



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2197

Introduced 2/10/2011, by Sen. Mattie Hunter

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/602  
750 ILCS 5/603

from Ch. 40, par. 602  
from Ch. 40, par. 603

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that it is presumed that each parent is fit and that a fit parent acts in the best interest of his or her child, unless either presumption is rebutted. It is presumed that, absent a written parental agreement on residential time-sharing arrangements for a child, it is in the best interest of the child to reside with each parent for an equal period of time. Provides that in a proceeding for a temporary child custody order or a parenting time order, there shall be a rebuttable presumption that it is in the best interest of the child to order joint custody and to allocate parenting time to each parent for an equal period of time, absent a written parental agreement to the contrary. Effective immediately.

LRB097 10211 AJ0 50407 b

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 and 603 as  
6 follows:

7 (750 ILCS 5/602) (from Ch. 40, par. 602)

8 Sec. 602. Best Interest of Child.

9 (a) The court shall determine custody in accordance with  
10 the best interest of the child. The court shall consider all  
11 relevant factors including:

12 (1) the wishes of the child's parent or parents as to  
13 his custody;

14 (2) the wishes of the child as to his custodian;

15 (3) the interaction and interrelationship of the child  
16 with his parent or parents, his siblings and any other  
17 person who may significantly affect the child's best  
18 interest;

19 (4) the child's adjustment to his home, school and  
20 community;

21 (5) the mental and physical health of all individuals  
22 involved;

23 (6) the physical violence or threat of physical

1 violence by the child's potential custodian, whether  
2 directed against the child or directed against another  
3 person;

4 (7) the occurrence of ongoing or repeated abuse as  
5 defined in Section 103 of the Illinois Domestic Violence  
6 Act of 1986, whether directed against the child or directed  
7 against another person;

8 (8) the willingness and ability of each parent to  
9 facilitate and encourage a close and continuing  
10 relationship between the other parent and the child;

11 (9) whether one of the parents is a sex offender; and

12 (10) the terms of a parent's military family-care plan  
13 that a parent must complete before deployment if a parent  
14 is a member of the United States Armed Forces who is being  
15 deployed.

16 In the case of a custody proceeding in which a stepparent  
17 has standing under Section 601, it is presumed to be in the  
18 best interest of the minor child that the natural parent have  
19 the custody of the minor child unless the presumption is  
20 rebutted by the stepparent.

21 (a-2) It is presumed that each parent is fit and that a fit  
22 parent acts in the best interest of his or her child, unless  
23 either presumption is rebutted.

24 (a-3) It is presumed that, absent a written parental  
25 agreement on residential time-sharing arrangements for a  
26 child, it is in the best interest of the child to reside with

1 each parent for an equal period of time.

2 (b) The court shall not consider conduct of a present or  
3 proposed custodian that does not affect his relationship to the  
4 child.

5 (c) Unless the court finds the occurrence of ongoing abuse  
6 as defined in Section 103 of the Illinois Domestic Violence Act  
7 of 1986, the court shall presume that the maximum involvement  
8 ~~and cooperation~~ of both parents regarding the physical, mental,  
9 moral, and emotional well-being of their child is in the best  
10 interest of the child. ~~There shall be no presumption in favor~~  
11 ~~of or against joint custody.~~

12 (Source: P.A. 95-331, eff. 8-21-07; 96-676, eff. 1-1-10.)

13 (750 ILCS 5/603) (from Ch. 40, par. 603)

14 Sec. 603. Temporary Orders.

15 (a) A party to a custody proceeding, including a proceeding  
16 to modify custody, may move for a temporary custody order. The  
17 court may award temporary custody under the standards of  
18 Section 602 and the standards and procedures of Section 602.1,  
19 after a hearing, or, if there is no objection, solely on the  
20 basis of the affidavits.

21 (b) If a proceeding for dissolution of marriage or legal  
22 separation or declaration of invalidity of marriage is  
23 dismissed, any temporary custody order is vacated unless a  
24 parent or the child's custodian moves that the proceeding  
25 continue as a custody proceeding and the court finds, after a

1 hearing, that the circumstances of the parents and the best  
2 interest of the child requires that a custody judgment be  
3 issued.

4 (c) If a custody proceeding commenced in the absence of a  
5 petition for dissolution of marriage or legal separation, under  
6 either subparagraph (ii) of paragraph (1), or paragraph (2), of  
7 subsection (d) of Section 601, is dismissed, any temporary  
8 custody order is vacated.

9 (d) In a proceeding for a temporary child custody order or  
10 a parenting time order, there shall be a rebuttable presumption  
11 that it is the best interest of the child for there to be joint  
12 custody and an allocation of parenting time to each parent for  
13 an equal period of time, absent a written parental agreement to  
14 the contrary.

15 (Source: P.A. 86-530; 87-1255.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.