



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/04/04, by Kevin Joyce

SYNOPSIS AS INTRODUCED:

750 ILCS 5/607

from Ch. 40, par. 607

Amends the Illinois Marriage and Dissolution of Marriage Act. Makes a technical change in a Section concerning visitation.

LRB093 18962 WGH 44697 b

1 AN ACT in relation to families.

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 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 of
13 this Act, the court shall require the parties to identify
14 reasonable alternative arrangements for visitation by a
15 non-custodial parent, including but not limited to visitation
16 of the minor child at the residence of another person or at a
17 local public or private facility.

18 (b) (1) The court may grant reasonable visitation
19 privileges to a grandparent, great-grandparent, or sibling of
20 any minor child upon petition to the court by the grandparents
21 or great-grandparents or on behalf of the sibling, with notice
22 to the parties required to be notified under Section 601 of
23 this Act, if the court determines that it is in the best
24 interests and welfare of the child, and may issue any necessary
25 orders to enforce such visitation privileges. Except as
26 provided in paragraph (2) of this subsection (b), a petition
27 for visitation privileges may be filed under this paragraph (1)
28 whether or not a petition pursuant to this Act has been
29 previously filed or is currently pending if one or more of the
30 following circumstances exist:

31 (A) the parents are not currently cohabiting on a
32 permanent or an indefinite basis;

1 (B) one of the parents has been absent from the marital
2 abode for more than one month without the spouse knowing
3 his or her whereabouts;

4 (C) one of the parents is deceased;

5 (D) one of the parents joins in the petition with the
6 grandparents, great-grandparents, or sibling; or

7 (E) a sibling is in State custody.

8 (1.5) The Court may grant reasonable visitation privileges
9 to a stepparent upon petition to the court by the stepparent,
10 with notice to the parties required to be notified under
11 Section 601 of this Act, if the court determines that it is in
12 the best interests and welfare of the child, and may issue any
13 necessary orders to enforce those visitation privileges. A
14 petition for visitation privileges may be filed under this
15 paragraph (1.5) whether or not a petition pursuant to this Act
16 has been previously filed or is currently pending if the
17 following circumstances are met:

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

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

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

23 (D) the child wishes to have reasonable visitation with
24 the stepparent; and

25 (E) the stepparent was providing for the care, control,
26 and welfare to the child prior to the initiation of the
27 petition for visitation.

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

32 (B) A petition for visitation privileges may not be filed
33 under this subsection (b) if the child who is the subject of
34 the grandparents' or great-grandparents' petition has been
35 voluntarily surrendered by the parent or parents, except for a
36 surrender to the Illinois Department of Children and Family

1 Services or a foster care facility, or has been previously
2 adopted by an individual or individuals who are not related to
3 the biological parents of the child or is the subject of a
4 pending adoption petition by an individual or individuals who
5 are not related to the biological parents of the child.

6 (3) When one parent is deceased, the surviving parent shall
7 not interfere with the visitation rights of the grandparents.

8 (c) The court may modify an order granting or denying
9 visitation rights of a parent whenever modification would serve
10 the best interest of the child; but the court shall not
11 restrict a parent's visitation rights unless it finds that the
12 visitation would endanger seriously the child's physical,
13 mental, moral or emotional health. The court may modify an
14 order granting, denying, or limiting visitation rights of a
15 grandparent, great-grandparent, or sibling of any minor child
16 whenever a change of circumstances has occurred based on facts
17 occurring subsequent to the judgment and the court finds by
18 clear and convincing evidence that the modification is in the
19 best interest of the minor child.

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

24 (1) If an order has been entered granting visitation
25 privileges with the child to a grandparent or
26 great-grandparent who is related to the child through the
27 non-custodial parent, the visitation privileges of the
28 grandparent or great-grandparent may be revoked if:

29 (i) a court has entered an order prohibiting the
30 non-custodial parent from any contact with the child,
31 and the grandparent or great-grandparent is found to
32 have used his or her visitation privileges to
33 facilitate contact between the child and the
34 non-custodial parent; or

35 (ii) a court has entered an order restricting the
36 non-custodial parent's contact with the child, and the

1 grandparent or great-grandparent is found to have used
2 his or her visitation privileges to facilitate contact
3 between the child and the non-custodial parent in a
4 manner that violates the terms of the order restricting
5 the non-custodial parent's contact with the child.

6 Nothing in this subdivision (1) limits the authority of
7 the court to enforce its orders in any manner permitted by
8 law.

9 (2) Any order granting visitation privileges with the
10 child to a grandparent or great-grandparent who is related
11 to the child through the non-custodial parent shall contain
12 the following provision:

13 "If the (grandparent or great-grandparent, whichever
14 is applicable) who has been granted visitation privileges
15 under this order uses the visitation privileges to
16 facilitate contact between the child and the child's
17 non-custodial parent, the visitation privileges granted
18 under this order shall be permanently revoked."

19 (e) No parent, not granted custody of the child, or
20 grandparent, or great-grandparent, or stepparent, or sibling
21 of any minor child, convicted of any offense involving an
22 illegal sex act perpetrated upon a victim less than 18 years of
23 age including but not limited to offenses for violations of
24 Article 12 of the Criminal Code of 1961, is entitled to
25 visitation rights while incarcerated or while on parole,
26 probation, conditional discharge, periodic imprisonment, or
27 mandatory supervised release for that offense, and upon
28 discharge from incarceration for a misdemeanor offense or upon
29 discharge from parole, probation, conditional discharge,
30 periodic imprisonment, or mandatory supervised release for a
31 felony offense, visitation shall be denied until the person
32 successfully completes a treatment program approved by the
33 court.

34 (f) Unless the court determines, after considering all
35 relevant factors, including but not limited to those set forth
36 in Section 602(a), that it would be in the best interests of

1 the child to allow visitation, the court shall not enter an
2 order providing visitation rights and pursuant to a motion to
3 modify visitation shall revoke visitation rights previously
4 granted to any person who would otherwise be entitled to
5 petition for visitation rights under this Section who has been
6 convicted of first degree murder of the parent, grandparent,
7 great-grandparent, or sibling of the child who is the subject
8 of the order. Until an order is entered pursuant to this
9 subsection, no person shall visit, with the child present, a
10 person who has been convicted of first degree murder of the
11 parent, grandparent, great-grandparent, or sibling of the
12 child without the consent of the child's parent, other than a
13 parent convicted of first degree murder as set forth herein, or
14 legal guardian.

15 (g) If an order has been entered limiting, for cause, a
16 minor child's contact or visitation with a grandparent,
17 great-grandparent, or sibling on the grounds that it was in the
18 best interest of the child to do so, that order may be modified
19 only upon a showing of a substantial change in circumstances
20 occurring subsequent to the entry of the order with proof by
21 clear and convincing evidence that modification is in the best
22 interest of the minor child.

23 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;
24 91-357, eff. 7-29-99; 91-610, eff. 8-19-99 Parts of subsection
25 (b) have been declared unconstitutional.)