  
16 rather than upon a specified date as provided in subsection  
17 (b), no expiration date shall be entered in Department of State  
18 Police records. To remove the plenary order from those records,  
19 either party shall request the clerk of the court to file a  
20 certified copy of an order stating that the specified event has  
21 occurred or that the plenary order has been vacated or modified  
22 with the Sheriff, and the Sheriff shall direct that law  
23 enforcement records shall be promptly corrected in accordance  
24 with the filed order.

25 (e) Extension of orders. Any emergency, interim or plenary  
26 order may be extended one or more times, as required, provided

1 that the requirements of Section 217, 218 or 219, as  
2 appropriate, are satisfied. If the motion for extension is  
3 uncontested and petitioner seeks no modification of the order,  
4 the order may be extended on the basis of petitioner's motion  
5 or affidavit stating that there has been no material change in  
6 relevant circumstances since entry of the order and stating the  
7 reason for the requested extension. An extension of a plenary  
8 order of protection may be granted, upon good cause shown, to  
9 remain in effect until the order of protection is vacated or  
10 modified. Extensions may be granted only in open court and not  
11 under the provisions of subsection (c) of Section 217, which  
12 applies only when the court is unavailable at the close of  
13 business or on a court holiday.

14 (f) Termination date. Any order of protection which would  
15 expire on a court holiday shall instead expire at the close of  
16 the next court business day.

17 (g) Statement of purpose. The practice of dismissing or  
18 suspending a criminal prosecution in exchange for the issuance  
19 of an order of protection undermines the purposes of this Act.  
20 This Section shall not be construed as encouraging that  
21 practice.

22 (Source: P.A. 98-558, eff. 1-1-14.)