



Rep. Patricia Reid Lindner

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LRB093 20401 LCB 48918 a

1 AMENDMENT TO HOUSE BILL 4318

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4318 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Marriage and Dissolution of  
5 Marriage Act is amended by changing Section 607 as follows:

6 (750 ILCS 5/607) (from Ch. 40, par. 607)

7 Sec. 607. Visitation.

8 (a) A parent not granted custody of the child is entitled  
9 to reasonable visitation rights unless the court finds, after a  
10 hearing, that visitation would endanger seriously the child's  
11 physical, mental, moral or emotional health. If the custodian's  
12 street address is not identified, pursuant to Section 708, the  
13 court shall require the parties to identify reasonable  
14 alternative arrangements for visitation by a non-custodial  
15 parent, including but not limited to visitation of the minor  
16 child at the residence of another person or at a local public  
17 or private facility.

18 (a-5) (1) Except as otherwise provided in this subsection  
19 (a-5), any grandparent, great-grandparent, or sibling may file  
20 a petition for visitation rights to a minor child if there is  
21 an unreasonable denial of visitation and at least one of the  
22 following conditions exists:

23 (A) one parent of the child is incompetent as a matter  
24 of law or deceased or has been sentenced to a period of

1 imprisonment for more than 1 year;

2 (B) the child's mother and father are divorced or have  
3 been legally separated from each other during the 3 month  
4 period prior to the filing of the petition and at least one  
5 parent does not object to the grandparent,  
6 great-grandparent, or sibling having visitation with the  
7 child. The visitation of the grandparent,  
8 great-grandparent, or sibling must not diminish the  
9 visitation of the parent who is not related to the  
10 grandparent, great-grandparent, or sibling seeking  
11 visitation;

12 (C) the court has terminated a parent-child  
13 relationship and the grandparent, great-grandparent, or  
14 sibling is the parent of the person whose parental rights  
15 have been terminated, except in cases of adoption. The  
16 visitation must not be used to allow the parent who lost  
17 parental rights to unlawfully visit with the child;

18 (D) the child resided in the home of the grandparent,  
19 great-grandparent, or sibling for a period of 6 consecutive  
20 months or more and the grandparent, great-grandparent, or  
21 sibling was the primary caregiver for the child within the  
22 2 years prior to the filing of the petition;

23 (E) the child is illegitimate, the parents are not  
24 living together, and the petitioner is a maternal  
25 grandparent, great-grandparent, or sibling of the  
26 illegitimate child; or

27 (F) the child is illegitimate, the parents are not  
28 living together, the petitioner is a paternal grandparent,  
29 great-grandparent, or sibling, and the paternity has been  
30 established by a court of competent jurisdiction.

31 (2) The grandparent, great-grandparent, or sibling of a  
32 parent whose parental rights have been terminated through an  
33 adoption proceeding may not petition for visitation rights.

34 (3) In making a determination under this subsection (a-5),

1 there is a rebuttable presumption that a fit parent's actions  
2 and decisions regarding grandparent, great-grandparent, or  
3 sibling visitation are not harmful to the child's mental,  
4 physical, or emotional health. The burden is on the party  
5 filing a petition under this Section to prove that the parent's  
6 actions and decisions regarding visitation times are harmful to  
7 the child's mental, physical, or emotional health.

8 (4) In determining whether to grant visitation, the court  
9 shall consider the following:

10 (A) the preference of the child if the child is  
11 determined to be of sufficient maturity to express a  
12 preference;

13 (B) the mental and physical health of the child;

14 (C) the mental and physical health of the grandparent,  
15 great-grandparent, or sibling;

16 (D) the length and quality of the prior relationship  
17 between the child and the grandparent, great-grandparent,  
18 or sibling;

19 (E) the good faith of the party in filing the petition;

20 (F) the good faith of the person denying visitation;

21 (G) the quantity of the visitation time requested and  
22 the potential adverse impact that visitation would have on  
23 the child's customary activities;

24 (H) whether the child resided with the petitioner for  
25 at least 6 consecutive months with or without the current  
26 custodian present;

27 (I) whether the petitioner had frequent or regular  
28 contact with the child for at least 12 consecutive months;  
29 and

30 (J) any other fact that establishes that the loss of  
31 the relationship between the petitioner and the child is  
32 likely to harm the child's mental, physical, or emotional  
33 health.

34 (5) The court may order visitation rights for the

1 grandparent, great-grandparent, or sibling that include  
2 reasonable access without requiring overnight or possessory  
3 visitation.

4 (a-7)(1) Unless by stipulation of the parties, no motion to  
5 modify a grandparent, great-grandparent, or sibling visitation  
6 order may be made earlier than 2 years after the date the order  
7 was filed, unless the court permits it to be made on the basis  
8 of affidavits that there is reason to believe the child's  
9 present environment may endanger seriously the child's mental,  
10 physical, or emotional health.

11 (2) The court shall not modify a prior grandparent,  
12 great-grandparent, or sibling visitation order unless it finds  
13 by clear and convincing evidence, upon the basis of facts that  
14 have arisen since the prior visitation order or that were  
15 unknown to the court at the time of entry of the prior  
16 visitation, that a change has occurred in the circumstances of  
17 the child or his or her custodian, and that the modification is  
18 necessary to protect the mental, physical, or emotional health  
19 of the child. The court shall state in its decision specific  
20 findings of fact in support of its modification or termination  
21 of the grandparent, great-grandparent, or sibling visitation.

22 (3) Attorney fees and costs shall be assessed against a  
23 party seeking modification of the visitation order if the court  
24 finds that the modification action is vexatious and constitutes  
25 harassment.

26 (4) Notice under this subsection (a-7) shall be given as  
27 provided in subsections (c) and (d) of Section 601.

28 ~~(b) (1) (Blank.) The court may grant reasonable visitation~~  
29 ~~privileges to a grandparent, great-grandparent, or sibling of~~  
30 ~~any minor child upon petition to the court by the grandparents~~  
31 ~~or great-grandparents or on behalf of the sibling, with notice~~  
32 ~~to the parties required to be notified under Section 601 of~~  
33 ~~this Act, if the court determines that it is in the best~~  
34 ~~interests and welfare of the child, and may issue any necessary~~

1 ~~orders to enforce such visitation privileges. Except as~~  
2 ~~provided in paragraph (2) of this subsection (b), a petition~~  
3 ~~for visitation privileges may be filed under this paragraph (1)~~  
4 ~~whether or not a petition pursuant to this Act has been~~  
5 ~~previously filed or is currently pending if one or more of the~~  
6 ~~following circumstances exist:~~

7 ~~(A) the parents are not currently cohabiting on a~~  
8 ~~permanent or an indefinite basis;~~

9 ~~(B) one of the parents has been absent from the marital~~  
10 ~~abode for more than one month without the spouse knowing~~  
11 ~~his or her whereabouts;~~

12 ~~(C) one of the parents is deceased;~~

13 ~~(D) one of the parents joins in the petition with the~~  
14 ~~grandparents, great grandparents, or sibling; or~~

15 ~~(E) a sibling is in State custody.~~

16 (1.5) The Court may grant reasonable visitation privileges  
17 to a stepparent upon petition to the court by the stepparent,  
18 with notice to the parties required to be notified under  
19 Section 601 of this Act, if the court determines that it is in  
20 the best interests and welfare of the child, and may issue any  
21 necessary orders to enforce those visitation privileges. A  
22 petition for visitation privileges may be filed under this  
23 paragraph (1.5) whether or not a petition pursuant to this Act  
24 has been previously filed or is currently pending if the  
25 following circumstances are met:

26 (A) the child is at least 12 years old;

27 (B) the child resided continuously with the parent and  
28 stepparent for at least 5 years;

29 (C) the parent is deceased or is disabled and is unable  
30 to care for the child;

31 (D) the child wishes to have reasonable visitation with  
32 the stepparent; and

33 (E) the stepparent was providing for the care, control,  
34 and welfare to the child prior to the initiation of the

1 petition for visitation.

2 (2) (A) A petition for visitation privileges shall not be  
3 filed pursuant to this subsection (b) by the parents or  
4 grandparents of a putative father if the paternity of the  
5 putative father has not been legally established.

6 (B) A petition for visitation privileges may not be filed  
7 under this subsection (b) if the child who is the subject of  
8 the grandparents' or great-grandparents' petition has been  
9 voluntarily surrendered by the parent or parents, except for a  
10 surrender to the Illinois Department of Children and Family  
11 Services or a foster care facility, or has been previously  
12 adopted by an individual or individuals who are not related to  
13 the biological parents of the child or is the subject of a  
14 pending adoption petition by an individual or individuals who  
15 are not related to the biological parents of the child.

16 (3) (Blank). ~~When one parent is deceased, the surviving~~  
17 ~~parent shall not interfere with the visitation rights of the~~  
18 ~~grandparents.~~

19 (c) The court may modify an order granting or denying  
20 visitation rights of a parent whenever modification would serve  
21 the best interest of the child; but the court shall not  
22 restrict a parent's visitation rights unless it finds that the  
23 visitation would endanger seriously the child's physical,  
24 mental, moral or emotional health. The court may modify an  
25 order granting, denying, or limiting visitation rights of a  
26 grandparent, great-grandparent, or sibling of any minor child  
27 whenever a change of circumstances has occurred based on facts  
28 occurring subsequent to the judgment and the court finds by  
29 clear and convincing evidence that the modification is in the  
30 best interest of the minor child.

31 (d) If any court has entered an order prohibiting a  
32 non-custodial parent of a child from any contact with a child  
33 or restricting the non-custodial parent's contact with the  
34 child, the following provisions shall apply:

1 (1) If an order has been entered granting visitation  
2 privileges with the child to a grandparent or  
3 great-grandparent who is related to the child through the  
4 non-custodial parent, the visitation privileges of the  
5 grandparent or great-grandparent may be revoked if:

6 (i) a court has entered an order prohibiting the  
7 non-custodial parent from any contact with the child,  
8 and the grandparent or great-grandparent is found to  
9 have used his or her visitation privileges to  
10 facilitate contact between the child and the  
11 non-custodial parent; or

12 (ii) a court has entered an order restricting the  
13 non-custodial parent's contact with the child, and the  
14 grandparent or great-grandparent is found to have used  
15 his or her visitation privileges to facilitate contact  
16 between the child and the non-custodial parent in a  
17 manner that violates the terms of the order restricting  
18 the non-custodial parent's contact with the child.

19 Nothing in this subdivision (1) limits the authority of  
20 the court to enforce its orders in any manner permitted by  
21 law.

22 (2) Any order granting visitation privileges with the  
23 child to a grandparent or great-grandparent who is related  
24 to the child through the non-custodial parent shall contain  
25 the following provision:

26 "If the (grandparent or great-grandparent, whichever  
27 is applicable) who has been granted visitation privileges  
28 under this order uses the visitation privileges to  
29 facilitate contact between the child and the child's  
30 non-custodial parent, the visitation privileges granted  
31 under this order shall be permanently revoked."

32 (e) No parent, not granted custody of the child, or  
33 grandparent, or great-grandparent, or stepparent, or sibling  
34 of any minor child, convicted of any offense involving an

1 illegal sex act perpetrated upon a victim less than 18 years of  
2 age including but not limited to offenses for violations of  
3 Article 12 of the Criminal Code of 1961, is entitled to  
4 visitation rights while incarcerated or while on parole,  
5 probation, conditional discharge, periodic imprisonment, or  
6 mandatory supervised release for that offense, and upon  
7 discharge from incarceration for a misdemeanor offense or upon  
8 discharge from parole, probation, conditional discharge,  
9 periodic imprisonment, or mandatory supervised release for a  
10 felony offense, visitation shall be denied until the person  
11 successfully completes a treatment program approved by the  
12 court.

13 (f) Unless the court determines, after considering all  
14 relevant factors, including but not limited to those set forth  
15 in Section 602(a), that it would be in the best interests of  
16 the child to allow visitation, the court shall not enter an  
17 order providing visitation rights and pursuant to a motion to  
18 modify visitation shall revoke visitation rights previously  
19 granted to any person who would otherwise be entitled to  
20 petition for visitation rights under this Section who has been  
21 convicted of first degree murder of the parent, grandparent,  
22 great-grandparent, or sibling of the child who is the subject  
23 of the order. Until an order is entered pursuant to this  
24 subsection, no person shall visit, with the child present, a  
25 person who has been convicted of first degree murder of the  
26 parent, grandparent, great-grandparent, or sibling of the  
27 child without the consent of the child's parent, other than a  
28 parent convicted of first degree murder as set forth herein, or  
29 legal guardian.

30 (g) If an order has been entered limiting, for cause, a  
31 minor child's contact or visitation with a grandparent,  
32 great-grandparent, or sibling on the grounds that it was in the  
33 best interest of the child to do so, that order may be modified  
34 only upon a showing of a substantial change in circumstances



1 occurring subsequent to the entry of the order with proof by  
2 clear and convincing evidence that modification is in the best  
3 interest of the minor child.

4 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;  
5 91-357, eff. 7-29-99; 91-610, eff. 8-19-99.)".