

# HB0041



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB0041

Introduced 1/12/2023, 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. Deletes language providing that nothing in the Act requires that each parent be allocated decision-making responsibilities. Provides that it is presumed that fit parents act in the best interests of their children. Deletes language providing that in determining the child's best interests for purposes of allocating parenting time, the court shall consider the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities, or, if the child is under 2 years of age, since the child's birth.

LRB103 03513 LNS 48519 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  
6 as 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  
19 court shall make the determination. The court shall allocate  
20 to one 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  
18 the 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  
7           other 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  
13          to 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  
2 time 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 fit parents act  
7 in the best interests of their children, therefore the court  
8 shall not place any restrictions on parenting time as defined  
9 in Section 600 and described in Section 603.10, unless it  
10 finds by a preponderance of the evidence that a parent's  
11 exercise of parenting time would seriously endanger the  
12 child's physical, mental, moral, or emotional health.

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

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

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

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

26 (4) any prior agreement or course of conduct between

1 the parents relating to caretaking functions with respect  
2 to the child;

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

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

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

11 (8) the child's needs;

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

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

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

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

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

26 (14) the occurrence of abuse against the child or

1 other member of the child's household;

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

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

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

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

17 (d) Upon motion, the court may allow a parent who is  
18 deployed or who has orders to be deployed as a member of the  
19 United States Armed Forces to designate a person known to the  
20 child to exercise reasonable substitute visitation on behalf  
21 of the deployed parent, if the court determines that  
22 substitute visitation is in the best interests of the child.  
23 In determining whether substitute visitation is in the best  
24 interests of the child, the court shall consider all of the  
25 relevant factors listed in subsection (b) of this Section and  
26 apply those factors to the person designated as a substitute



1 for the deployed parent for visitation purposes. Visitation  
2 orders entered under this subsection are subject to  
3 subsections (e) and (f) of Section 602.9 and subsections (c)  
4 and (d) of Section 603.10.

5 (e) If the street address of a parent is not identified  
6 pursuant to Section 708 of this Act, the court shall require  
7 the parties to identify reasonable alternative arrangements  
8 for parenting time by the other parent including, but not  
9 limited to, parenting time of the minor child at the residence  
10 of another person or at a local public or private facility.  
11 (Source: P.A. 99-90, eff. 1-1-16.)