



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0101

Introduced 1/30/2009, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

720 ILCS 5/10-5.5

750 ILCS 5/607.1

from Ch. 40, par. 607.1

Amends the Criminal Code of 1961. In provisions concerning the offense of unlawful visitation interference, changes the name of the offense to unlawful parenting time interference and changes references from "visitation" to "parenting time"; also adds references to "custody time". Amends the Illinois Marriage and Dissolution of Marriage Act. Provides for the enforcement of parenting time (instead of visitation) orders and a process to address parenting time abuse (instead of visitation abuse). Provides that parenting time may arise from court ordered visitation, parenting time, custody, or joint custody. Changes the name of the activity to parenting time (instead of visitation).

LRB096 03109 AJO 13125 b

1 AN ACT concerning parenting time.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 10-5.5 as follows:

6 (720 ILCS 5/10-5.5)

7 Sec. 10-5.5. Unlawful visitation or parenting time
8 interference.

9 (a) As used in this Section, the terms "child", "detain",
10 and "lawful custodian" shall have the meanings ascribed to them
11 in Section 10-5 of this Code.

12 (b) Every person who, in violation of the visitation,
13 parenting time, or custody time provisions of a court order
14 relating to child custody, detains or conceals a child with the
15 intent to deprive another person of his or her rights to
16 visitation, parenting time, or custody time shall be guilty of
17 unlawful visitation or parenting time interference.

18 (c) A person committing unlawful visitation or parenting
19 time interference is guilty of a petty offense. However, any
20 person violating this Section after 2 prior convictions of
21 unlawful visitation interference or unlawful visitation or
22 parenting time interference is guilty of a Class A misdemeanor.

23 (d) Any law enforcement officer who has probable cause to

1 believe that a person has committed or is committing an act in
2 violation of this Section shall issue to that person a notice
3 to appear.

4 (e) The notice shall:

5 (1) be in writing;

6 (2) state the name of the person and his address, if
7 known;

8 (3) set forth the nature of the offense;

9 (4) be signed by the officer issuing the notice; and

10 (5) request the person to appear before a court at a
11 certain time and place.

12 (f) Upon failure of the person to appear, a summons or
13 warrant of arrest may be issued.

14 (g) It is an affirmative defense that:

15 (1) a person or lawful custodian committed the act to
16 protect the child from imminent physical harm, provided
17 that the defendant's belief that there was physical harm
18 imminent was reasonable and that the defendant's conduct in
19 withholding visitation rights, parenting time, or custody
20 time was a reasonable response to the harm believed
21 imminent;

22 (2) the act was committed with the mutual consent of
23 all parties having a right to custody and visitation of the
24 child or parenting time with the child; or

25 (3) the act was otherwise authorized by law.

26 (h) A person convicted of unlawful visitation or parenting

1 time interference shall not be subject to a civil contempt
2 citation for the same conduct for violating visitation,
3 parenting time, or custody time provisions of a court order
4 issued under the Illinois Marriage and Dissolution of Marriage
5 Act.

6 (Source: P.A. 88-96.)

7 Section 10. The Illinois Marriage and Dissolution of
8 Marriage Act is amended by changing Section 607.1 as follows:

9 (750 ILCS 5/607.1) (from Ch. 40, par. 607.1)

10 Sec. 607.1. Enforcement of parenting time ~~visitation~~
11 orders; parenting time ~~visitation~~ abuse.

12 (a) The circuit court shall provide an expedited procedure
13 for enforcement of court ordered parenting time ~~visitation~~ in
14 cases of parenting time visitation abuse. "Parenting time" may
15 arise from court ordered visitation, parenting time, custody,
16 or joint custody. Parenting time ~~Visitation~~ abuse occurs when a
17 party has willfully and without justification: (1) denied
18 another party parenting time ~~visitation~~ as set forth by the
19 court; or (2) exercised his or her parenting time ~~visitation~~
20 rights in a manner that is harmful to the child or child's
21 custodian or other parent.

22 (b) An action ~~Action~~ may be commenced by filing a petition
23 setting forth: (i) the petitioner's name, residence address or
24 mailing address, and telephone number; (ii) respondent's name

1 and place of residence, place of employment, or mailing
2 address; (iii) the nature of the parenting time ~~visitation~~
3 abuse, giving dates and other relevant information; (iv) that a
4 reasonable attempt was made to resolve the dispute; and (v) the
5 relief sought.

6 Notice of the filing of the petitions shall be given as
7 provided in Section 511.

8 (c) After hearing all of the evidence, the court may order
9 one or more of the following:

10 (1) Modification of the parenting time ~~visitation~~
11 order to specifically outline periods of parenting time
12 ~~visitation~~ or restrict parenting time ~~visitation~~ as
13 provided by law.

14 (2) Supervised parenting time ~~visitation~~ with a third
15 party or public agency.

16 (3) Make up parenting time ~~visitation~~ of the same time
17 period, such as weekend for weekend, holiday for holiday.

18 (4) Counseling or mediation, except in cases where
19 there is evidence of domestic violence, as defined in
20 Section 1 of the Domestic Violence Shelters Act, occurring
21 between the parties.

22 (5) Other appropriate relief deemed equitable.

23 (d) Nothing contained in this Section shall be construed to
24 limit the court's contempt power, except as provided in
25 subsection (g) of this Section.

26 (e) When the court issues an order holding a party in

1 contempt of court for violation of a parenting time ~~visitation~~
2 order, the clerk shall transmit a copy of the contempt order to
3 the sheriff of the county. The sheriff shall furnish a copy of
4 each contempt order to the Department of State Police on a
5 daily basis in the form and manner required by the Department.
6 The Department shall maintain a complete record and index of
7 the contempt orders and make this data available to all local
8 law enforcement agencies.

9 (f) Attorney fees and costs shall be assessed against a
10 party if the court finds that the enforcement action is
11 vexatious and constitutes harassment.

12 (g) A person convicted of unlawful parenting time
13 ~~visitation~~ interference under Section 10-5.5 of the Criminal
14 Code of 1961 shall not be subject to the provisions of this
15 Section and the court may not enter a contempt order for
16 parenting time ~~visitation~~ abuse against any person for the same
17 conduct for which the person was convicted of unlawful
18 parenting time ~~visitation~~ interference or subject that person
19 to the sanctions provided for in this Section.

20 (Source: P.A. 87-895; 88-96.)