



Rep. Chapin Rose

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09500HB5121ham002

LRB095 16625 AJ0 49229 a

1 AMENDMENT TO HOUSE BILL 5121

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5121, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Marriage and Dissolution of  
6 Marriage Act is amended by changing Section 602.1 as follows:

7 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

8 Sec. 602.1. (a) The dissolution of marriage, the  
9 declaration of invalidity of marriage, the legal separation of  
10 the parents, or the parents living separate and apart shall not  
11 diminish parental powers, rights, and responsibilities except  
12 as the court for good reason may determine under the standards  
13 of Section 602.

14 (b) Upon the application of either or both parents, or upon  
15 its own motion, the court shall consider an award of joint  
16 custody. Joint custody means custody determined pursuant to a

1 Joint Parenting Agreement or a Joint Parenting Order. In such  
2 cases, the court shall initially request the parents to produce  
3 a Joint Parenting Agreement. Such Agreement shall specify each  
4 parent's powers, rights and responsibilities for the personal  
5 care of the child and for major decisions such as education,  
6 health care, and religious training. The Agreement shall  
7 further specify a procedure by which proposed changes, disputes  
8 and alleged breaches may be mediated or otherwise resolved and  
9 shall provide for a periodic review of its terms by the  
10 parents. In producing a Joint Parenting Agreement, the parents  
11 shall be flexible in arriving at resolutions which further the  
12 policy of this State as expressed in Sections 102 and 602. For  
13 the purpose of assisting the court in making a determination  
14 whether an award of joint custody is appropriate, the court may  
15 order mediation and may direct that an investigation be  
16 conducted pursuant to the provisions of Section 605. If there  
17 is a danger to the health or safety of a partner, joint  
18 mediation shall not be required by the court. In the event the  
19 parents fail to produce a Joint Parenting Agreement, the court  
20 may enter an appropriate Joint Parenting Order under the  
21 standards of Section 602 which shall specify and contain the  
22 same elements as a Joint Parenting Agreement, or it may award  
23 sole custody under the standards of Sections 602, 607, and 608.

24 (c) The court may enter an order of joint custody if it  
25 determines that joint custody would be in the best interests of  
26 the child, taking into account the following:

1           (1) the ability of the parents to cooperate effectively  
2           and consistently in matters that directly affect the joint  
3           parenting of the child. "Ability of the parents to  
4           cooperate" means the parents' capacity to substantially  
5           comply with a Joint Parenting Order. The court shall not  
6           consider the inability of the parents to cooperate  
7           effectively and consistently in matters that do not  
8           directly affect the joint parenting of the child;

9           (2) The residential circumstances of each parent; and

10          (3) all other factors which may be relevant to the best  
11          interest of the child.

12          (d) Nothing within this section shall imply or presume that  
13          joint custody shall necessarily mean equal parenting time. The  
14          physical residence of the child in joint custodial situations  
15          shall be determined by:

16               (1) express agreement of the parties; or

17               (2) order of the court under the standards of this  
18          Section.

19          (e) Notwithstanding any other provision of law, access to  
20          records and information pertaining to a child, including but  
21          not limited to medical, dental, child care and school records,  
22          shall not be denied to a parent for the reason that such parent  
23          is not the child's custodial parent; however, no parent shall  
24          have access to the school records of a child if the parent is  
25          prohibited by an order of protection from inspecting or  
26          obtaining such records pursuant to the Illinois Domestic

1 Violence Act of 1986, as now or hereafter amended. No parent  
2 who is a named respondent in an order of protection issued  
3 pursuant to the Domestic Violence Act of 1986 shall have access  
4 to the health care records of a child who is a protected person  
5 under that order of protection.

6 (Source: P.A. 94-377, eff. 7-29-05.)

7 Section 10. The Illinois Domestic Violence Act of 1986 is  
8 amended by changing Section 222 as follows:

9 (750 ILCS 60/222) (from Ch. 40, par. 2312-22)

10 Sec. 222. Notice of orders.

11 (a) Entry and issuance. Upon issuance of any order of  
12 protection, the clerk shall immediately, or on the next court  
13 day if an emergency order is issued in accordance with  
14 subsection (c) of Section 217, (i) enter the order on the  
15 record and file it in accordance with the circuit court  
16 procedures and (ii) provide a file stamped copy of the order to  
17 respondent, if present, and to petitioner.

18 (b) Filing with sheriff. The clerk of the issuing judge  
19 shall, or the petitioner may, on the same day that an order of  
20 protection is issued, file a certified copy of that order with  
21 the sheriff or other law enforcement officials charged with  
22 maintaining Department of State Police records or charged with  
23 serving the order upon respondent. If the order was issued in  
24 accordance with subsection (c) of Section 217, the clerk shall

1 on the next court day, file a certified copy of the order with  
2 the Sheriff or other law enforcement officials charged with  
3 maintaining Department of State Police records.

4 (c) Service by sheriff. Unless respondent was present in  
5 court when the order was issued, the sheriff, other law  
6 enforcement official or special process server shall promptly  
7 serve that order upon respondent and file proof of such  
8 service, in the manner provided for service of process in civil  
9 proceedings. Instead of serving the order upon the respondent,  
10 however, the sheriff, other law enforcement official, or  
11 special process server may serve the respondent with a short  
12 form notification as provided in Section 222.10. If process has  
13 not yet been served upon the respondent, it shall be served  
14 with the order or short form notification. A single fee may be  
15 charged for service of an order obtained in civil court, or for  
16 service of such an order together with process, unless waived  
17 or deferred under Section 210.

18 (c-5) If the person against whom the order of protection is  
19 issued is arrested and the written order is issued in  
20 accordance with subsection (c) of Section 217 and received by  
21 the custodial law enforcement agency before the respondent or  
22 arrestee is released from custody, the custodial law  
23 enforcement agent shall promptly serve the order upon the  
24 respondent or arrestee before the respondent or arrestee is  
25 released from custody. In no event shall detention of the  
26 respondent or arrestee be extended for hearing on the petition

1 for order of protection or receipt of the order issued under  
2 Section 217 of this Act.

3 (d) Extensions, modifications and revocations. Any order  
4 extending, modifying or revoking any order of protection shall  
5 be promptly recorded, issued and served as provided in this  
6 Section.

7 (e) Notice to schools. Upon the request of the petitioner,  
8 within 24 hours of the issuance of an order of protection, the  
9 clerk of the issuing judge shall send written notice of the  
10 order of protection along with a certified copy of the order of  
11 protection to the day-care facility, pre-school or  
12 pre-kindergarten, or private school or the principal office of  
13 the public school district or any college or university in  
14 which any child who is a protected person under the order of  
15 protection or any child of the petitioner is enrolled. If the  
16 child transfers enrollment to another day-care facility,  
17 pre-school, pre-kindergarten, private school, public school,  
18 college, or university, the petitioner may, within 24 hours of  
19 the transfer, send to the clerk written notice of the transfer,  
20 including the name and address of the institution to which the  
21 child is transferring. Within 24 hours of receipt of notice  
22 from the petitioner that a child is transferring to another  
23 day-care facility, pre-school, pre-kindergarten, private  
24 school, public school, college, or university, the clerk shall  
25 send written notice of the order of protection, along with a  
26 certified copy of the order, to the institution to which the

1 child is transferring.

2 (f) Disclosure by schools. After receiving a certified copy  
3 of an order of protection that prohibits a respondent's access  
4 to records, neither a day-care facility, pre-school,  
5 pre-kindergarten, public or private school, college, or  
6 university nor its employees shall allow a respondent access to  
7 a protected child's records or release information in those  
8 records to the respondent. The school shall file the copy of  
9 the order of protection in the records of a child who is a  
10 protected person under the order of protection. When a child  
11 who is a protected person under the order of protection  
12 transfers to another day-care facility, pre-school,  
13 pre-kindergarten, public or private school, college, or  
14 university, the institution from which the child is  
15 transferring may, at the request of the petitioner, provide,  
16 within 24 hours of the transfer, written notice of the order of  
17 protection, along with a certified copy of the order, to the  
18 institution to which the child is transferring.

19 (g) Notice to health care facilities and health care  
20 practitioners. Upon the request of the petitioner, the clerk of  
21 the circuit court shall send a certified copy of the order of  
22 protection to any specified health care facility or health care  
23 practitioner requested by the petitioner at the mailing address  
24 provided by the petitioner.

25 (h) Disclosure by health care facilities and health care  
26 practitioners. After receiving a certified copy of an order of

1 protection that prohibits a respondent's access to records, no  
2 health care facility or health care practitioner shall allow a  
3 respondent access to the records of any child who is a  
4 protected person under the order of protection, or release  
5 information in those records to the respondent, unless the  
6 order has expired or the respondent shows a certified copy of  
7 the court order vacating the corresponding order of protection  
8 that was sent to the health care facility or practitioner.  
9 Nothing in this Section shall be construed to require health  
10 care facilities or health care practitioners to alter  
11 procedures related to billing and payment. The health care  
12 facility or health care practitioner may file the copy of the  
13 order of protection in the records of a child who is protected  
14 person under the order of protection, or may employ any other  
15 method to identify the records to which respondent is  
16 prohibited access. No health care facility or health care  
17 practitioner shall be civilly or professionally liable for  
18 reliance on a copy of an order of protection, except for  
19 willful and wanton misconduct.

20 (Source: P.A. 92-90, eff. 7-18-01; 92-162, eff. 1-1-02; 92-651,  
21 eff. 7-11-02.)".