

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.)