

Q

I have an Order of Protection against an ex-boyfriend and the father of my child. He has moved from Des Moines, Iowa to Illinois; he is homeless and recently lost 2 jobs. The Order of Protection establishes visitation every other weekend. When he gets money, he gets a hotel for him and our daughter for the weekend. But this leaves him without money to feed her! Do I have to let him have her for the duration of the 2-year Order of Protection or can I stop it, since I feel that my daughter is not being properly taken care of?

--Client, DeKalb County

A

Dear Client,

I'm glad that you contacted us about this problem.

You certainly don't need to leave the current arrangement in place for the 2-year duration of the OP if it's not working well. But you shouldn't defy a court order because you risk being held in contempt of court. You should file a [Motion to Modify](#) to ask the court to [change the visitation arrangement outlined in the protective order](#). You can ask for things like restricted (supervised) visitation, or visitation in a public place. You could change the arrangement so that he sees her during the day instead of for an overnight trip.

That said, most judges don't like handling ongoing family law issues in OPs since OPs are usually intended to be temporary. If you don't already have an open family case, it may be time for you to open one by filing a [Petition for Allocation of Parental Responsibilities](#). This would allow you to get a more-permanent court order in place regarding visitation arrangements.

I hope this information has been helpful. Best of luck!

Sincerely,
Attorney

Applicable Law

750 ILCS 60/ Illinois Domestic Violence Act

750 ILCS 5/ Illinois Marriage and Dissolution of Marriage Act

750 ILCS 46/ Illinois Parentage Act of 2015

Background of the Law

Domestic Violence Act

Orders of Protection

There are three kinds of protective orders in Illinois: Civil No Contact Orders, Stalking No Contact Orders, and Orders of Protection. The Illinois Domestic Violence Act (“the Act”) created the Order of Protection which is meant for use between:

- Those related by blood or marriage,
- Those who have children in common,
- Those who share a living space,
- High risk adults or adults with a disability and their caregivers, and
- Those who are currently or were formerly engaged in a romantic relationship.

750 ILCS 60. The purpose of the Illinois Domestic Violence Act (“the Act”) is to “expand the civil and criminal remedies for victims of domestic violence; including, when necessary, the remedies which effect [sic] physical separation of the parties to prevent further abuse.” 750 ILCS 60/102.

For purposes of the Act, abuse means “physical abuse, harassment, intimidation of a dependent, interference with personal liberty, or willful deprivation.” 750 ILCS 60/103.

Certainly, a variety of remedies are available in an Order of Protection. 750 ILCS 60/214. Petitioners can request things such as possession of the family home, temporary custody of children shared between the parties, protection of family pets, and return of personal property. *Id.*

Visitation

Due to recent changes in the law, visitation is now referred to as “parenting time.” But most pro se litigants still use the old terminology. Thus, IllinoisLegalAid.org often retains the word visitation in parentheses or within the content to enhance readability.

Those whose parentage has been legally established have reasonable visitation rights to their children unless the court finds, after a hearing, that visitation would “endanger seriously the child’s physical, mental, moral or emotional health. 750 ILCS 5/607.

Non-parent visitation

In general, it is up to the parents of a child to decide who can spend time with that child. But sometimes a nonparent can get a court order to force the parents to let them spend time with a child, if the child is at least one year old.

Only the following people can get a court order for visitation with a child:

- Grandparent
- Great-grandparent
- Brother or Sister
- Step-parent

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