



Rep. Patricia Reid Lindner

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LRB095 06590 AJ0 35513 a

1 AMENDMENT TO HOUSE BILL 3010

2 AMENDMENT NO. _____. Amend House Bill 3010 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

1 or private facility.

2 (a-3) Grandparents, great-grandparents, and siblings of a
3 minor child, who is one year old or older, have standing to
4 bring an action in circuit court by petition, requesting
5 visitation in accordance with this Section. The term "sibling"
6 in this Section means a brother, sister, stepbrother, or
7 stepsister of the minor child. Grandparents,
8 great-grandparents, and siblings also have standing to file a
9 petition for visitation rights in a pending dissolution
10 proceeding or any other proceeding that involves custody or
11 visitation issues, requesting visitation in accordance with
12 this Section. A petition for visitation with a child by a
13 person other than a parent must be filed in the county in which
14 the child resides. Nothing in this subsection (a-3) and
15 subsection (a-5) of this Section shall apply to a child in
16 whose interests a petition is pending under Section 2-13 of the
17 Juvenile Court Act of 1987 or a petition to adopt an unrelated
18 child is pending under the Adoption Act.

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

24 (A) (Blank);

25 (A-5) the child's other parent is deceased or has been
26 missing for at least 3 months. For the purposes of this

1 Section a parent is considered to be missing if the
2 parent's location has not been determined and the parent
3 has been reported as missing to a law enforcement agency;

4 (A-10) a parent of the child is incompetent as a matter
5 of law;

6 (A-15) a parent has been incarcerated in jail or prison
7 during the 3 month period preceding the filing of the
8 petition;

9 (B) the child's mother and father are divorced or have
10 been legally separated from each other or there is pending
11 a dissolution proceeding involving a parent of the child or
12 another court proceeding involving custody or visitation
13 of the child (other than any adoption proceeding of an
14 unrelated child) and at least one parent does not object to
15 the grandparent, great-grandparent, or sibling having
16 visitation with the child. The visitation of the
17 grandparent, great-grandparent, or sibling must not
18 diminish the visitation of the parent who is not related to
19 the grandparent, great-grandparent, or sibling seeking
20 visitation;

21 (C) (Blank);

22 (D) the child is born out of wedlock, the parents are
23 not living together, and the petitioner is a maternal
24 grandparent, great-grandparent, or sibling of the child
25 born out of wedlock; or

26 (E) the child is born out of wedlock, the parents are

1 not living together, the petitioner is a paternal
2 grandparent, great-grandparent, or sibling, and the
3 paternity has been established by a court of competent
4 jurisdiction.

5 (2) Any visitation rights granted pursuant to this Section
6 before the filing of a petition for adoption of a child shall
7 automatically terminate by operation of law upon the entry of
8 an order terminating parental rights or granting the adoption
9 of the child, whichever is earlier. If the person or persons
10 who adopted the child are related to the child, as defined by
11 Section 1 of the Adoption Act, any person who was related to
12 the child as grandparent, great-grandparent, or sibling prior
13 to the adoption shall have standing to bring an action pursuant
14 to this Section requesting visitation with the child.

15 (3) In making a determination under this subsection (a-5),
16 there is a rebuttable presumption that a fit parent's actions
17 and decisions regarding grandparent, great-grandparent, or
18 sibling visitation are not harmful to the child's mental,
19 physical, or emotional health. The burden is on the party
20 filing a petition under this Section to prove that the parent's
21 actions and decisions regarding visitation times are harmful to
22 the child's mental, physical, or emotional health.

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

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

1 preference;

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

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

5 (D) the length and quality of the prior relationship
6 between the child and the grandparent, great-grandparent,
7 or sibling;

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

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

10 (G) the quantity of the visitation time requested and
11 the potential adverse impact that visitation would have on
12 the child's customary activities;

13 (H) whether the child resided with the petitioner for
14 at least 6 consecutive months with or without the current
15 custodian present;

16 (I) whether the petitioner had frequent or regular
17 contact or visitation with the child for at least 12
18 consecutive months;

19 (J) any other fact that establishes that the loss of
20 the relationship between the petitioner and the child is
21 likely to harm the child's mental, physical, or emotional
22 health; and

23 (K) whether the grandparent, great-grandparent, or
24 sibling was a primary caretaker of the child for a period
25 of not less than 6 consecutive months.

26 (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 an order that grants
12 visitation to a grandparent, great-grandparent, or sibling
13 unless it finds by clear and convincing evidence, upon the
14 basis of facts that have arisen since the prior visitation
15 order or that were unknown to the court at the time of entry of
16 the prior visitation, that a change has occurred in the
17 circumstances of the child or his or her custodian, and that
18 the modification is necessary to protect the mental, physical,
19 or emotional health of the child. The court shall state in its
20 decision specific findings of fact in support of its
21 modification or termination of the grandparent,
22 great-grandparent, or sibling visitation. A child's parent may
23 always petition to modify visitation upon changed
24 circumstances when necessary to promote the child's best
25 interest.

26 (3) Attorney fees and costs shall be assessed against a

1 party seeking modification of the visitation order if the court
2 finds that the modification action is vexatious and constitutes
3 harassment.

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

6 (b) (1) (Blank.)

7 (1.5) The Court may grant reasonable visitation privileges
8 to a stepparent upon petition to the court by the stepparent,
9 with notice to the parties required to be notified under
10 Section 601 of this Act, if the court determines that it is in
11 the best interests and welfare of the child, and may issue any
12 necessary orders to enforce those visitation privileges. A
13 petition for visitation privileges may be filed under this
14 paragraph (1.5) whether or not a petition pursuant to this Act
15 has been previously filed or is currently pending if the
16 following circumstances are met:

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

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

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

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

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

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

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

15 (3) (Blank).

16 (c) The court may modify an order granting or denying
17 visitation rights of a parent whenever modification would serve
18 the best interest of the child; but the court shall not
19 restrict a parent's visitation rights unless it finds that the
20 visitation would endanger seriously the child's physical,
21 mental, moral or emotional health.

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

26 (1) If an order has been entered granting visitation

1 privileges with the child to a grandparent or
2 great-grandparent who is related to the child through the
3 non-custodial parent, the visitation privileges of the
4 grandparent or great-grandparent may be revoked if:

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

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

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

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

25 "If the (grandparent or great-grandparent, whichever
26 is applicable) who has been granted visitation privileges

1 under this order uses the visitation privileges to
2 facilitate contact between the child and the child's
3 non-custodial parent, the visitation privileges granted
4 under this order shall be permanently revoked."

5 (e) No parent, not granted custody of the child, or
6 grandparent, or great-grandparent, or stepparent, or sibling
7 of any minor child, convicted of any offense involving an
8 illegal sex act perpetrated upon a victim less than 18 years of
9 age including but not limited to offenses for violations of
10 Article 12 of the Criminal Code of 1961, is entitled to
11 visitation rights while incarcerated or while on parole,
12 probation, conditional discharge, periodic imprisonment, or
13 mandatory supervised release for that offense, and upon
14 discharge from incarceration for a misdemeanor offense or upon
15 discharge from parole, probation, conditional discharge,
16 periodic imprisonment, or mandatory supervised release for a
17 felony offense, visitation shall be denied until the person
18 successfully completes a treatment program approved by the
19 court.

20 (f) Unless the court determines, after considering all
21 relevant factors, including but not limited to those set forth
22 in Section 602(a), that it would be in the best interests of
23 the child to allow visitation, the court shall not enter an
24 order providing visitation rights and pursuant to a motion to
25 modify visitation shall revoke visitation rights previously
26 granted to any person who would otherwise be entitled to

1 petition for visitation rights under this Section who has been
2 convicted of first degree murder of the parent, grandparent,
3 great-grandparent, or sibling of the child who is the subject
4 of the order. Until an order is entered pursuant to this
5 subsection, no person shall visit, with the child present, a
6 person who has been convicted of first degree murder of the
7 parent, grandparent, great-grandparent, or sibling of the
8 child without the consent of the child's parent, other than a
9 parent convicted of first degree murder as set forth herein, or
10 legal guardian.

11 (g) (Blank).

12 (Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06;
13 94-1026, eff. 1-1-07.)".