



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2742

Introduced 2/15/2008, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

750 ILCS 5/607.2 new

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that, upon request of either party, the parties' stipulation, or upon the court's own order, the court may appoint a parenting time expeditor or a team of 2 expeditors to resolve parenting time disputes that occur under a parenting time order (with specified exceptions). Contains provisions regarding: appointment of a parenting time expeditor; orders; fees; maintenance of rosters of parenting time expeditors; training and continuing education of parenting time expeditors; agreements between parties and decisions of expeditors; confidentiality; immunity; removal of expeditors; establishment of mandatory parenting time dispute resolution programs; and other matters.

LRB095 19624 WGH 46285 b

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 adding Section 607.2 as follows:

6 (750 ILCS 5/607.2 new)

7 Sec. 607.2. Parenting time dispute resolution.

8 (1) Definitions.

9 (a) "Parenting time dispute" means a disagreement
10 among parties about parenting time with a child, including
11 a dispute about an anticipated denial of future scheduled
12 parenting time. "Parenting time dispute" includes a claim
13 by a parent that the other parent is not spending time with
14 a child as well as a claim by a parent that the other
15 parent is denying or interfering with parenting time.

16 (b) A "parenting time expeditor" is a neutral person
17 authorized to use a mediation-arbitration process to
18 resolve parenting time disputes. A parenting time
19 expeditor shall attempt to resolve a parenting time dispute
20 by facilitating negotiations between the parties to
21 promote settlement and, if it becomes apparent that the
22 dispute cannot be resolved by an agreement of the parties,
23 the parenting time expeditor shall make a decision

1 resolving the dispute.

2 (2) Parenting time expeditor. Upon request of either party,
3 the parties' stipulation, or upon the court's own order, the
4 court may appoint a parenting time expeditor to resolve
5 parenting time disputes that occur under a parenting time order
6 while a matter is pending or after a judgment is entered.

7 (3) Exceptions. A court may not be required to refer a
8 parenting time dispute to a parenting time expeditor under this
9 Section if:

10 (a) one of the parties claims to be the victim of
11 domestic abuse by the other party;

12 (b) the court determines there is probable cause that
13 one of the parties or a child of the parties has been
14 physically abused or threatened with physical abuse by the
15 other party; or

16 (c) the party is unable to pay the costs of the
17 expeditor, as provided under subsection (5).

18 If the court is satisfied that the parties have been
19 advised by counsel and have agreed to use the parenting time
20 expeditor process and the process does not involve a
21 face-to-face meeting of the parties, the court may direct that
22 the parenting time expeditor process be used.

23 (4) Appointment.

24 (a) The parties may stipulate to the appointment of a
25 parenting time expeditor or a team of 2 expeditors without
26 appearing in court by submitting to the court a written

1 agreement identifying the names of the individuals to be
2 appointed by the court; the nature of the dispute; the
3 responsibilities of the parenting time expeditor,
4 including whether the expeditor is appointed to resolve a
5 specific issue or on an ongoing basis; the term of the
6 appointment; and the apportionment of fees and costs. The
7 court shall review the agreement of the parties.

8 (b) If the parties cannot agree on a parenting time
9 expeditor, the court shall provide to the parties a copy of
10 the judicial circuit's roster of parenting time expeditors
11 and require the parties to exchange the names of 3
12 potential parenting time expeditors by a specific date. If
13 after exchanging names the parties are unable to agree upon
14 a parenting time expeditor, the court shall select the
15 parenting time expeditor and, in its discretion, may
16 appoint one expeditor or a team of 2 expeditors. In the
17 selection process the court must give consideration to the
18 financial circumstances of the parties and the fees of
19 those being considered as parenting time expeditors.
20 Preference must be given to persons who agree to volunteer
21 their services or who will charge a variable fee for
22 services based on the ability of the parties to pay for
23 them.

24 (c) An order appointing a parenting time expeditor must
25 identify the name of the individual to be appointed, the
26 nature of the dispute, the responsibilities of the

1 expeditor including whether the expeditor is appointed to
2 resolve a specific issue or on an ongoing basis, the term
3 of the appointment, the apportionment of fees, and notice
4 that if the parties are unable to reach an agreement with
5 the assistance of the expeditor, the expeditor is
6 authorized to make a decision resolving the dispute which
7 is binding upon the parties unless modified or vacated by
8 the court.

9 (5) Fees. Prior to appointing the parenting time expeditor,
10 the court shall give the parties notice that the fees of the
11 expeditor will be apportioned among the parties. In its order
12 appointing the expeditor, the court shall apportion the fees of
13 the expeditor among the parties, with each party bearing the
14 portion of fees that the court determines is just and equitable
15 under the circumstances. If a party files a pro se motion
16 regarding a parenting time dispute and there is not a court
17 order that provides for apportionment of the fees of an
18 expeditor, the party requesting the appointment of an expeditor
19 may be required to pay the fees of the expeditor in advance.
20 Neither party may be required to submit a dispute to a
21 parenting time expeditor if the party cannot afford to pay for
22 the fees of an expeditor and an affordable expeditor is not
23 available, unless the other party agrees to pay the fees. After
24 fees are incurred, a party may by motion request that the fees
25 be reapportioned on equitable grounds. The court may consider
26 the resources of the parties, the nature of the dispute, and

1 whether a party acted in bad faith. The court may consider
2 information from the expeditor in determining bad faith.

3 (6) Roster of parenting time expeditors. Each judicial
4 circuit shall maintain and make available to the public and
5 judicial officers a roster of individuals available to serve as
6 parenting time expeditors, including each individual's name,
7 address, telephone number, and fee charged, if any. A judicial
8 circuit shall not place on the roster the name of an individual
9 who has not completed the training required in subsection (7).
10 If the use of a parenting time expeditor is initiated by
11 stipulation of the parties, the parties may agree upon a person
12 to serve as an expeditor even if that person has not completed
13 the training described in subsection (7). The court may appoint
14 a person to serve as an expeditor even if the person is not on
15 the judicial circuit's roster, but may not appoint a person who
16 has not completed the training described in subsection (7),
17 unless so stipulated by the parties. To maintain one's listing
18 on a judicial circuit's roster of parenting time expeditors, an
19 individual shall annually submit to the judicial circuit proof
20 of completion of continuing education requirements.

21 (7) Training and continuing education requirements. To
22 qualify for listing on a judicial circuit's roster of parenting
23 time expeditors, an individual shall complete a minimum of 40
24 hours of family mediation training that has been certified by
25 the Illinois Supreme Court, which must include certified
26 training in domestic abuse issues. To maintain one's listing on

1 a judicial circuit's roster of parenting time expeditors, an
2 individual shall annually attend 3 hours of continuing
3 education about alternative dispute resolution subjects.

4 (8) Agreement or decision.

5 (a) Within 5 days of notice of the appointment, or
6 within 5 days of notice of a subsequent parenting time
7 dispute between the same parties, the parenting time
8 expeditor shall meet with the parties together or
9 separately and shall make a diligent effort to facilitate
10 an agreement to resolve the dispute. If a parenting time
11 dispute requires immediate resolution, the parenting time
12 expeditor may confer with the parties through a telephone
13 conference or similar means. An expeditor may make a
14 decision without conferring with a party if the expeditor
15 made a good faith effort to confer with the party, but the
16 party chose not to participate in resolution of the
17 dispute.

18 (b) If the parties do not reach an agreement, the
19 expeditor shall make a decision resolving the dispute as
20 soon as possible but not later than 5 days after receiving
21 all information necessary to make a decision and after the
22 final meeting or conference with the parties. The expeditor
23 is authorized to award compensatory parenting time under
24 the expeditor's decision, and may recommend to the court
25 that the noncomplying party pay attorney's fees, court
26 costs, and other expenses, if the parenting time order has

1 been violated. The expeditor shall not lose authority to
2 make a decision if circumstances beyond the expeditor's
3 control make it impracticable to meet the 5-day timelines.

4 (c) Unless the parties mutually agree, the parenting
5 time expeditor shall not make a decision that is
6 inconsistent with an existing parenting time order, but may
7 make decisions interpreting or clarifying a parenting time
8 order, including the development of a specific schedule
9 when the existing court order grants "reasonable parenting
10 time".

11 (d) The expeditor shall put an agreement or decision in
12 writing and provide a copy to the parties. The expeditor
13 may include or omit reasons for the agreement or decision.
14 An agreement of the parties or a decision of the expeditor
15 is binding on the parties unless vacated or modified by the
16 court. If a party does not comply with an agreement of the
17 parties or a decision of the expeditor, any party may bring
18 a motion with the court and shall attach a copy of the
19 parties' written agreement or decision of the expeditor.
20 The court may enforce, modify, or vacate the agreement of
21 the parties or the decision of the expeditor.

22 (9) Other agreements. This Section does not preclude the
23 parties from voluntarily agreeing to submit their parenting
24 time dispute to a neutral third party or from otherwise
25 resolving parenting time disputes on a voluntary basis.

26 (10) Confidentiality.

1 (a) Statements made and documents produced as part of
2 the parenting time expeditor process which are not
3 otherwise discoverable are not subject to discovery or
4 other disclosure and are not admissible into evidence for
5 any purpose at trial or in any other proceeding, including
6 impeachment.

7 (b) Sworn testimony may be used in subsequent
8 proceedings for any purpose for which it is admissible
9 under the Rules of Evidence. Parenting time expeditors, and
10 lawyers for the parties to the extent of their
11 participation in the parenting time expeditor process,
12 must not be subpoenaed or called as witnesses in court
13 proceedings.

14 (c) Notes, records, and recollections of parenting
15 time expeditors are confidential and must not be disclosed
16 to the parties, the public, or anyone other than the
17 parenting time expeditor unless:

18 (i) all parties and the expeditor agree in writing
19 to the disclosure; or

20 (ii) disclosure is required by law or other
21 applicable professional codes. Notes and records of
22 parenting time expeditors must not be disclosed to the
23 court unless after a hearing the court determines that
24 the notes or records should be reviewed in camera.
25 Those notes or records must not be released by the
26 court unless it determines that they disclose

1 information showing a violation of the criminal law of
2 this State.

3 (11) Immunity. A parenting time expeditor is immune from
4 civil liability for actions taken or not taken when acting
5 under this Section, except for willful and wanton misconduct.

6 (12) Removal. If a parenting time expeditor has been
7 appointed on a long-term basis, a party or the expeditor may
8 file a motion seeking to have the expeditor removed for good
9 cause shown.

10 (13) Mandatory parenting time dispute resolution. A
11 judicial circuit may establish a mandatory parenting time
12 dispute resolution program. In a judicial circuit where a
13 program has been established, parties may be required to submit
14 parenting time disputes to a parenting time expeditor as a
15 prerequisite to a motion on the dispute being heard by the
16 court, or either party may submit the dispute to an expeditor.
17 A party may file a motion with the court for purposes of
18 obtaining a court date, if necessary, but a hearing may not be
19 held until resolution of the dispute with the parenting time
20 expeditor. The appointment of an expeditor must be in
21 accordance with subsection (4). Expeditor fees must be paid in
22 accordance with subsection (5).