

AN ACT concerning civil law.

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

Section 3. The Code of Criminal Procedure of 1963 is amended by changing Section 112A-17 as follows:

(725 ILCS 5/112A-17) (from Ch. 38, par. 112A-17)

Sec. 112A-17. Emergency order of protection.

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

(1) The court has jurisdiction under Section 112A-9;

(2) The requirements of Section 112A-14 are satisfied;

and

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

(i) For the remedies of "prohibition of abuse" described in Section 112A-14(b)(1), "stay away order and additional prohibitions" described in Section 112A-14(b)(3), "removal or concealment of minor child" described in Section 112A-14(b)(8), "order to appear" described in Section 112A-14(b)(9), "physical care and

possession of the minor child" described in Section 112A-14(b)(5), "protection of property" described in Section 112A-14(b)(11), "prohibition of entry" described in Section 112A-14(b)(14), "prohibition of access to records" described in Section 112A-14(b)(15), and "injunctive relief" described in Section 112A-14(b)(16), the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief;

(ii) For the remedy of "grant of exclusive possession of residence" described in Section 112A-14(b)(2), the immediate danger of further abuse of petitioner by respondent, if petitioner chooses or had chosen to remain in the residence or household while respondent was given any prior notice or greater notice than was actually given of petitioner's efforts to obtain judicial relief, outweighs the hardships to respondent of an emergency order granting petitioner exclusive possession of the residence or household. This remedy shall not be denied because petitioner has or could obtain temporary shelter elsewhere while prior notice is given to respondent, unless the hardships to respondent from exclusion from the home substantially outweigh those to petitioner.

(iii) For the remedy of "possession of personal property" described in Section 112A-14(b)(10), improper disposition of the personal property would be likely to occur if respondent were given any prior notice, or greater notice than was actually given, of petitioner's efforts to obtain judicial relief, or petitioner has an immediate and pressing need for possession of that property.

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

(b) Appearance by respondent. If respondent appears in court for this hearing for an emergency order, he or she may elect to file a general appearance and testify. Any resulting order may be an emergency order, governed by this Section. Notwithstanding the requirements of this Section, if all requirements of Section 112A-18 have been met, the Court may issue a 30-day interim order.

(c) Emergency orders: court holidays and evenings.

(1) Prerequisites. When the court is unavailable at the close of business, the petitioner may file a petition for a 21-day emergency order before any available circuit judge or associate judge who may grant relief under this Article. If the judge finds that there is an immediate and present danger of abuse to petitioner and that petitioner has satisfied the prerequisites set forth in subsection (a) of Section 112A-17, that judge may issue an emergency order of

protection.

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

(2) Certification and transfer. The judge who issued the order under this Section shall promptly communicate or convey the order to the sheriff to facilitate the entry of the order into the Law Enforcement Agencies Data System by the Department of State Police pursuant to Section 112A-28. Any order issued under this Section and any documentation in support thereof shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order and other documents with the court and enter the order of record and file it with the sheriff for service, in accordance with Section 112A-22. Filing the petition shall commence proceedings for further relief, under Section 112A-2. Failure to comply with the requirements of this subsection shall not affect the validity of the order.

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

Section 5. The Illinois Domestic Violence Act of 1986 is amended by changing Section 217 as follows:

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

Sec. 217. Emergency order of protection.

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

- (1) The court has jurisdiction under Section 208;
- (2) The requirements of Section 214 are satisfied; and
- (3) There is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because:

- (i) For the remedies of "prohibition of abuse" described in Section 214(b)(1), "stay away order and additional prohibitions" described in Section 214(b)(3), "removal or concealment of minor child" described in Section 214(b)(8), "order to appear" described in Section 214(b)(9), "physical care and possession of the minor child" described in Section 214(b)(5), "protection of property" described in Section 214(b)(11), "prohibition of entry" described in Section 214(b)(14), "prohibition of firearm possession" described in Section 214(b)(14.5), "prohibition of access to records" described in Section 214(b)(15), and "injunctive relief" described in Section 214(b)(16), the harm which that remedy is

intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief;

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

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

possession of that property.

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

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

(c) Emergency orders: court holidays and evenings.

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

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

(2) Certification and transfer. The judge who issued the order under this Section shall promptly communicate or convey the order to the sheriff to facilitate the entry of the order into the Law Enforcement Agencies Data System by the Department of State Police pursuant to Section 302. Any order issued under this Section and any documentation in support thereof shall be certified on the next court day to the appropriate court. The clerk of that court shall immediately assign a case number, file the petition, order and other documents with the court, and enter the order of record and file it with the sheriff for service, in accordance with Section 222. Filing the petition shall commence proceedings for further relief under Section 202. Failure to comply with the requirements of this subsection shall not affect the validity of the order.

(Source: P.A. 96-701, eff. 1-1-10.)