



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1286

Introduced 2/9/2005, by Rep. George Scully, Jr.

SYNOPSIS AS INTRODUCED:

750 ILCS 5/102 from Ch. 40, par. 102
750 ILCS 5/Pt. VI heading
750 ILCS 5/600 new
750 ILCS 5/601.5 new
750 ILCS 5/602.5 new
750 ILCS 5/602.7 new
750 ILCS 5/602.10 new
750 ILCS 5/603.5 new
750 ILCS 5/603.10 new
750 ILCS 5/604.10 new
750 ILCS 5/606.5 new
750 ILCS 5/606.10 new
750 ILCS 5/607.5 new
750 ILCS 5/609.5 new
750 ILCS 5/610.5 new
750 ILCS 5/612 new
750 ILCS 5/601 rep.
750 ILCS 5/602 rep.
750 ILCS 5/602.1 rep.
750 ILCS 5/603 rep.
750 ILCS 5/604 rep.
750 ILCS 5/604.5 rep.
750 ILCS 5/605 rep.
750 ILCS 5/606 rep.
750 ILCS 5/607 rep.
750 ILCS 5/607.1 rep.
750 ILCS 5/608 rep.
750 ILCS 5/609 rep.
750 ILCS 5/610 rep.
750 ILCS 5/611 rep.

Amends the Illinois Marriage and Dissolution of Marriage Act. Rewrites the provisions of the Act concerning child custody and visitation, eliminating the use of those terms. Provides instead for the allocation of parental responsibilities with respect to a child, including significant decision-making responsibilities and parenting time. Requires that such allocations be made according to the child's best interests. Authorizes parents to agree to a parenting plan that includes an allocation of significant decision-making responsibilities, provisions for the child's living arrangements, an allocation of parenting time, and other features; provides for the court's approval of such a plan. In the absence of such a plan, provides for a judgment allocating parental responsibilities. Provides for the designation of a child's custodian for purposes of other statutes. Provides for modification of a parenting plan or a judgment allocating parental responsibilities. Provides for enforcement of allocated parenting time. Provides that the changes made by this amendatory Act apply to: (1) all proceedings commenced on or after the effective date of this amendatory Act; (2) all actions pending on the effective date of this amendatory Act and all proceedings commenced before that effective date with respect to issues on which a judgment has not been entered; and (3) all proceedings commenced on or after the effective date of this amendatory Act for the modification of a judgment or order entered before that effective date. Effective January 1, 2006.

LRB094 00005 DRJ 40975 b

1 AN ACT concerning 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 102 and the heading
6 of Part VI and by adding Sections 600, 601.5, 602.5, 602.7,
7 602.10, 603.5, 603.10, 604.10, 606.5, 606.10, 607.5, 609.5,
8 610.5, and 612 as follows:

9 (750 ILCS 5/102) (from Ch. 40, par. 102)

10 Sec. 102. Purposes; Rules of Construction. This Act shall
11 be liberally construed and applied to promote its underlying
12 purposes, which are to:

13 (1) provide adequate procedures for the solemnization and
14 registration of marriage;

15 (2) strengthen and preserve the integrity of marriage and
16 safeguard family relationships;

17 (3) promote the amicable settlement of disputes that have
18 arisen between parties to a marriage;

19 (4) mitigate the potential harm to ~~the~~ spouses and their
20 children caused by the ~~process of legal~~ dissolution of marriage
21 process, and protect children from exposure to conflict and
22 violence;

23 (5) ensure predictable decision-making for the care of
24 children and for the allocation of parenting time and other
25 parental responsibilities, and avoid prolonged uncertainty by
26 expeditiously resolving issues involving children;

27 (6) recognize the right of children to a healthy
28 relationship with parents, and the responsibility of parents to
29 ensure such a relationship;

30 (7) acknowledge that the determination of children's best
31 interests, and the allocation of parenting time and significant
32 decision-making responsibilities, are among the paramount

1 responsibilities of our system of justice, and to that end:

2 (A) recognize children's right to a strong and healthy
3 relationship with parents, and parents' concomitant right
4 and responsibility to create and maintain such
5 relationships;

6 (B) recognize that, in the absence of domestic violence
7 or any other factor that the court expressly finds to be
8 relevant, proximity to, and frequent contact with, both
9 parents promotes healthy development of children;

10 (C) facilitate parental planning and agreement about
11 the children's upbringing and allocation of parenting time
12 and other parental responsibilities;

13 (D) continue existing parent-child relationships, and
14 secure the maximum involvement and cooperation of parents
15 regarding the physical, mental, moral, and emotional
16 well-being of the children during and after the litigation;
17 and

18 (E) encourage programs to educate parents to:

19 (i) minimize or eliminate rancor and the
20 detrimental effect of litigation in any proceeding
21 involving children; and

22 (ii) facilitate the maximum cooperation of parents
23 in raising their children;

24 (8) ~~(5)~~ make reasonable provision for spouses and minor
25 children during and after litigation, including provision for
26 timely awards of interim fees to all attorneys, including
27 children's representatives, to achieve substantial parity in
28 parties' access to funds for litigation costs;

29 (9) ~~(6)~~ eliminate the consideration of marital misconduct
30 in the adjudication of rights and duties incident to ~~the legal~~
31 dissolution of marriage, legal separation and declaration of
32 invalidity of marriage; and

33 ~~(7) secure the maximum involvement and cooperation of both~~
34 ~~parents regarding the physical, mental, moral and emotional~~
35 ~~well-being of the children during and after the litigation; and~~

36 (10) ~~(8)~~ make provision for the preservation and

1 conservation of assets during the litigation.

2 (Source: P.A. 89-712, eff. 6-1-97.)

3 (750 ILCS 5/Pt. VI heading)

4 PART VI

5 ALLOCATION OF PARENTAL RESPONSIBILITIES ~~CUSTODY~~

6 (750 ILCS 5/600 new)

7 Sec. 600. Definitions. For purposes of this Part VI:

8 "Abuse" has the meaning ascribed to that term in Section
9 103 of the Illinois Domestic Violence Act of 1986.

10 "Allocation judgment" means a judgment allocating parental
11 responsibilities.

12 "Caretaking functions" means tasks that involve
13 interaction with a child or that direct, arrange, and supervise
14 the interaction with and care of a child provided by others.

15 The term includes, but is not limited to, the following:

16 (1) Satisfying a child's nutritional needs; managing a
17 child's bedtime and wake-up routines; caring for a child
18 when the child is sick or injured; being attentive to a
19 child's personal hygiene needs, including washing,
20 grooming, and dressing; playing with a child and arranging
21 for recreation; protecting a child's physical safety; and
22 providing transportation for a child.

23 (2) Directing a child's various developmental needs,
24 including the acquisition of motor and language skills,
25 toilet training, self-confidence, and maturation.

26 (3) Providing discipline, giving instruction in
27 manners, assigning and supervising chores, and performing
28 other tasks that attend to a child's needs for behavioral
29 control and self-restraint.

30 (4) Arranging for a child's education, including
31 arranging for remedial or special services appropriate to
32 the child's needs and interests, communicating with
33 teachers and counselors, and supervising homework.

34 (5) Helping a child develop and maintain appropriate

1 interpersonal relationships with peers, siblings, and
2 other family members.

3 (6) Arranging for health-care providers, medical
4 follow-up, and home health care for a child.

5 (7) Providing moral and ethical guidance for a child.

6 (8) Arranging alternative care for a child by a family
7 member, babysitter, or other child-care provider or
8 facility, including investigating such alternatives,
9 communicating with providers, and supervising such care.

10 "De facto parent" means a person, other than a legal parent
11 or equitable parent, who, for reasons other than financial
12 compensation, has resided with a child for a period of not less
13 than 6 continuous months and either:

14 (1) formed a parent-child relationship with the child,
15 with the knowledge and consent of at least one parent of
16 the child; or

17 (2) regularly performed caretaking functions for the
18 child for a period of not less than 6 continuous months.

19 "Equitable parent" means a person who, though not a legal
20 parent of a child:

21 (1) is obligated by a court order to pay child support
22 for the child; or

23 (2) is the child's stepparent; or

24 (3) lived with the child for at least 2 years and:

25 (A) during that time (i) had a reasonable,
26 good-faith belief that he or she was the child's
27 biological parent, based on marriage to the child's
28 legal parent or on the actions or representations of
29 the legal parent, and (ii) performed or contributed to
30 the performance of caretaking functions consistent
31 with that belief; and

32 (B) continued to make reasonable, good-faith
33 efforts to accept parental responsibilities with
34 respect to the child if thereafter that belief no
35 longer existed; or

36 (4) lived with the child since the child's birth, and

1 held himself out as the child's parent while accepting
2 parental responsibilities, under an agreement with the
3 child's legal parent (or, if there are 2 legal parents,
4 both parents) to rear the child together, each with
5 allocated parental rights and responsibilities, provided
6 that a court finds that recognition of the person as a
7 parent is in the child's best interests; or

8 (5) lived with the child for at least 2 years, holding
9 out and accepting parental responsibilities, under an
10 agreement with the child's legal parent (or, if there are 2
11 legal parents, both parents), provided that a court finds
12 that recognition of the person as a parent is in the
13 child's best interests.

14 "Legal parent" means a biological or adoptive parent of a
15 child.

16 "Parent" means a legal parent, an equitable parent, or a de
17 facto parent.

18 "Parental responsibilities" means both parenting time and
19 significant decision-making responsibilities with respect to a
20 child.

21 "Parenting time" means the time during which a parent is
22 physically with a child and exercises caretaking functions and
23 non-significant decision-making responsibilities with respect
24 to the child.

25 "Parenting plan" means a written agreement that allocates
26 significant decision-making responsibilities, parenting time,
27 or both.

28 "Relocation" means a change of residence for more than 90
29 days that significantly impairs a parent's ability to exercise
30 the parental responsibilities that the parent has been
31 exercising or is entitled to exercise under a parenting plan or
32 allocation judgment.

33 "Religious upbringing" means the choice of religion or
34 denomination of a religion, religious schooling, religious
35 training, or participation in religious customs or practices.

36 "Residential responsibility" means the amount of time a

1 child spends in a parent's care.

2 "Restriction of parenting time" means any limitation or
3 condition placed on parenting time, including supervision.

4 "Significant decision-making" means deciding issues of
5 long-term importance in the life of a child.

6 "Stepparent" means a person, other than a biological or
7 adoptive parent, who is or was married to a legal parent.

8 "Supervision" means the presence of a third party during a
9 parent's exercise of parenting time.

10 (750 ILCS 5/601.5 new)

11 Sec. 601.5. Jurisdiction; commencement of proceeding.

12 (a) A court of this State that is competent to allocate
13 parental responsibilities has jurisdiction to make such an
14 allocation in original or modification proceedings.

15 (b) A proceeding for allocation of parental
16 responsibilities with respect to a child is commenced in the
17 court:

18 (1) By a legal parent, by filing a petition for:

19 (A) dissolution of marriage or legal separation or
20 declaration of invalidity of marriage; or

21 (B) allocation of parental responsibilities with
22 respect to the child in the county in which the child
23 resides.

24 (2) By a de facto parent, as defined in Section 600, by
25 filing a petition for allocation of parental
26 responsibilities, if all of the following circumstances
27 are met:

28 (A) the petition is filed in the county in which
29 the child resides;

30 (B) it is alleged to be in the child's best
31 interests for the de facto parent to assume or continue
32 exercising parental responsibilities, as provided in
33 Section 602.7; and

34 (C) the petition is filed within 90 days after the
35 termination of the de facto parent's caretaking

1 functions with respect to the child.

2 (3) By an equitable parent, as defined in Section 600,
3 by filing a petition for allocation of parental
4 responsibilities, if all of the following circumstances
5 are met:

6 (A) a legal parent is deceased or disabled and
7 cannot perform caretaking functions with respect to
8 the child; and

9 (B) it is alleged to be in the child's best
10 interests for the equitable parent to assume or
11 continue exercising parental responsibilities, as
12 provided in Sections 602.5 and 602.7.

13 (4) By an equitable or de facto parent, as defined in
14 Section 600, seeking only an allocation of parenting time:

15 (A) if the legal parent and the equitable parent or
16 de facto parent have terminated their relationship; or

17 (B) if the legal parent and the equitable parent or
18 de facto parent are opposing parties in a pending
19 action for dissolution of marriage, legal separation,
20 declaration of invalidity of marriage, or parentage.

21 For purposes of subdivision (b) (4) (A), the
22 relationship between a legal parent and an equitable parent
23 or de facto parent is presumed to have terminated if those
24 parents are residing in separate residences.

25 (c) When a proceeding for allocation of parental
26 responsibilities is commenced, the parent commencing the
27 action must, at least 30 days before any hearing on the
28 petition, serve a written notice and a copy of the petition on
29 the child's parent and on any party previously appearing in any
30 prior proceeding for allocation of parental responsibilities
31 with respect to the child. Nothing in this Section shall
32 preclude a party in a proceeding for allocation of parental
33 responsibilities from moving for a temporary order under
34 Section 602.5.

1 Sec. 602.5. Allocation of parental responsibilities:
2 decision-making.

3 (a) Generally. The court shall allocate decision-making
4 responsibilities according to the child's best interests.
5 Nothing in this Act requires that every parent be allocated
6 decision-making responsibilities.

7 (b) Allocation of significant decision-making
8 responsibilities. If a legal parent is exercising parental
9 responsibilities with respect to the child, the court shall not
10 allocate significant decision-making responsibilities to an
11 equitable or de facto parent as defined in Section 600. The
12 court shall allocate the significant decision-making
13 responsibilities with respect to the child unless the parents
14 otherwise agree on an allocation. The court shall allocate to
15 one or more of the parents the significant decision-making
16 responsibility for each significant issue affecting the child.
17 Those significant issues shall include, without limitation,
18 the following:

19 (1) Education, including the choice of schools and
20 tutors.

21 (2) Health, including all decisions relating to the
22 medical, dental, and psychological needs of the child and
23 to the treatments arising or resulting from those needs.

24 (3) Religion, subject to the following provisions:

25 (A) The court shall allocate parental
26 responsibility for the child's religious upbringing in
27 accordance with any express or implied agreement
28 between the parents.

29 (B) The court shall consider evidence of the
30 parents' past conduct as to the child's religious
31 upbringing in allocating parental responsibilities
32 consistent with demonstrated past conduct in the
33 absence of an express or implied agreement between the
34 parents.

35 (C) The court shall not allocate any aspect of the
36 child's religious upbringing if it determines that the

1 parents do not or did not have an express or implied
2 agreement for such religious upbringing or that there
3 is insufficient evidence to demonstrate a course of
4 conduct regarding the child's religious upbringing
5 that could serve as a basis for any such order.

6 (4) Extracurricular activities.

7 (c) Determination of child's best interests. In
8 determining the child's best interests for purposes of
9 allocating significant decision-making responsibilities, the
10 court shall consider all relevant factors, including, without
11 limitation, the following:

12 (1) The wishes of a child who is sufficiently mature to
13 express reasoned and independent preferences as to
14 significant decisions.

15 (2) The child's adjustment to his or her home, school,
16 and community.

17 (3) The mental and physical health of all individuals
18 involved.

19 (4) The ability of the parents to cooperate to make
20 decisions, or the level of conflict between the parties
21 that may affect their ability to share decision-making.

22 (5) The level of each parent's participation in past
23 significant decision-making with respect to the child.

24 (6) Any prior agreement or course of conduct between
25 the parents relating to decision-making with respect to the
26 child.

27 (7) The wishes of the parents.

28 (8) The child's needs in light of economic, physical,
29 or other circumstances.

30 (9) The distance between the parents' residences, the
31 cost and difficulty of transporting the child, each
32 parent's and the child's daily schedules, and the ability
33 of the parents to cooperate in the arrangement.

34 (10) Whether a restriction on decision-making is
35 appropriate under Section 603.10.

36 (11) The willingness and ability of each parent to

1 facilitate and encourage a close and continuing
2 relationship between the other parent and the child.

3 (12) Any other factor that the court expressly finds to
4 be relevant.

5 (d) If each parent has been exercising a responsible share
6 of caretaking functions with respect to the child, the court
7 shall presume that it is in the child's best interests to
8 allocate significant decision-making responsibilities to each
9 parent. The presumption shall be overcome if there has been a
10 history of domestic violence or abuse, or if it is shown that
11 an allocation of significant decision-making responsibilities
12 to one of the parents is not in the child's best interests.

13 (e) A parent shall have sole responsibility for making
14 routine decisions with respect to the child and for emergency
15 decisions affecting the child's health and safety during that
16 parent's parenting time.

17 (f) In allocating significant decision-making
18 responsibilities, the court shall not consider conduct of a
19 parent that does not affect that parent's relationship to the
20 child.

21 (g) A parent, other than a legal parent, who is allocated
22 significant decision-making responsibilities is not entitled
23 to access to the child's school or health care records unless a
24 court finds that it is in the child's best interests to provide
25 those records to the parent.

26 (750 ILCS 5/602.7 new)

27 Sec. 602.7. Allocation of parental responsibilities:
28 parenting time.

29 (a) Generally. The court shall allocate parenting time
30 according to the child's best interests.

31 (b) Allocation of parenting time. Unless the parents
32 present an agreed written and notarized parenting plan and that
33 plan is approved by the court, the court shall allocate
34 parenting time. The court shall not place any restrictions on
35 parenting time as defined in Section 600 and described in

1 Section 603.10 unless it finds by a preponderance of the
2 evidence that a parent's exercise of parenting time would
3 seriously endanger the child's physical, mental, moral, or
4 emotional health.

5 In determining the child's best interests for purposes of
6 allocating parenting time, the court shall consider all
7 relevant factors, including, without limitation, the
8 following:

9 (1) The wishes of each parent seeking parenting time.

10 (2) The wishes of a child who is sufficiently mature to
11 express reasoned and independent preferences as to
12 parenting time.

13 (3) The amount of time each parent spent performing
14 caretaking functions with respect to the child in the 24
15 months preceding the filing of any petition for allocation
16 of parental responsibilities or, if the child is under 2
17 years of age, since the child's birth.

18 (4) Any prior agreement or course of conduct between
19 the parents relating to caretaking functions with respect
20 to the child.

21 (5) The interaction and interrelationship of the child
22 with his or her parents and siblings and with any other
23 person who may significantly affect the child's best
24 interests.

25 (6) The child's adjustment to his or her home, school,
26 and community.

27 (7) The mental and physical health of all individuals
28 involved.

29 (8) The child's needs in light of economic, physical,
30 or other circumstances.

31 (9) The distance between the parents' residences, the
32 cost and difficulty of transporting the child, each
33 parent's and the child's daily schedules, and the ability
34 of the parents to cooperate in the arrangement.

35 (10) The occurrence of abuse, whether directed against
36 the child or directed against another person.

1 (11) Whether a restriction on parenting time is
2 appropriate.

3 (12) The physical violence or threat of physical
4 violence by a parent, whether directed against the child or
5 directed against another person.

6 (13) The willingness and ability of each parent to
7 place the needs of the child ahead of his or her own needs.

8 (14) The willingness and ability of each parent to
9 facilitate and encourage a close and continuing
10 relationship between the other parent and the child.

11 (15) Any other factor that the court expressly finds to
12 be relevant.

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

16 (d) A parent, other than a legal parent, who is allocated
17 parenting time is not entitled to access to the child's school
18 or health care records unless a court finds that it is in the
19 child's best interests to provide those records to the parent.

20 (750 ILCS 5/602.10 new)

21 Sec. 602.10. Parenting plan.

22 (a) Generally. The court may order mediation to assist the
23 parents in formulating or modifying a parenting plan or in
24 implementing a parenting plan. The court may allocate the cost
25 of such mediation between the parties.

26 (b) Parents' agreement on parenting plan. The parents may
27 agree on a parenting plan at any time. The parenting plan must
28 be in writing and signed by all parents. The parents must
29 submit the parenting plan to the court for approval within 90
30 days after service of a petition for allocation of parental
31 responsibilities or the filing of an appearance. The parenting
32 plan must be accompanied by a joint affidavit that complies
33 with subsection (e), unless the filing of such an affidavit is
34 excused by the court. If the court does not approve the
35 parenting plan, the court shall make express findings of the

1 reason or reasons for its refusal to approve the plan. The
2 court, on its own motion, may conduct an evidentiary hearing to
3 determine whether the parenting plan is in the child's best
4 interests.

5 (c) Parents cannot agree on parenting plan. Each parent
6 must file and submit a written, signed parenting plan to the
7 court within 90 days after service of a petition for allocation
8 of parental responsibilities or the filing of an appearance.
9 The plan must be accompanied by a separate affidavit that
10 complies with subsection (e). The filing of the plan and
11 affidavit may be excused by the court if:

12 (1) the parties have commenced mediation for the
13 purpose of formulating a parenting plan; or

14 (2) the parents have agreed in writing to extend the
15 time for filing a proposed plan and supporting affidavit
16 and the court has approved such an extension; or

17 (3) the court orders otherwise for good cause shown.

18 (d) Parenting plan contents. At a minimum, a parenting plan
19 must set forth the following:

20 (1) An allocation of significant decision-making
21 responsibilities.

22 (2) Provisions for the child's living arrangements and
23 for each parent's parenting time, including either:

24 (A) a schedule that designates in which parent's
25 home the minor child will reside on given days; or

26 (B) a formula or method for determining such a
27 schedule in sufficient detail to be enforced in a
28 subsequent proceeding.

29 (3) A mediation provision addressing any proposed
30 revisions or disputes, except that this provision is not
31 required if one parent is allocated all significant
32 decision-making responsibilities.

33 (4) Each parent's right of access to medical, dental,
34 and psychological records (subject to the Mental Health and
35 Developmental Disabilities Confidentiality Act), child
36 care records, and school and extracurricular records,

1 reports, and schedules, unless expressly denied by a court
2 order or denied under subsection (g) of Section 602.5.

3 (5) A designation of the parent who will be denominated
4 as the parent with the majority of the residential
5 responsibility for purposes of Section 606.10.

6 (6) The child's residential address for school
7 enrollment purposes only.

8 (7) Each parent's residence address and phone number,
9 and each parent's place of employment and employment
10 address and phone number.

11 (8) A requirement that a parent changing his or her
12 residence provide at least 60 days prior written notice of
13 the change to any other parent under the parenting plan or
14 allocation judgment, unless such notice is impracticable
15 or unless otherwise ordered by the court. If such notice is
16 impracticable, written notice shall be given at the
17 earliest date practicable. At a minimum, the notice shall
18 set forth the following:

19 (A) The intended date of the change of residence.

20 (B) The address of the new residence.

21 (9) Provisions requiring each parent to notify the
22 other of emergencies, health care, travel plans, or other
23 significant child-related issues.

24 (10) Transportation arrangements between the parents.

25 (11) Provisions for communications with the child
26 during the other parent's parenting time.

27 (12) Provisions for resolving issues arising from a
28 parent's future relocation.

29 (13) Provisions for future modifications of the
30 parenting plan, if specified events occur.

31 (14) Any other provision that addresses the child's
32 best interests or that will otherwise facilitate
33 cooperation between the parents.

34 (e) Affidavit. If the parents have not agreed on a
35 parenting plan, then within 90 days after service of any
36 petition for allocation of parental responsibilities or the

1 filing of an appearance, a parent seeking an allocation
2 judgment must file with the court a proposed parenting plan
3 supported by an affidavit. Notwithstanding the preceding
4 sentence, a parent need not file such a proposed plan and
5 supporting affidavit if: (i) the parents have commenced
6 mediation for the purpose of formulating a parenting plan; or
7 (ii) the parents have agreed in writing to extend the time for
8 filing a proposed plan and supporting affidavit and the court
9 has approved such an extension; or (iii) the court orders
10 otherwise for good cause shown.

11 The affidavit supporting a proposed parenting plan must
12 contain, to the best of the affiant's knowledge, all of the
13 following:

14 (1) The name and address of the child, every parent,
15 and any other person previously appearing in any prior
16 allocation proceeding.

17 (2) The name and address of every person with whom the
18 child has lived for one year or more, and the period of
19 time during which the child and each such person lived
20 together. If the child is less than one year old, the
21 affidavit must contain the name and address of any person
22 with whom the child lived for more than 60 days.

23 (3) A summary of the caretaking functions performed by
24 each person identified under paragraph (2), including such
25 functions performed during at least the 24 months preceding
26 the filing of the action for allocation of parental
27 responsibilities.

28 (4) A schedule of each parent's current hours of
29 employment, availability to perform caretaking functions
30 with respect to the child, existing child care
31 arrangements, and any anticipated changes.

32 (5) A summary schedule of the child's school and
33 extracurricular activities.

34 (6) A summary of any relevant existing risk factors,
35 including orders arising from allegations of abuse and the
36 case number and issuing court.

1 (7) A summary of the known areas of agreement and
2 disagreement between the parents concerning a proposed
3 parenting plan.

4 (750 ILCS 5/603.5 new)

5 Sec. 603.5. Temporary orders.

6 (a) A court may order a temporary allocation of parental
7 responsibilities in the child's best interests before the entry
8 of a final allocation judgment. Any such temporary allocation
9 shall be made in accordance with the standards set forth in
10 Sections 602.5 and 602.7 (i) after a hearing or (ii) if there
11 is no objection, on the basis of affidavits that, at a minimum,
12 comply with subsection (e) of Section 602.10.

13 (b) A temporary order allocating parental responsibilities
14 shall be deemed vacated when the action in which it was granted
15 is dismissed, unless a parent moves to continue the action for
16 allocation of parental responsibilities filed under Section
17 601.5.

18 (c) A temporary order allocating parental responsibilities
19 does not preclude access to the child by a parent who has been
20 exercising a reasonable share of caretaking functions with
21 respect to the child, unless a denial of such access is in the
22 child's best interests as determined in accordance with Section
23 602.5.

24 (750 ILCS 5/603.10 new)

25 Sec. 603.10. Restriction of parental responsibilities.

26 (a) After hearing, if the court finds by a preponderance of
27 the evidence that a parent engaged in any conduct that
28 seriously endangered the child's mental, moral, or physical
29 health or that significantly impaired the child's emotional
30 development, the court shall enter orders as necessary to
31 protect the child. Such orders may include, but are not limited
32 to, orders for one or more of the following:

33 (1) A reduction, elimination, or other adjustment of
34 the parent's decision-making responsibilities or parenting

1 time, or both decision-making responsibilities and
2 parenting time.

3 (2) Supervision, including ordering the Department of
4 Children and Family Services to exercise continuing
5 supervision under Section 5 of the Children and Family
6 Services Act to ensure compliance with the allocation
7 judgment.

8 (3) Requiring the exchange of the child between the
9 parents through an intermediary or in a protected setting.

10 (4) Restraining a parent's communication with or
11 proximity to the other parent or the child.

12 (5) Requiring a parent to abstain from possessing or
13 consuming alcohol or non-prescribed drugs while exercising
14 parenting time with the child and within a specified period
15 immediately preceding the exercise of parenting time.

16 (6) Restricting the presence of specific persons while
17 a parent is exercising parenting time with the child.

18 (7) Requiring a parent to post a bond to secure the
19 return of the child following the parent's exercise of
20 parenting time or to secure other performance required by
21 the court.

22 (8) Requiring a parent to complete a treatment program
23 for perpetrators of abuse, for drug or alcohol abuse, or
24 for other behavior that is the basis for restricting
25 parental responsibilities under this Section.

26 (9) Any other constraints or conditions that the court
27 deems necessary to provide for the child's safety or
28 welfare.

29 (b) The court may modify an order granting, denying, or
30 limiting parental responsibilities if the court finds, after
31 hearing, by a preponderance of the evidence that a modification
32 is in the child's best interests based on (i) a change of
33 circumstances that occurred after the entry of an allocation
34 judgment or (ii) conduct of which the court was previously
35 unaware that seriously endangers the child. In determining
36 whether to modify an order under this subsection, the court

1 must consider factors that include, but need not be limited to,
2 the following:

3 (1) Abuse, neglect, or abandonment of the child.

4 (2) Abusing or allowing abuse of another person that
5 had an impact upon the child.

6 (3) Use of drugs, alcohol, or any other substance in a
7 way that interferes with the parent's ability to perform
8 caretaking functions with respect to the child.

9 (4) Persistent continuing interference with the other
10 parent's access to the child, except for actions taken with
11 a reasonable, good-faith belief that they are necessary to
12 protect the child's safety pending adjudication of the
13 facts underlying that belief, provided that the
14 interfering parent initiates a proceeding to determine
15 those facts as soon as practicable.

16 (c) An order granting parenting time to a parent may be
17 revoked if that parent is found to have knowingly used his or
18 her parenting time to facilitate contact between the child and
19 a parent who has been barred from contact with the child or to
20 have knowingly used his or her parenting time to facilitate
21 contact with the child that violates any restrictions imposed
22 on the parent's parenting time by a court of competent
23 jurisdiction. Nothing in this subsection limits a court's
24 authority to enforce its orders in any other manner authorized
25 by law.

26 (d) An order granting parenting time with a child whose
27 parent is prohibited from contact with the child, or whose
28 parenting time is restricted, shall contain the following
29 provision:

30 "If a parent granted parenting time under this Order
31 uses that time to facilitate contact between the child and
32 a parent whose parenting time is restricted, or if such a
33 parent violates any restrictions placed on his or her
34 parenting time by the court, the parenting time granted
35 under this Order shall be revoked until further order of
36 court."

1 (e) A parent who has been convicted of any offense
2 involving an illegal sex act perpetrated upon a victim less
3 than 18 years of age, including but not limited to an offense
4 under Article 12 of the Criminal Code of 1961, is not entitled
5 to parenting time while incarcerated or while on parole,
6 probation, conditional discharge, periodic imprisonment, or
7 mandatory supervised release for a felony offense, until the
8 parent complies with such terms and conditions as the court
9 determines are in the child's best interests.

10 (f) A parent may not, while the child is present, visit any
11 other parent of the child who has been convicted of first
12 degree murder unless the court finds, after considering all
13 relevant factors, including those set forth in subsection (c)
14 of Section 602.5, that it would be in the child's best
15 interests to allow the child to be present during such a visit.

16 (750 ILCS 5/604.10 new)

17 Sec. 604.10. Interviews; evaluations; investigation.

18 (a) Court's interview of child. The court may interview the
19 child in chambers to ascertain the child's wishes as to the
20 allocation of parental responsibilities. Counsel shall be
21 present at the interview unless otherwise agreed upon by the
22 parties. The entire interview shall be recorded by a court
23 reporter. The transcript of the interview shall be filed under
24 seal and released only upon order of the court. The cost of the
25 court reporter and transcript shall be paid by the court.

26 (b) Court's professional. The court may seek the advice of
27 any professional, whether or not regularly employed by the
28 court, to assist the court in determining the child's best
29 interests. The advice to the court shall be in writing and sent
30 by the professional to counsel for the parties and to the
31 court, under seal. The writing may be admitted into evidence
32 without testimony from its author, unless a party objects. A
33 professional consulted by the court shall testify as the
34 court's witness. The court shall order all costs and fees of
35 the professional to be paid by one or more of the parties,

1 subject to reallocation in accordance with subsection (a) of
2 Section 508.

3 (c) Evaluation by a party's retained professional. In a
4 proceeding to allocate parental responsibilities or to
5 relocate a child from Illinois, upon notice and motion made by
6 a parent or any party to the litigation within a reasonable
7 time before trial, the court shall order an evaluation to
8 assist the court in determining the child's best interests. The
9 evaluation may be in place of or in addition to any advice
10 given to the court by a professional under subsection (b). A
11 motion for an evaluation under this subsection must, at a
12 minimum, identify the proposed evaluator and the evaluator's
13 specialty or discipline. An order for an evaluation under this
14 subsection must set forth the evaluator's name, address, and
15 telephone number and the time, place, conditions, and scope of
16 the evaluation. No person shall be required to travel an
17 unreasonable distance for the evaluation. The party requesting
18 the evaluation shall pay the evaluator's fees and costs unless
19 otherwise ordered by the court.

20 The evaluator's report must, at a minimum, set forth the
21 following:

22 (1) A description of the procedures employed during the
23 evaluation.

24 (2) A report of the data collected.

25 (3) All test results.

26 (4) Any conclusions of the evaluator relating to the
27 allocation of parental responsibilities under Sections
28 602.5 and 602.7.

29 (5) Any recommendations of the evaluator concerning
30 the allocation of parental responsibilities or the child's
31 relocation from Illinois.

32 (6) An explanation of any limitations in the evaluation
33 or any reservations of the evaluator regarding the
34 resulting recommendations.

35 A party who retains a professional to conduct an evaluation
36 under this subsection shall cause the evaluator's written

1 report to be sent to the attorneys of record no less than 60
2 days before the hearing on the allocation of parental
3 responsibilities, unless otherwise ordered by the court; if a
4 party fails to comply with this provision, the court may not
5 admit the evaluator's report into evidence and may not allow
6 the evaluator to testify.

7 The party calling an evaluator to testify at trial shall
8 disclose the evaluator as a controlled expert witness in
9 accordance with the Supreme Court rules.

10 Any party to the litigation may call the evaluator as a
11 witness. That party shall pay the evaluator's fees and costs
12 for testifying, unless otherwise ordered by the court.

13 (d) Investigation. Upon notice and a motion by a parent or
14 any party to the litigation, or upon the court's own motion,
15 the court may order an investigation and report to assist the
16 court in allocating parental responsibilities. The
17 investigation may be made by any child welfare agency approved
18 by the Department of Children and Family Services, but shall
19 not be made by that Department unless the court determines
20 either that there is no child welfare agency available or that
21 no party is financially able to pay for the investigation. The
22 court shall specify the purpose and scope of the investigation.

23 The investigator shall send his or her report to all
24 attorneys of record, and to any party not represented, at least
25 60 days before the hearing on the allocation of parental
26 responsibilities. The court shall examine and consider the
27 investigator's report only after it has been admitted into
28 evidence or after the parties have waived their right to
29 cross-examine the investigator.

30 The investigator shall make available to all attorneys of
31 record, and to any party not represented, the investigator's
32 file, and the names and addresses of all persons whom the
33 investigator has consulted. Any party to the proceeding may
34 call the investigator, or any person consulted by the
35 investigator as a court's witness, for cross-examination. No
36 fees shall be paid for any investigation by a governmental

1 agency. The fees incurred by any other investigator shall be
2 allocated in accordance with Section 508.

3 (750 ILCS 5/606.5 new)

4 Sec. 606.5. Hearings.

5 (a) Proceedings to allocate parental responsibilities
6 shall receive priority in being set for hearing.

7 (b) The court, without a jury, shall determine questions of
8 law and fact.

9 (c) If the court finds that a public hearing may be
10 detrimental to the child's best interests, the court shall
11 exclude the public from the hearing, but the court may admit
12 any person having:

13 (1) a direct and legitimate interest in the case; or

14 (2) a legitimate educational or research interest in
15 the work of the court, but only with the permission of one
16 of the parties.

17 (d) The court may make an appropriate order sealing the
18 records of any interview, report, investigation, or testimony.

19 (750 ILCS 5/606.10 new)

20 Sec. 606.10. Designation of custodian for purposes of other
21 statutes. Solely for the purposes of all State and federal
22 statutes that require a designation or determination of custody
23 or a custodian, a parenting plan shall designate the parent who
24 is allocated the majority of residential responsibility. This
25 designation shall not affect parents' rights and
26 responsibilities under the parenting plan.

27 (750 ILCS 5/607.5 new)

28 Sec. 607.5. Abuse of allocated parenting time.

29 (a) The court shall provide an expedited procedure for the
30 enforcement of allocated parenting time.

31 (b) An action for the enforcement of allocated parenting
32 time may be commenced by a parent or a person appointed under
33 Section 506 by filing a petition setting forth: (i) the

1 petitioner's name, residence address or mailing address, and
2 phone number; (ii) the respondent's name and place of
3 residence, place of employment, or mailing address; (iii) the
4 terms of the parenting plan or allocation judgment then in
5 effect; (iv) the nature of the violation of the allocation of
6 parenting time, giving dates and other relevant information;
7 and (v) that a reasonable attempt was made to resolve the
8 dispute.

9 (c) If the court finds by a preponderance of the evidence
10 that a parent has not complied with allocated parenting time
11 according to an approved parenting plan or a court order, the
12 court, in the child's best interests, shall issue an order that
13 may include one or more of the following:

14 (1) An imposition of additional terms and conditions
15 consistent with the court's previous allocation of
16 parenting time or other order.

17 (2) A requirement that either or both of the parties
18 attend a parental education program at the expense of the
19 non-complying parent.

20 (3) A requirement that the parties participate in
21 family counseling at the expense of the non-complying
22 parent.

23 (4) A requirement that the non-complying parent post a
24 cash bond or other security to ensure future compliance,
25 including a provision that the bond or other security may
26 be forfeited to the other parent for payment of expenses on
27 behalf of the child as the court shall direct.

28 (5) A requirement that makeup parenting time be
29 provided for the aggrieved parent or child under the
30 following conditions:

31 (A) That such parenting time is of the same type
32 and duration as the parenting time that was denied,
33 including but not limited to parenting time during
34 weekends, on holidays, and on weekdays and during times
35 when the child is not in school.

36 (B) That such parenting time is made up within 6

1 months after the noncompliance occurs, unless the
2 period of time or holiday cannot be made up within 6
3 months, in which case the parenting time shall be made
4 up within one year after the noncompliance occurs.

5 (6) A finding that the non-complying parent is in
6 contempt of court.

7 (7) Imposing on the non-complying parent an
8 appropriate civil fine per incident of denied parenting
9 time.

10 (8) A requirement that the non-complying parent
11 reimburse the other parent for all reasonable expenses
12 incurred as a result of the violation of the parenting plan
13 or court order.

14 (9) Any other provision that may promote the child's
15 best interests.

16 (d) In addition to any other order entered under subsection
17 (c), the court shall order a parent who has failed to provide
18 allocated parenting time or to exercise allocated parenting
19 time to pay the aggrieved party his or her reasonable
20 attorney's fees, court costs, and expenses associated with an
21 action brought under this Section. If the court finds that the
22 respondent in an action brought under this Section has not
23 violated the allocated parenting time, the court may order the
24 petitioner to pay the respondent's reasonable attorney's fees,
25 court costs, and expenses incurred in the action.

26 (e) Nothing in this Section precludes a party from
27 maintaining any other action as provided by law.

28 (750 ILCS 5/609.5 new)

29 Sec. 609.5. Parent's relocation.

30 (a) A parent's relocation constitutes a substantial change
31 in circumstances for purposes of Section 610.5.

32 (b) Only a parent who has been allocated a majority of
33 parenting time may seek to relocate with a child, except that
34 when parents have equal parenting time, either parent may seek
35 to relocate with a child.

1 (c) Any parent intending to relocate must provide at least
2 60 days prior written notice to any other parent under the
3 parenting plan or allocation judgment unless such notice is
4 impracticable (in which case written notice shall be given at
5 the earliest date practicable) or unless otherwise ordered by
6 the court. At a minimum, the notice must set forth the
7 following:

8 (1) The intended date of the parent's relocation.

9 (2) The address of the parent's intended new residence,
10 if known.

11 (3) The specific reasons for the parent's intended
12 relocation.

13 (4) A proposal modifying the parents' parental
14 responsibilities, if necessary, in light of the
15 relocation.

16 (5) If the parent's intended relocation requires a
17 change in the child's school, a statement of how the
18 relocating parent intends to meet the child's educational
19 needs.

20 The court may consider a parent's failure to comply with
21 the notice requirements of this Section without good cause (i)
22 as a factor in determining whether the parent's relocation is
23 in good faith and (ii) as a basis for awarding reasonable
24 attorney's fees and costs resulting from the parent's failure
25 to comply with these provisions.

26 (d) If a parent receives a written notice of the other
27 parent's intent to relocate and objects to the relocation, then
28 no later than 30 days after receiving the notice, the objecting
29 parent must file a petition setting forth objections to the
30 proposed relocation. A petition filed under this subsection
31 shall be expeditiously heard by the court. A parent's failure
32 to file for the relief provided under this subsection
33 constitutes a waiver of that parent's objections to the
34 relocation. If the court finds that objections are made in bad
35 faith, it shall award reasonable attorney's fees and costs to
36 the other party.

1 (e) The court shall modify the parenting plan or allocation
2 judgment to accommodate a parent's relocation as agreed by the
3 parents as long as the agreed modification is in the child's
4 best interests.

5 (f) The court shall modify the parenting plan or allocation
6 judgment to accommodate the relocation without changing the
7 proportion of parental responsibilities between the parties,
8 if practicable, as long as such a modification is in the
9 child's best interests.

10 (g) If a parent's relocation makes it impracticable to
11 maintain the same proportion of parental responsibilities
12 between the parties, the court shall modify the parenting plan
13 or allocation judgment in accordance with the child's best
14 interests. The court shall consider the following factors:

15 (1) The factors set forth in subsection (c) of this
16 Section.

17 (2) The reasons, if any, why a parent is objecting to
18 the intended relocation.

19 (3) The history and quality of each parent's
20 relationship with the child since the implementation of any
21 previous parenting plan or allocation judgment.

22 (4) The educational opportunities for the child at the
23 existing location and at the proposed new location.

24 (5) The presence or absence of extended family at the
25 existing location and at the proposed new location.

26 (6) The anticipated impact of the relocation on the
27 child.

28 (7) Whether the court will be able to fashion a
29 reasonable allocation of parental responsibilities between
30 all parents if the relocation occurs.

31 (8) The wishes of the child after taking into
32 consideration the child's age and maturity.

33 (9) Whether the intended relocation is valid, in good
34 faith, and to a location that is reasonable in light of the
35 purpose.

36 (10) Possible arrangements for the exercise of

1 parental responsibilities appropriate to the parents'
2 resources and circumstances and the developmental level of
3 the child.

4 (11) Minimization of the impairment to a parent-child
5 relationship caused by a parent's relocation.

6 (12) Any other relevant factors bearing on the child's
7 best interests.

8 (h) Unless the non-relocating parent demonstrates that a
9 reallocation of parental responsibilities is necessary to
10 prevent harm to the child, the court shall deny the
11 non-relocating parent's request for a reallocation of parental
12 responsibilities based on relocation if the non-relocating
13 parent either:

14 (1) failed to object to the relocation within the time
15 allowed; or

16 (2) has substantially failed or refused to exercise the
17 parental responsibilities allocated to him or her under the
18 parenting plan or allocation judgment.

19 (750 ILCS 5/610.5 new)

20 Sec. 610.5. Modification.

21 (a) The court shall modify a parenting plan or allocation
22 judgment when necessary to serve the child's best interests if
23 the court finds, by a preponderance of the evidence, that:

24 (1) on the basis of facts that have arisen since the
25 entry of the existing parenting plan or allocation judgment
26 or were not anticipated therein, a substantial change has
27 occurred in the circumstances of the child or of any parent
28 and that a modification is necessary to serve the child's
29 best interests; or

30 (2) the existing allocation of parental
31 responsibilities seriously endangers the child's physical,
32 mental, moral, or emotional health.

33 (b) The court shall modify a parenting plan or allocation
34 judgment in accordance with a parental agreement, unless it
35 finds that the modification is not in the child's best

1 interests.

2 (c) The court may modify a parenting plan or allocation
3 judgment without a showing of changed circumstances if (i) the
4 modification is in the child's best interests and (ii) any of
5 the following are proven as to the modification:

6 (A) The modification reflects the actual arrangement
7 under which the child has been receiving care, without
8 parental objection, for the 6 months preceding the filing
9 of the petition for modification, provided that the
10 arrangement is not the result of a parent's acquiescence
11 resulting from circumstances that negated the parent's
12 ability to give meaningful consent.

13 (B) The modification constitutes a minor modification
14 in the parenting plan or allocation judgment.

15 (C) The modification is necessary to modify an agreed
16 parenting plan or allocation judgment that the court would
17 not have ordered or approved under Section 602.5 or 602.7
18 had the court been aware of the circumstances at the time
19 of the order or approval.

20 (d) Attorney's fees and costs shall be assessed against a
21 party seeking modification if the court finds that the
22 modification action is vexatious or constitutes harassment.

23 (750 ILCS 5/612 new)

24 Sec. 612. Application of provisions concerning allocation
25 of parental responsibilities.

26 (a) The changes made by this amendatory Act of the 94th
27 General Assembly apply to all proceedings commenced on or after
28 the effective date of this amendatory Act of the 94th General
29 Assembly.

30 (b) The changes made by this amendatory Act of the 94th
31 General Assembly apply to all actions pending on the effective
32 date of this amendatory Act of the 94th General Assembly and to
33 all proceedings commenced before that effective date with
34 respect to issues on which a judgment has not been entered.
35 Evidence adduced after the effective date of this amendatory

1 Act of the 94th General Assembly shall comply with the changes
2 made by this amendatory Act of the 94th General Assembly.

3 (c) The changes made by this amendatory Act of the 94th
4 General Assembly apply to all proceedings commenced on or after
5 the effective date of this amendatory Act of the 94th General
6 Assembly for the modification of a judgment or order entered
7 before that effective date.

8 (d) In any action or proceeding in which an appeal was
9 pending or a new trial was ordered before the effective date of
10 this amendatory Act of the 94th General Assembly, the law in
11 effect at the time of the order sustaining the appeal or the
12 new trial governs the appeal, the new trial, and any subsequent
13 trial or appeal.

14 (750 ILCS 5/601 rep.)

15 (750 ILCS 5/602 rep.)

16 (750 ILCS 5/602.1 rep.)

17 (750 ILCS 5/603 rep.)

18 (750 ILCS 5/604 rep.)

19 (750 ILCS 5/604.5 rep.)

20 (750 ILCS 5/605 rep.)

21 (750 ILCS 5/606 rep.)

22 (750 ILCS 5/607 rep.)

23 (750 ILCS 5/607.1 rep.)

24 (750 ILCS 5/608 rep.)

25 (750 ILCS 5/609 rep.)

26 (750 ILCS 5/610 rep.)

27 (750 ILCS 5/611 rep.)

28 Section 10. The Illinois Marriage and Dissolution of
29 Marriage Act is amended by repealing Sections 601, 602, 602.1,
30 603, 604, 604.5, 605, 606, 607, 607.1, 608, 609, 610, and 611.

31 Section 99. Effective date. This Act takes effect January
32 1, 2006.