

AN ACT concerning domestic violence.

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

Section 5. The Code of Criminal Procedure of 1963 is
amended by changing Section 112A-23 as follows:

(725 ILCS 5/112A-23) (from Ch. 38, par. 112A-23)

Sec. 112A-23. Enforcement of orders of protection.

(a) When violation is crime. A violation of any order of
protection, whether issued in a civil, quasi-criminal
proceeding, shall may be enforced by a criminal court when:

(1) The respondent commits the crime of violation
of an order of protection pursuant to Section 12-30 of
the Criminal Code of 1961, by having knowingly violated:

(i) remedies described in paragraphs (1), (2),
(3), (14), or (14.5) of subsection (b) of Section
112A-14,

(ii) a remedy, which is substantially similar
to the remedies authorized under paragraphs (1),
(2), (3), (14) or (14.5) of subsection (b) of
Section 214 of the Illinois Domestic Violence Act of
1986, in a valid order of protection, which is
authorized under the laws of another state, tribe or
United States territory,

(iii) or any other remedy when the act
constitutes a crime against the protected parties as
defined by the Criminal Code of 1961.

Prosecution for a violation of an order of protection
shall not bar concurrent prosecution for any other crime,
including any crime that may have been committed at the time
of the violation of the order of protection; or

(2) The respondent commits the crime of child

abduction pursuant to Section 10-5 of the Criminal Code of 1961, by having knowingly violated:

(i) remedies described in paragraphs (5), (6) or (8) of subsection (b) of Section 112A-14, or

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (5), (6), or (8) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory.

(b) When violation is contempt of court. A violation of any valid order of protection, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless where the act or acts which violated the order of protection were committed, to the extent consistent with the venue provisions of this Article. Nothing in this Article shall preclude any Illinois court from enforcing any valid order of protection issued in another state. Illinois courts may enforce orders of protection through both criminal prosecution and contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(1) In a contempt proceeding where the petition for a rule to show cause sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction, conceal a child, or inflict physical abuse on the petitioner or minor children or on dependent adults in petitioner's care, the court may order the attachment of the respondent without prior service of the rule to show cause or the petition for a rule to show cause. Bond shall be set unless specifically denied in

writing.

(2) A petition for a rule to show cause for violation of an order of protection shall be treated as an expedited proceeding.

(c) Violation of custody or support orders. A violation of remedies described in paragraphs (5), (6), (8), or (9) of subsection (b) of Section 112A-14 may be enforced by any remedy provided by Section 611 of the Illinois Marriage and Dissolution of Marriage Act. The court may enforce any order for support issued under paragraph (12) of subsection (b) of Section 112A-14 in the manner provided for under Articles V and VII of the Illinois Marriage and Dissolution of Marriage Act.

(d) Actual knowledge. An order of protection may be enforced pursuant to this Section if the respondent violates the order after respondent has actual knowledge of its contents as shown through one of the following means:

(1) By service, delivery, or notice under Section 112A-10.

(2) By notice under Section 112A-11.

(3) By service of an order of protection under Section 112A-22.

(4) By other means demonstrating actual knowledge of the contents of the order.

(e) The enforcement of an order of protection in civil or criminal court shall not be affected by either of the following:

(1) The existence of a separate, correlative order entered under Section 112A-15.

(2) Any finding or order entered in a conjoined criminal proceeding.

(f) Circumstances. The court, when determining whether or not a violation of an order of protection has occurred, shall not require physical manifestations of abuse on the

person of the victim.

(g) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsections (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any order of protection over any penalty previously imposed by any court for respondent's violation of any order of protection or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any order of protection; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of an order of protection

unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of an order of protection, a criminal court

may consider evidence of any violations of an order of protection:

(i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections;

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

(Source: P.A. 90-732, eff. 8-11-98.)

Section 10. The Illinois Domestic Violence Act of 1986 is amended by changing Section 223 as follows:

(750 ILCS 60/223) (from Ch. 40, par. 2312-23)

Sec. 223. Enforcement of orders of protection.

(a) When violation is crime. A violation of any order of protection, whether issued in a civil or criminal proceeding, shall may be enforced by a criminal court when:

(1) The respondent commits the crime of violation of an order of protection pursuant to Section 12-30 of the Criminal Code of 1961, by having knowingly violated:

(i) remedies described in paragraphs (1), (2), (3), (14), or (14.5) of subsection (b) of Section 214 of this Act; or

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (2), (3), (14), and (14.5) of subsection (b) of Section 214 of this Act, in a valid order of protection which is authorized under the laws of another state, tribe, or United States territory; or

(iii) any other remedy when the act constitutes a crime against the protected parties as defined by the Criminal Code of 1961.

Prosecution for a violation of an order of protection shall not bar concurrent prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order of protection; or

(2) The respondent commits the crime of child abduction pursuant to Section 10-5 of the Criminal Code of 1961, by having knowingly violated:

(i) remedies described in paragraphs (5), (6) or (8) of subsection (b) of Section 214 of this Act; or

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (5), (6), or (8) of subsection (b) of Section 214 of this Act, in a valid order of protection which is authorized under the laws of another state, tribe, or United States territory.

(b) When violation is contempt of court. A violation of any valid Illinois order of protection, whether issued in a civil or criminal proceeding, may be enforced through civil or criminal contempt procedures, as appropriate, by any court with jurisdiction, regardless where the act or acts which violated the order of protection were committed, to the extent consistent with the venue provisions of this Act. Nothing in this Act shall preclude any Illinois court from enforcing any valid order of protection issued in another state. Illinois courts may enforce orders of protection through both criminal prosecution and contempt proceedings, unless the action which is second in time is barred by collateral estoppel or the constitutional prohibition against double jeopardy.

(1) In a contempt proceeding where the petition for a rule to show cause sets forth facts evidencing an immediate danger that the respondent will flee the jurisdiction, conceal a child, or inflict physical abuse on the petitioner or minor children or on dependent adults in petitioner's care, the court may order the attachment of the respondent without prior service of the rule to show cause or the petition for a rule to show cause. Bond shall be set unless specifically denied in writing.

(2) A petition for a rule to show cause for violation of an order of protection shall be treated as an expedited proceeding.

(c) Violation of custody or support orders. A violation of remedies described in paragraphs (5), (6), (8), or (9) of subsection (b) of Section 214 of this Act may be enforced by any remedy provided by Section 611 of the Illinois Marriage and Dissolution of Marriage Act. The court may enforce any order for support issued under paragraph (12) of subsection (b) of Section 214 in the manner provided for under Articles V and VII of the Illinois Marriage and Dissolution of Marriage Act.

(d) Actual knowledge. An order of protection may be enforced pursuant to this Section if the respondent violates the order after the respondent has actual knowledge of its contents as shown through one of the following means:

(1) By service, delivery, or notice under Section 210.

(2) By notice under Section 210.1 or 211.

(3) By service of an order of protection under Section 222.

(4) By other means demonstrating actual knowledge of the contents of the order.

(e) The enforcement of an order of protection in civil

or criminal court shall not be affected by either of the following:

(1) The existence of a separate, correlative order, entered under Section 215.

(2) Any finding or order entered in a conjoined criminal proceeding.

(f) Circumstances. The court, when determining whether or not a violation of an order of protection has occurred, shall not require physical manifestations of abuse on the person of the victim.

(g) Penalties.

(1) Except as provided in paragraph (3) of this subsection, where the court finds the commission of a crime or contempt of court under subsections (a) or (b) of this Section, the penalty shall be the penalty that generally applies in such criminal or contempt proceedings, and may include one or more of the following: incarceration, payment of restitution, a fine, payment of attorneys' fees and costs, or community service.

(2) The court shall hear and take into account evidence of any factors in aggravation or mitigation before deciding an appropriate penalty under paragraph (1) of this subsection.

(3) To the extent permitted by law, the court is encouraged to:

(i) increase the penalty for the knowing violation of any order of protection over any penalty previously imposed by any court for respondent's violation of any order of protection or penal statute involving petitioner as victim and respondent as defendant;

(ii) impose a minimum penalty of 24 hours imprisonment for respondent's first violation of any

order of protection; and

(iii) impose a minimum penalty of 48 hours imprisonment for respondent's second or subsequent violation of an order of protection

unless the court explicitly finds that an increased penalty or that period of imprisonment would be manifestly unjust.

(4) In addition to any other penalties imposed for a violation of an order of protection, a criminal court may consider evidence of any violations of an order of protection:

(i) to increase, revoke or modify the bail bond on an underlying criminal charge pursuant to Section 110-6 of the Code of Criminal Procedure of 1963;

(ii) to revoke or modify an order of probation, conditional discharge or supervision, pursuant to Section 5-6-4 of the Unified Code of Corrections;

(iii) to revoke or modify a sentence of periodic imprisonment, pursuant to Section 5-7-2 of the Unified Code of Corrections.

(5) In addition to any other penalties, the court shall impose an additional fine of \$20 as authorized by Section 5-9-1.11 of the Unified Code of Corrections upon any person convicted of or placed on supervision for a violation of an order of protection. The additional fine shall be imposed for each violation of this Section.

(Source: P.A. 90-241, eff. 1-1-98; 91-903, eff. 1-1-01.)