

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 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-3) Grandparents, great-grandparents, and siblings of a  
19 minor child have standing to bring an action in circuit court  
20 by petition, requesting visitation in accordance with this  
21 Section. The term "sibling" in this Section means a brother,  
22 sister, stepbrother, or stepsister of the minor child.  
23 Grandparents, great-grandparents, and siblings also have  
24 standing to file a petition for visitation rights in a pending  
25 dissolution proceeding or any other proceeding that involves  
26 custody or visitation issues, requesting visitation in  
27 accordance with this Section. A petition for visitation with a  
28 child by a person other than a parent must be filed in the  
29 county in which the child resides. Nothing in subsection (a-5)  
30 of this Section shall apply to a child in whose interests a  
31 petition under Section 2-13 of the Juvenile Court Act of 1987  
32 is pending.

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

6 (A) (Blank); ~~one parent of the child is incompetent as~~  
7 ~~a matter of law or deceased or has been sentenced to a~~  
8 ~~period of imprisonment for more than 1 year;~~

9 (A-5) the child's other parent is deceased or has been  
10 missing for at least 3 months. For the purposes of this  
11 Section a parent is considered to be missing if the  
12 parent's location has not been determined and the parent  
13 has been reported as missing to a law enforcement agency;

14 (A-10) a parent of the child is incompetent as a matter  
15 of law; or

16 (A-15) a parent has been incarcerated in jail or prison  
17 during the 3 month period preceding the filing of the  
18 petition.

19 (B) the child's mother and father are divorced or have  
20 been legally separated from each other or there is pending  
21 a dissolution proceeding involving a parent of the child or  
22 another court proceeding involving custody or visitation  
23 of the child ~~during the 3 month period prior to the filing~~  
24 ~~of the petition~~ and at least one parent does not object to  
25 the grandparent, great-grandparent, or sibling having  
26 visitation with the child. The visitation of the  
27 grandparent, great-grandparent, or sibling must not  
28 diminish the visitation of the parent who is not related to  
29 the grandparent, great-grandparent, or sibling seeking  
30 visitation;

31 (C) the court, ~~other than a Juvenile Court,~~ has  
32 terminated a parent-child relationship and the  
33 grandparent, ~~great-grandparent, or sibling~~ is the parent  
34 of the person whose parental rights have been terminated,  
35 ~~except in cases of adoption.~~ The visitation must not be  
36 used to allow the parent who lost parental rights to

1 unlawfully visit with the child;

2 (D) the child is born out of wedlock, the parents are  
3 not living together, and the petitioner is a maternal  
4 grandparent, great-grandparent, or sibling of the child  
5 born out of wedlock; or

6 (E) the child is born out of wedlock, the parents are  
7 not living together, the petitioner is a paternal  
8 grandparent, great-grandparent, or sibling, and the  
9 paternity has been established by a court of competent  
10 jurisdiction.

11 (2) If a person other than a blood relative or stepparent  
12 of the child adopts the child, any visitation rights granted  
13 pursuant to this Section before the adoption of the child shall  
14 automatically end by operation of law upon the adoption of the  
15 child. If a blood relative adopts the child or if one natural  
16 parent is deceased and the surviving natural parent remarries,  
17 any subsequent adoption proceedings may not terminate any  
18 visitation rights belonging to the parents of the deceased  
19 natural parent, unless the termination of visitation rights is  
20 ordered by the court having jurisdiction over the adoption  
21 after an opportunity to be heard, and the court determines it  
22 to be in the best interest of the child to terminate or modify  
23 such visitation. ~~The grandparent, great-grandparent, or~~  
24 ~~sibling of a parent whose parental rights have been terminated~~  
25 ~~through an adoption proceeding may not petition for visitation~~  
26 ~~rights.~~

27 (3) In making a determination under this subsection (a-5),  
28 there is a rebuttable presumption that a fit parent's actions  
29 and decisions regarding grandparent, great-grandparent, or  
30 sibling visitation are not harmful to the child's mental,  
31 physical, or emotional health. The burden is on the party  
32 filing a petition under this Section to prove that the parent's  
33 actions and decisions regarding visitation times are harmful to  
34 the child's mental, physical, or emotional health. A finding of  
35 harm may be based upon cessation of the relationship between a  
36 minor child and the child's grandparent, great-grandparent, or

1 sibling if the court determines, upon proper proof, that:

2 (A) the child had such a significant existing  
3 relationship with the grandparent, great-grandparent, or  
4 sibling that loss of the relationship is likely to occasion  
5 emotional harm to the child; or

6 (B) the grandparent, great-grandparent, or sibling  
7 functioned as a primary caregiver such that cessation of  
8 the relationship would interrupt provision of the daily  
9 needs of the child and thus occasion physical or emotional  
10 harm.

11 (3a) A grandparent, great-grandparent, or sibling is not  
12 required to present the testimony or affidavit of an expert  
13 witness in order to establish a significant existing  
14 relationship with the child or that the loss of the  
15 relationship is likely to occasion severe emotional harm to the  
16 child. Instead, the court shall consider whether the facts of  
17 the particular case would lead a reasonable person to believe  
18 that there is a significant existing relationship between the  
19 grandparent, great-grandparent, or sibling and the child or  
20 that the loss of the relationship is likely to occasion severe  
21 emotional harm to the child.

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

24 (A) the preference of the child if the child is  
25 determined to be of sufficient maturity to express a  
26 preference;

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

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

30 (D) the length and quality of the prior relationship  
31 between the child and the grandparent, great-grandparent,  
32 or sibling;

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

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

35 (G) the quantity of the visitation time requested and  
36 the potential adverse impact that visitation would have on

1 the child's customary activities;

2 (H) whether the child resided with the petitioner for  
3 at least 6 consecutive months with or without the current  
4 custodian present;

5 (I) whether the petitioner had frequent or regular  
6 contact or visitation with the child for at least 12  
7 consecutive months; ~~and~~

8 (J) any other fact that establishes that the loss of  
9 the relationship between the petitioner and the child is  
10 likely to harm the child's mental, physical, or emotional  
11 health; ~~and~~.

12 (K) whether the grandparent, great-grandparent, or  
13 sibling was a full-time caretaker of the child for a period  
14 of not less than 6 consecutive months.

15 (5) The court may order visitation rights for the  
16 grandparent, great-grandparent, or sibling that include  
17 reasonable access without requiring overnight or possessory  
18 visitation.

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

26 (2) The court shall not modify an ~~a prior grandparent,~~  
27 ~~great grandparent, or sibling visitation~~ order that grants  
28 visitation to a grandparent, great-grandparent, or sibling  
29 unless it finds by clear and convincing evidence, upon the  
30 basis of facts that have arisen since the prior visitation  
31 order or that were unknown to the court at the time of entry of  
32 the prior visitation, that a change has occurred in the  
33 circumstances of the child or his or her custodian, and that  
34 the modification is necessary to protect the mental, physical,  
35 or emotional health of the child. The court shall state in its  
36 decision specific findings of fact in support of its

1 modification or termination of the grandparent,  
2 great-grandparent, or sibling visitation. A child's parent may  
3 always petition to modify visitation upon changed  
4 circumstances when necessary to promote the child's best  
5 interest.

6 (3) Attorney fees and costs shall be assessed against a  
7 party seeking modification of the visitation order if the court  
8 finds that the modification action is vexatious and constitutes  
9 harassment.

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

12 (b) (1) (Blank.)

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

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

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

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

28 (D) the child wishes to have reasonable visitation with  
29 the stepparent; and

30 (E) the stepparent was providing for the care, control,  
31 and welfare to the child prior to the initiation of the  
32 petition for visitation.

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

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

11 (3) (Blank).

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

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

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

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

1 facilitate contact between the child and the  
2 non-custodial parent; or

3 (ii) a court has entered an order restricting the  
4 non-custodial parent's contact with the child, and the  
5 grandparent or great-grandparent is found to have used  
6 his or her visitation privileges to facilitate contact  
7 between the child and the non-custodial parent in a  
8 manner that violates the terms of the order restricting  
9 the non-custodial parent's contact with the child.

10 Nothing in this subdivision (1) limits the authority of  
11 the court to enforce its orders in any manner permitted by  
12 law.

13 (2) Any order granting visitation privileges with the  
14 child to a grandparent or great-grandparent who is related  
15 to the child through the non-custodial parent shall contain  
16 the following provision:

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

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



1 court.

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

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

27 (Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06.)