

# HB5509



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5509

Introduced 2/16/2018, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/602.5  
750 ILCS 5/602.7

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that if, within the first year after a child is born, parentage is established under the Illinois Parentage Act of 2015, then a court shall award equal decision-making and parenting time unless a court finds that such an award would seriously endanger the child.

LRB100 17189 LNS 32345 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Sections 602.5 and 602.7 as  
6 follows:

7 (750 ILCS 5/602.5)

8 Sec. 602.5. Allocation of parental responsibilities:  
9 decision-making.

10 (a) Generally. The court shall allocate decision-making  
11 responsibilities according to the child's best interests.  
12 ~~Nothing in this Act requires that each parent be allocated~~  
13 ~~decision-making responsibilities.~~

14 (b) Allocation of significant decision-making  
15 responsibilities. Unless the parents otherwise agree in  
16 writing on an allocation of significant decision-making  
17 responsibilities, or the issue of the allocation of parental  
18 responsibilities has been reserved under Section 401, the court  
19 shall make the determination. The court shall allocate to one  
20 or both of the parents the significant decision-making  
21 responsibility for each significant issue affecting the child.  
22 Those significant issues shall include, without limitation,  
23 the following:

1           (1) Education, including the choice of schools and  
2           tutors.

3           (2) Health, including all decisions relating to the  
4           medical, dental, and psychological needs of the child and  
5           to the treatments arising or resulting from those needs.

6           (3) Religion, subject to the following provisions:

7                   (A) The court shall allocate decision-making  
8                   responsibility for the child's religious upbringing in  
9                   accordance with any express or implied agreement  
10                  between the parents.

11                   (B) The court shall consider evidence of the  
12                  parents' past conduct as to the child's religious  
13                  upbringing in allocating decision-making  
14                  responsibilities consistent with demonstrated past  
15                  conduct in the absence of an express or implied  
16                  agreement between the parents.

17                   (C) The court shall not allocate any aspect of the  
18                  child's religious upbringing if it determines that the  
19                  parents do not or did not have an express or implied  
20                  agreement for such religious upbringing or that there  
21                  is insufficient evidence to demonstrate a course of  
22                  conduct regarding the child's religious upbringing  
23                  that could serve as a basis for any such order.

24           (4) Extracurricular activities.

25           (c) Determination of child's best interests. In  
26           determining the child's best interests for purposes of

1 allocating significant decision-making responsibilities, the  
2 court shall consider all relevant factors, including, without  
3 limitation, the following:

4 (1) the wishes of the child, taking into account the  
5 child's maturity and ability to express reasoned and  
6 independent preferences as to decision-making;

7 (2) the child's adjustment to his or her home, school,  
8 and community;

9 (3) the mental and physical health of all individuals  
10 involved;

11 (4) the ability of the parents to cooperate to make  
12 decisions, or the level of conflict between the parties  
13 that may affect their ability to share decision-making;

14 (5) the level of each parent's participation in past  
15 significant decision-making with respect to the child;

16 (6) any prior agreement or course of conduct between  
17 the parents relating to decision-making with respect to the  
18 child;

19 (7) the wishes of the parents;

20 (8) the child's needs;

21 (9) the distance between the parents' residences, the  
22 cost and difficulty of transporting the child, each  
23 parent's and the child's daily schedules, and the ability  
24 of the parents to cooperate in the arrangement;

25 (10) whether a restriction on decision-making is  
26 appropriate under Section 603.10;

1           (11) the willingness and ability of each parent to  
2           facilitate and encourage a close and continuing  
3           relationship between the other parent and the child;

4           (12) the physical violence or threat of physical  
5           violence by the child's parent directed against the child;

6           (13) the occurrence of abuse against the child or other  
7           member of the child's household;

8           (14) whether one of the parents is a sex offender, and  
9           if so, the exact nature of the offense and what, if any,  
10          treatment in which the parent has successfully  
11          participated; and

12          (15) any other factor that the court expressly finds to  
13          be relevant.

14          (d) A parent shall have sole responsibility for making  
15          routine decisions with respect to the child and for emergency  
16          decisions affecting the child's health and safety during that  
17          parent's parenting time.

18          (e) In allocating significant decision-making  
19          responsibilities, the court shall not consider conduct of a  
20          parent that does not affect that parent's relationship to the  
21          child.

22          (Source: P.A. 99-90, eff. 1-1-16.)

23                 (750 ILCS 5/602.7)

24                 Sec. 602.7. Allocation of parental responsibilities:  
25                 parenting time.

1 (a) Best interests. The court shall allocate parenting time  
2 according to the child's best interests.

3 (b) Allocation of parenting time. Unless the parents  
4 present a mutually agreed written parenting plan and that plan  
5 is approved by the court, the court shall allocate parenting  
6 time. It is presumed both parents are fit and the court shall  
7 not place any restrictions on parenting time as defined in  
8 Section 600 and described in Section 603.10, unless it finds by  
9 a preponderance of the evidence that a parent's exercise of  
10 parenting time would seriously endanger the child's physical,  
11 mental, moral, or emotional health.

12 In determining the child's best interests for purposes of  
13 allocating parenting time, the court shall consider all  
14 relevant factors, including, without limitation, the  
15 following:

16 (1) the wishes of each parent seeking parenting time;

17 (2) the wishes of the child, taking into account the  
18 child's maturity and ability to express reasoned and  
19 independent preferences as to parenting time;

20 (3) the amount of time each parent spent performing  
21 caretaking functions with respect to the child in the 24  
22 months preceding the filing of any petition for allocation  
23 of parental responsibilities or, if the child is under 2  
24 years of age, since the child's birth;

25 (4) any prior agreement or course of conduct between  
26 the parents relating to caretaking functions with respect

1 to the child;

2 (5) the interaction and interrelationship of the child  
3 with his or her parents and siblings and with any other  
4 person who may significantly affect the child's best  
5 interests;

6 (6) the child's adjustment to his or her home, school,  
7 and community;

8 (7) the mental and physical health of all individuals  
9 involved;

10 (8) the child's needs;

11 (9) the distance between the parents' residences, the  
12 cost and difficulty of transporting the child, each  
13 parent's and the child's daily schedules, and the ability  
14 of the parents to cooperate in the arrangement;

15 (10) whether a restriction on parenting time is  
16 appropriate;

17 (11) the physical violence or threat of physical  
18 violence by the child's parent directed against the child  
19 or other member of the child's household;

20 (12) the willingness and ability of each parent to  
21 place the needs of the child ahead of his or her own needs;

22 (13) the willingness and ability of each parent to  
23 facilitate and encourage a close and continuing  
24 relationship between the other parent and the child;

25 (14) the occurrence of abuse against the child or other  
26 member of the child's household;

1 (15) whether one of the parents is a convicted sex  
2 offender or lives with a convicted sex offender and, if so,  
3 the exact nature of the offense and what if any treatment  
4 the offender has successfully participated in; the parties  
5 are entitled to a hearing on the issues raised in this  
6 paragraph (15);

7 (16) the terms of a parent's military family-care plan  
8 that a parent must complete before deployment if a parent  
9 is a member of the United States Armed Forces who is being  
10 deployed; and

11 (17) any other factor that the court expressly finds to  
12 be relevant.

13 (b-5) If, within the first year after a child is born,  
14 parentage is established under the Illinois Parentage Act of  
15 2015, then a court shall award equal decision-making to each  
16 parent unless a court finds that a parent's exercise of  
17 decision-making would seriously endanger the child's physical,  
18 mental, moral, or emotional health.

19 (c) In allocating parenting time, the court shall not  
20 consider conduct of a parent that does not affect that parent's  
21 relationship to the child.

22 (d) Upon motion, the court may allow a parent who is  
23 deployed or who has orders to be deployed as a member of the  
24 United States Armed Forces to designate a person known to the  
25 child to exercise reasonable substitute visitation on behalf of  
26 the deployed parent, if the court determines that substitute



1 visitation is in the best interests of the child. In  
2 determining whether substitute visitation is in the best  
3 interests of the child, the court shall consider all of the  
4 relevant factors listed in subsection (b) of this Section and  
5 apply those factors to the person designated as a substitute  
6 for the deployed parent for visitation purposes. Visitation  
7 orders entered under this subsection are subject to subsections  
8 (e) and (f) of Section 602.9 and subsections (c) and (d) of  
9 Section 603.10.

10 (e) If the street address of a parent is not identified  
11 pursuant to Section 708 of this Act, the court shall require  
12 the parties to identify reasonable alternative arrangements  
13 for parenting time by the other parent including, but not  
14 limited to, parenting time of the minor child at the residence  
15 of another person or at a local public or private facility.

16 (Source: P.A. 99-90, eff. 1-1-16.)