



Rep. La Shawn K. Ford

Filed: 4/5/2018

10000HB4113ham001

LRB100 14598 HEP 37951 a

1 AMENDMENT TO HOUSE BILL 4113

2 AMENDMENT NO. _____. Amend House Bill 4113 on page 1, by
3 replacing line 6 with "602.10, 603.10, and 610.5 as follows:";
4 and

5 by replacing line 18 on page 7 through line 11 on page 11 with
6 the following:

7 "(750 ILCS 5/602.7)

8 Sec. 602.7. Allocation of parental responsibilities:
9 parenting time.

10 (a) Allocation of parenting time. ~~Best interests.~~ The court
11 shall allocate parenting time according to the child's best
12 interests. Unless the parents present a mutually agreed written
13 parenting plan and that plan is approved by the court, the
14 court shall allocate parenting time. There is a rebuttable
15 presumption that it is in the child's best interests to award
16 equal time to each parent. In determining the child's best

1 interests for purposes of allocating parenting time, the court
2 shall consider all relevant factors, including, without
3 limitation, the following:

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

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

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

13 (4) any prior agreement or course of conduct between
14 the parents relating to caretaking functions with respect
15 to the child;

16 (5) the interaction and interrelationship of the child
17 with his or her parents and siblings and with any other
18 person who may significantly affect the child's best
19 interests;

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

22 (7) the mental and physical health of all individuals
23 involved;

24 (8) the child's needs;

25 (9) the distance between the parents' residences, the
26 cost and difficulty of transporting the child, each

1 parent's and the child's daily schedules, and the ability
2 of the parents to cooperate in the arrangement;

3 (10) whether a restriction on parenting time is
4 appropriate;

5 (11) the physical violence or threat of physical
6 violence by the child's parent directed against the child
7 or other member of the child's household;

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

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

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

15 (15) whether one of the parents is a convicted sex
16 offender or lives with a convicted sex offender and, if so,
17 the exact nature of the offense and what if any treatment
18 the offender has successfully participated in; the parties
19 are entitled to a hearing on the issues raised in this
20 paragraph (15);

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

25 (17) any other factor that the court expressly finds to
26 be relevant.

1 If the court deviates from the presumption contained in
2 this subsection, the court shall issue a written decision
3 stating its specific findings of fact and conclusions of law in
4 support of the deviation from the presumption.

5 (b) ~~Restrictions Allocation of parenting time.~~ Unless the
6 ~~parents present a mutually agreed written parenting plan and~~
7 ~~that plan is approved by the court, the court shall allocate~~
8 ~~parenting time.~~ It is presumed both parents are fit and the
9 court shall not place any restrictions on parenting time as
10 defined in Section 600 and described in Section 603.10, unless
11 it finds ~~by a preponderance of the evidence~~ that a parent is an
12 unfit person under Section 1 of the Adoption Act. If the court
13 deviates from the presumption contained in this subsection, the
14 court shall issue a written decision stating its specific
15 findings of fact and conclusions of law in support of the
16 deviation from the presumption ~~parent's exercise of parenting~~
17 ~~time would seriously endanger the child's physical, mental,~~
18 ~~moral, or emotional health.~~

19 ~~In determining the child's best interests for purposes of~~
20 ~~allocating parenting time, the court shall consider all~~
21 ~~relevant factors, including, without limitation, the~~
22 ~~following:~~

- 23 ~~(1) the wishes of each parent seeking parenting time;~~
24 ~~(2) the wishes of the child, taking into account the~~
25 ~~child's maturity and ability to express reasoned and~~
26 ~~independent preferences as to parenting time;~~

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

6 ~~(4) any prior agreement or course of conduct between~~
7 ~~the parents relating to caretaking functions with respect~~
8 ~~to the child;~~

9 ~~(5) the interaction and interrelationship of the child~~
10 ~~with his or her parents and siblings and with any other~~
11 ~~person who may significantly affect the child's best~~
12 ~~interests;~~

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

15 ~~(7) the mental and physical health of all individuals~~
16 ~~involved;~~

17 ~~(8) the child's needs;~~

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

22 ~~(10) whether a restriction on parenting time is~~
23 ~~appropriate;~~

24 ~~(11) the physical violence or threat of physical~~
25 ~~violence by the child's parent directed against the child~~
26 ~~or other member of the child's household;~~

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

3 ~~(13) the willingness and ability of each parent to~~
4 ~~facilitate and encourage a close and continuing~~
5 ~~relationship between the other parent and the child;~~

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

8 ~~(15) whether one of the parents is a convicted sex~~
9 ~~offender or lives with a convicted sex offender and, if so,~~
10 ~~the exact nature of the offense and what if any treatment~~
11 ~~the offender has successfully participated in; the parties~~
12 ~~are entitled to a hearing on the issues raised in this~~
13 ~~paragraph (15);~~

14 ~~(16) the terms of a parent's military family care plan~~
15 ~~that a parent must complete before deployment if a parent~~
16 ~~is a member of the United States Armed Forces who is being~~
17 ~~deployed; and~~

18 ~~(17) any other factor that the court expressly finds to~~
19 ~~be relevant.~~

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

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

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

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

17 (Source: P.A. 99-90, eff. 1-1-16.)"; and

18 on page 16, by replacing lines 21 through 23 with the
19 following:

20 "is an unfit person, as defined in Section 1 of the Adoption
21 Act engaged in any conduct that seriously endangered the
22 child's mental, moral, or physical health or that significantly
23 impaired the child's emotional development, the court shall";

24 and

1 on page 20, by inserting immediately below line 19 the
2 following:

3 "(750 ILCS 5/610.5)

4 Sec. 610.5. Modification.

5 (a) Unless by stipulation of the parties or except as
6 provided in Section 603.10 of this Act, no motion to modify an
7 order allocating parental decision-making responsibilities,
8 not including parenting time, may be made earlier than 2 years
9 after its date, unless the court permits it to be made on the
10 basis of affidavits that there is reason to believe the child's
11 present environment may endanger seriously his or her mental,
12 moral, or physical health or significantly impair the child's
13 emotional development. Parenting time may be modified at any
14 time, without a showing of serious endangerment, upon a showing
15 of changed circumstances that necessitates modification to
16 serve the best interests of the child.

17 (b) (Blank).

18 (c) Except in a case concerning the modification of any
19 restriction of parental responsibilities under Section 603.10,
20 the court shall modify a parenting plan or allocation judgment
21 when necessary to serve the child's best interests if the court
22 finds, by a preponderance of the evidence, that on the basis of
23 facts that have arisen since the entry of the existing
24 parenting plan or allocation judgment or were not anticipated
25 therein, a substantial change has occurred in the circumstances

1 of the child or of either parent and that a modification is
2 necessary to serve the child's best interests.

3 (d) The court shall modify a parenting plan or allocation
4 judgment in accordance with a parental agreement, unless it
5 finds that the modification is not in the child's best
6 interests.

7 (e) The court may modify a parenting plan or allocation
8 judgment without a showing of changed circumstances if (i) the
9 modification is in the child's best interests; and (ii) any of
10 the following are proven as to the modification:

11 (1) the modification reflects the actual arrangement
12 under which the child has been receiving care, without
13 parental objection, for the 6 months preceding the filing
14 of the petition for modification, provided that the
15 arrangement is not the result of a parent's acquiescence
16 resulting from circumstances that negated the parent's
17 ability to give meaningful consent;

18 (2) the modification constitutes a minor modification
19 in the parenting plan or allocation judgment;

20 (3) the modification is necessary to modify an agreed
21 parenting plan or allocation judgment that the court would
22 not have ordered or approved under Section 602.5 or 602.7
23 had the court been aware of the circumstances at the time
24 of the order or approval; or

25 (4) the parties agree to the modification.

26 (f) Attorney's fees and costs shall be assessed against a

1 party seeking modification if the court finds that the
2 modification action is vexatious or constitutes harassment. If
3 the court finds that a parent has repeatedly filed frivolous
4 motions for modification, the court may bar the parent from
5 filing a motion for modification for a period of time.

6 (g) If a parenting plan or judgment of dissolution of
7 marriage allocates parental responsibilities in a way that
8 deviates from the presumptions in this Act, a parent may
9 petition to modify the parenting plan without showing a
10 substantial change in circumstances within 730 days after the
11 effective date of this amendatory Act of the 100th General
12 Assembly.

13 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17.)".