

SB3054



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB3054

Introduced 8/12/2008, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

750 ILCS 5/610

from Ch. 40, par. 610

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that a motion to modify a custody judgment with respect to a child who is at least 16 years of age may be made at any time by a parent of the child on the grounds that the child's preference is to live with the parent making the motion and the modification is in the best interest of the child. Provides that the court shall modify the custody judgment with respect to the child who is at least 16 years of age if it finds that the child's preference is to live with the parent making the motion and the modification is in the best interest of the child. Provides that specified restrictions on modification of custody judgments do not apply to a motion under the new provisions.

LRB095 21826 WGH 52052 b

A BILL FOR

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 610 as follows:

6 (750 ILCS 5/610) (from Ch. 40, par. 610)

7 Sec. 610. Modification.

8 (a) Unless by stipulation of the parties or except as
9 provided in subsections ~~subsection~~ (a-5) and (b-5), no motion
10 to modify a custody judgment may be made earlier than 2 years
11 after its date, unless the court permits it to be made on the
12 basis of affidavits that there is reason to believe the child's
13 present environment may endanger seriously his physical,
14 mental, moral or emotional health.

15 (a-5) A motion to modify a custody judgment may be made at
16 any time by a party who has been informed of the existence of
17 facts requiring notice to be given under Section 609.5.

18 (b) Except as provided in subsection (b-5), the ~~The~~ court
19 shall not modify a prior custody judgment unless it finds by
20 clear and convincing evidence, upon the basis of facts that
21 have arisen since the prior judgment or that were unknown to
22 the court at the time of entry of the prior judgment, that a
23 change has occurred in the circumstances of the child or his

1 custodian, or in the case of a joint custody arrangement that a
2 change has occurred in the circumstances of the child or either
3 or both parties having custody, and that the modification is
4 necessary to serve the best interest of the child. The
5 existence of facts requiring notice to be given under Section
6 609.5 of this Act shall be considered a change in circumstance.
7 In the case of joint custody, if the parties agree to a
8 termination of a joint custody arrangement, the court shall so
9 terminate the joint custody and make any modification which is
10 in the child's best interest. The court shall state in its
11 decision specific findings of fact in support of its
12 modification or termination of joint custody if either parent
13 opposes the modification or termination.

14 (b-5) A motion to modify a custody judgment with respect to
15 a child who is at least 16 years of age may be made at any time
16 by a parent of the child on the grounds that the child's
17 preference is to live with the parent making the motion and the
18 modification is in the best interest of the child. The court
19 shall modify the custody judgment with respect to the child who
20 is at least 16 years of age if it finds that the child's
21 preference is to live with the parent making the motion and the
22 modification is in the best interest of the child. The
23 restrictions in subsections (a) and (b) do not apply to a
24 motion under this subsection (b-5).

25 (c) Attorney fees and costs shall be assessed against a
26 party seeking modification if the court finds that the

1 modification action is vexatious and constitutes harassment.

2 (d) Notice under this Section shall be given as provided in
3 subsections (c) and (d) of Section 601.

4 (Source: P.A. 94-643, eff. 1-1-06.)