



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4564

Introduced 5/19/2009, by Rep. Jehan A. Gordon

SYNOPSIS AS INTRODUCED:

750 ILCS 5/601

from Ch. 40, par. 601

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that notice of a child custody proceeding or action for a modification of custody shall be given to the child's parents, grandparent who is a parent or stepparent of the child's deceased parent, guardian and custodian (instead of child's parents, guardian and custodian).

LRB096 10126 AJO 20292 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 changing Section 601 as follows:

6 (750 ILCS 5/601) (from Ch. 40, par. 601)

7 Sec. 601. Jurisdiction; Commencement of Proceeding.

8 (a) A court of this State competent to decide child custody
9 matters has jurisdiction to make a child custody determination
10 in original or modification proceedings as provided in Section
11 201 of the Uniform Child-Custody Jurisdiction and Enforcement
12 Act as adopted by this State.

13 (b) A child custody proceeding is commenced in the court:

14 (1) by a parent, by filing a petition:

15 (i) for dissolution of marriage or legal
16 separation or declaration of invalidity of marriage;
17 or

18 (ii) for custody of the child, in the county in
19 which he is permanently resident or found;

20 (2) by a person other than a parent, by filing a
21 petition for custody of the child in the county in which he
22 is permanently resident or found, but only if he is not in
23 the physical custody of one of his parents; or

1 (3) by a stepparent, by filing a petition, if all of
2 the following circumstances are met:

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

4 (B) the custodial parent and stepparent were
5 married for at least 5 years during which the child
6 resided with the parent and stepparent;

7 (C) the custodial parent is deceased or is disabled
8 and cannot perform the duties of a parent to the child;

9 (D) the stepparent provided for the care, control,
10 and welfare to the child prior to the initiation of
11 custody proceedings;

12 (E) the child wishes to live with the stepparent;
13 and

14 (F) it is alleged to be in the best interests and
15 welfare of the child to live with the stepparent as
16 provided in Section 602 of this Act.

17 (4) When one of the parents is deceased, by a
18 grandparent who is a parent or stepparent of a deceased
19 parent, by filing a petition, if one or more of the
20 following existed at the time of the parent's death:

21 (A) the surviving parent had been absent from the
22 marital abode for more than one month without the
23 deceased spouse knowing his or her whereabouts;

24 (B) the surviving parent was in State or federal
25 custody; or

26 (C) the surviving parent had: (i) received

1 supervision for or been convicted of any violation of
2 Article 12 of the Criminal Code of 1961 directed
3 towards the deceased parent or the child; or (ii)
4 received supervision or been convicted of violating an
5 order of protection entered under Section 217, 218, or
6 219 of the Illinois Domestic Violence Act of 1986 for
7 the protection of the deceased parent or the child.

8 (c) Notice of a child custody proceeding, including an
9 action for modification of a previous custody order, shall be
10 given to the child's parents, grandparent who is a parent or
11 stepparent of the child's deceased parent, guardian and
12 custodian, who may appear, be heard, and file a responsive
13 pleading. The court, upon showing of good cause, may permit
14 intervention of other interested parties.

15 (d) Proceedings for modification of a previous custody
16 order commenced more than 30 days following the entry of a
17 previous custody order must be initiated by serving a written
18 notice and a copy of the petition for modification upon the
19 child's parent, guardian and custodian at least 30 days prior
20 to hearing on the petition. Nothing in this Section shall
21 preclude a party in custody modification proceedings from
22 moving for a temporary order under Section 603 of this Act.

23 (e) (Blank).

24 (f) The court shall, at the court's discretion or upon the
25 request of any party entitled to petition for custody of the
26 child, appoint a guardian ad litem to represent the best

1 interest of the child for the duration of the custody
2 proceeding or for any modifications of any custody orders
3 entered. Nothing in this Section shall be construed to prevent
4 the court from appointing the same guardian ad litem for 2 or
5 more children that are siblings or half-siblings.

6 (Source: P.A. 93-108, eff. 1-1-04; 93-1026, eff. 1-1-05.)