



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5487

Introduced 2/15/2012, by Rep. Richard Morthland

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-3	from Ch. 38, par. 1003-6-3
750 ILCS 5/602	from Ch. 40, par. 602
750 ILCS 5/607	from Ch. 40, par. 607

Amends the Unified Code of Corrections and the Illinois Marriage and Dissolution of Marriage Act. Provides that whenever the Department of Corrections is to release any inmate who has been convicted of a felony, earlier than it otherwise would because of a grant of good conduct credit, the Department shall give written notice of the impending release not less than 120 days prior to the date of the release to the victim of the offense for which the inmate was convicted and the victim's family members. Provides that a court may not award either sole custody or joint custody to a parent who has been convicted of a felony unless certain criteria are first met, including that (i) a psychological examination of the parent has been conducted by a qualified individual, and that individual is of the opinion that the parent is a fit person to raise and care for the child and (ii) the child or the child's legal guardian has consented to an award of custody to the parent. Provides that a court may not award unsupervised visitation to a parent who has been convicted of a felony unless similar criteria are first met. Provides for immediate suspension of a parent's unsupervised visitation if the child alleges that he or she has been a victim of abuse or sexual molestation perpetrated by a person in the home where the unsupervised visitation has taken place.

LRB097 19628 DRJ 64882 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

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

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 3-6-3 as follows:

6 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

7 Sec. 3-6-3. Rules and Regulations for Early Release.

8 (a) (1) The Department of Corrections shall prescribe  
9 rules and regulations for the early release on account of  
10 good conduct of persons committed to the Department which  
11 shall be subject to review by the Prisoner Review Board.

12 (2) The rules and regulations on early release shall  
13 provide, with respect to offenses listed in clause (i),  
14 (ii), or (iii) of this paragraph (2) committed on or after  
15 June 19, 1998 or with respect to the offense listed in  
16 clause (iv) of this paragraph (2) committed on or after  
17 June 23, 2005 (the effective date of Public Act 94-71) or  
18 with respect to offense listed in clause (vi) committed on  
19 or after June 1, 2008 (the effective date of Public Act  
20 95-625) or with respect to the offense of being an armed  
21 habitual criminal committed on or after August 2, 2005 (the  
22 effective date of Public Act 94-398) or with respect to the  
23 offenses listed in clause (v) of this paragraph (2)

1 committed on or after August 13, 2007 (the effective date  
2 of Public Act 95-134) or with respect to the offense of  
3 aggravated domestic battery committed on or after July 23,  
4 2010 (the effective date of Public Act 96-1224), the  
5 following:

6 (i) that a prisoner who is serving a term of  
7 imprisonment for first degree murder or for the offense  
8 of terrorism shall receive no good conduct credit and  
9 shall serve the entire sentence imposed by the court;

10 (ii) that a prisoner serving a sentence for attempt  
11 to commit first degree murder, solicitation of murder,  
12 solicitation of murder for hire, intentional homicide  
13 of an unborn child, predatory criminal sexual assault  
14 of a child, aggravated criminal sexual assault,  
15 criminal sexual assault, aggravated kidnapping,  
16 aggravated battery with a firearm as described in  
17 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3),  
18 or (e) (4) of Section 12-3.05, heinous battery as  
19 described in Section 12-4.1 or subdivision (a) (2) of  
20 Section 12-3.05, being an armed habitual criminal,  
21 aggravated battery of a senior citizen as described in  
22 Section 12-4.6 or subdivision (a) (4) of Section  
23 12-3.05, or aggravated battery of a child as described  
24 in Section 12-4.3 or subdivision (b) (1) of Section  
25 12-3.05 shall receive no more than 4.5 days of good  
26 conduct credit for each month of his or her sentence of

1 imprisonment;

2 (iii) that a prisoner serving a sentence for home  
3 invasion, armed robbery, aggravated vehicular  
4 hijacking, aggravated discharge of a firearm, or armed  
5 violence with a category I weapon or category II  
6 weapon, when the court has made and entered a finding,  
7 pursuant to subsection (c-1) of Section 5-4-1 of this  
8 Code, that the conduct leading to conviction for the  
9 enumerated offense resulted in great bodily harm to a  
10 victim, shall receive no more than 4.5 days of good  
11 conduct credit for each month of his or her sentence of  
12 imprisonment;

13 (iv) that a prisoner serving a sentence for  
14 aggravated discharge of a firearm, whether or not the  
15 conduct leading to conviction for the offense resulted  
16 in great bodily harm to the victim, shall receive no  
17 more than 4.5 days of good conduct credit for each  
18 month of his or her sentence of imprisonment;

19 (v) that a person serving a sentence for  
20 gunrunning, narcotics racketeering, controlled  
21 substance trafficking, methamphetamine trafficking,  
22 drug-induced homicide, aggravated  
23 methamphetamine-related child endangerment, money  
24 laundering pursuant to clause (c) (4) or (5) of Section  
25 29B-1 of the Criminal Code of 1961, or a Class X felony  
26 conviction for delivery of a controlled substance,

1 possession of a controlled substance with intent to  
2 manufacture or deliver, calculated criminal drug  
3 conspiracy, criminal drug conspiracy, street gang  
4 criminal drug conspiracy, participation in  
5 methamphetamine manufacturing, aggravated  
6 participation in methamphetamine manufacturing,  
7 delivery of methamphetamine, possession with intent to  
8 deliver methamphetamine, aggravated delivery of  
9 methamphetamine, aggravated possession with intent to  
10 deliver methamphetamine, methamphetamine conspiracy  
11 when the substance containing the controlled substance  
12 or methamphetamine is 100 grams or more shall receive  
13 no more than 7.5 days good conduct credit for each  
14 month of his or her sentence of imprisonment;

15 (vi) that a prisoner serving a sentence for a  
16 second or subsequent offense of luring a minor shall  
17 receive no more than 4.5 days of good conduct credit  
18 for each month of his or her sentence of imprisonment;  
19 and

20 (vii) that a prisoner serving a sentence for  
21 aggravated domestic battery shall receive no more than  
22 4.5 days of good conduct credit for each month of his  
23 or her sentence of imprisonment.

24 (2.1) For all offenses, other than those enumerated in  
25 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
26 June 19, 1998 or subdivision (a)(2)(iv) committed on or

1 after June 23, 2005 (the effective date of Public Act  
2 94-71) or subdivision (a)(2)(v) committed on or after  
3 August 13, 2007 (the effective date of Public Act 95-134)  
4 or subdivision (a)(2)(vi) committed on or after June 1,  
5 2008 (the effective date of Public Act 95-625) or  
6 subdivision (a)(2)(vii) committed on or after July 23, 2010  
7 (the effective date of Public Act 96-1224), and other than  
8 the offense of aggravated driving under the influence of  
9 alcohol, other drug or drugs, or intoxicating compound or  
10 compounds, or any combination thereof as defined in  
11 subparagraph (F) of paragraph (1) of subsection (d) of  
12 Section 11-501 of the Illinois Vehicle Code, and other than  
13 the offense of aggravated driving under the influence of  
14 alcohol, other drug or drugs, or intoxicating compound or  
15 compounds, or any combination thereof as defined in  
16 subparagraph (C) of paragraph (1) of subsection (d) of  
17 Section 11-501 of the Illinois Vehicle Code committed on or  
18 after January 1, 2011 (the effective date of Public Act  
19 96-1230), the rules and regulations shall provide that a  
20 prisoner who is serving a term of imprisonment shall  
21 receive one day of good conduct credit for each day of his  
22 or her sentence of imprisonment or recommitment under  
23 Section 3-3-9. Each day of good conduct credit shall reduce  
24 by one day the prisoner's period of imprisonment or  
25 recommitment under Section 3-3-9.

26 (2.2) A prisoner serving a term of natural life

1 imprisonment or a prisoner who has been sentenced to death  
2 shall receive no good conduct credit.

3 (2.3) The rules and regulations on early release shall  
4 provide that a prisoner who is serving a sentence for  
5 aggravated driving under the influence of alcohol, other  
6 drug or drugs, or intoxicating compound or compounds, or  
7 any combination thereof as defined in subparagraph (F) of  
8 paragraph (1) of subsection (d) of Section 11-501 of the  
9 Illinois Vehicle Code, shall receive no more than 4.5 days  
10 of good conduct credit for each month of his or her  
11 sentence of imprisonment.

12 (2.4) The rules and regulations on early release shall  
13 provide with respect to the offenses of aggravated battery  
14 with a machine gun or a firearm equipped with any device or  
15 attachment designed or used for silencing the report of a  
16 firearm or aggravated discharge of a machine gun or a  
17 firearm equipped with any device or attachment designed or  
18 used for silencing the report of a firearm, committed on or  
19 after July 15, 1999 (the effective date of Public Act  
20 91-121), that a prisoner serving a sentence for any of  
21 these offenses shall receive no more than 4.5 days of good  
22 conduct credit for each month of his or her sentence of  
23 imprisonment.

24 (2.5) The rules and regulations on early release shall  
25 provide that a prisoner who is serving a sentence for  
26 aggravated arson committed on or after July 27, 2001 (the

1 effective date of Public Act 92-176) shall receive no more  
2 than 4.5 days of good conduct credit for each month of his  
3 or her sentence of imprisonment.

4 (2.6) The rules and regulations on early release shall  
5 provide that a prisoner who is serving a sentence for  
6 aggravated driving under the influence of alcohol, other  
7 drug or drugs, or intoxicating compound or compounds or any  
8 combination thereof as defined in subparagraph (C) of  
9 paragraph (1) of subsection (d) of Section 11-501 of the  
10 Illinois Vehicle Code committed on or after January 1, 2011  
11 (the effective date of Public Act 96-1230) shall receive no  
12 more than 4.5 days of good conduct credit for each month of  
13 his or her sentence of imprisonment.

14 (3) The rules and regulations shall also provide that  
15 the Director may award up to 180 days additional good  
16 conduct credit for meritorious service in specific  
17 instances as the Director deems proper; except that no more  
18 than 90 days of good conduct credit for meritorious service  
19 shall be awarded to any prisoner who is serving a sentence  
20 for conviction of first degree murder, reckless homicide  
21 while under the influence of alcohol or any other drug, or  
22 aggravated driving under the influence of alcohol, other  
23 drug or drugs, or intoxicating compound or compounds, or  
24 any combination thereof as defined in subparagraph (F) of  
25 paragraph (1) of subsection (d) of Section 11-501 of the  
26 Illinois Vehicle Code, aggravated kidnapping, kidnapping,



1 predatory criminal sexual assault of a child, aggravated  
2 criminal sexual assault, criminal sexual assault, deviate  
3 sexual assault, aggravated criminal sexual abuse,  
4 aggravated indecent liberties with a child, indecent  
5 liberties with a child, child pornography, heinous battery  
6 as described in Section 12-4.1 or subdivision (a)(2) of  
7 Section 12-3.05, aggravated battery of a spouse,  
8 aggravated battery of a spouse with a firearm, stalking,  
9 aggravated stalking, aggravated battery of a child as  
10 described in Section 12-4.3 or subdivision (b)(1) of  
11 Section 12-3.05, endangering the life or health of a child,  
12 or cruelty to a child. Notwithstanding the foregoing, good  
13 conduct credit for meritorious service shall not be awarded  
14 on a sentence of imprisonment imposed for conviction of:  
15 (i) one of the offenses enumerated in subdivision  
16 (a)(2)(i), (ii), or (iii) when the offense is committed on  
17 or after June 19, 1998 or subdivision (a)(2)(iv) when the  
18 offense is committed on or after June 23, 2005 (the  
19 effective date of Public Act 94-71) or subdivision  
20 (a)(2)(v) when the offense is committed on or after August  
21 13, 2007 (the effective date of Public Act 95-134) or  
22 subdivision (a)(2)(vi) when the offense is committed on or  
23 after June 1, 2008 (the effective date of Public Act  
24 95-625) or subdivision (a)(2)(vii) when the offense is  
25 committed on or after July 23, 2010 (the effective date of  
26 Public Act 96-1224), (ii) aggravated driving under the

1 influence of alcohol, other drug or drugs, or intoxicating  
2 compound or compounds, or any combination thereof as  
3 defined in subparagraph (F) of paragraph (1) of subsection  
4 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)  
5 one of the offenses enumerated in subdivision (a)(2.4) when  
6 the offense is committed on or after July 15, 1999 (the  
7 effective date of Public Act 91-121), (iv) aggravated arson  
8 when the offense is committed on or after July 27, 2001  
9 (the effective date of Public Act 92-176), (v) offenses  
10 that may subject the offender to commitment under the  
11 Sexually Violent Persons Commitment Act, or (vi)  
12 aggravated driving under the influence of alcohol, other  
13 drug or drugs, or intoxicating compound or compounds or any  
14 combination thereof as defined in subparagraph (C) of  
15 paragraph (1) of subsection (d) of Section 11-501 of the  
16 Illinois Vehicle Code committed on or after January 1, 2011  
17 (the effective date of Public Act 96-1230).

18 The Director shall not award good conduct credit for  
19 meritorious service under this paragraph (3) to an inmate  
20 unless the inmate has served a minimum of 60 days of the  
21 sentence; except nothing in this paragraph shall be  
22 construed to permit the Director to extend an inmate's  
23 sentence beyond that which was imposed by the court. Prior  
24 to awarding credit under this paragraph (3), the Director  
25 shall make a written determination that the inmate:

26 (A) is eligible for good conduct credit for

1 meritorious service;

2 (B) has served a minimum of 60 days, or as close to  
3 60 days as the sentence will allow; and

4 (C) has met the eligibility criteria established  
5 by rule.

6 The Director shall determine the form and content of  
7 the written determination required in this subsection.

8 (4) The rules and regulations shall also provide that  
9 the good conduct credit accumulated and retained under  
10 paragraph (2.1) of subsection (a) of this Section by any  
11 inmate during specific periods of time in which such inmate  
12 is engaged full-time in substance abuse programs,  
13 correctional industry assignments, or educational programs  
14 provided by the Department under this paragraph (4) and  
15 satisfactorily completes the assigned program as  
16 determined by the standards of the Department, shall be  
17 multiplied by a factor of 1.25 for program participation  
18 before August 11, 1993 and 1.50 for program participation  
19 on or after that date. However, no inmate shall be eligible  
20 for the additional good conduct credit under this paragraph  
21 (4) or (4.1) of this subsection (a) while assigned to a  
22 boot camp or electronic detention, or if convicted of an  
23 offense enumerated in subdivision (a)(2)(i), (ii), or  
24 (iii) of this Section that is committed on or after June  
25 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
26 committed on or after June 23, 2005 (the effective date of

1 Public Act 94-71) or subdivision (a)(2)(v) of this Section  
2 that is committed on or after August 13, 2007 (the  
3 effective date of Public Act 95-134) or subdivision  
4 (a)(2)(vi) when the offense is committed on or after June  
5 1, 2008 (the effective date of Public Act 95-625) or  
6 subdivision (a)(2)(vii) when the offense is committed on or  
7 after July 23, 2010 (the effective date of Public Act  
8 96-1224), or if convicted of aggravated driving under the  
9 influence of alcohol, other drug or drugs, or intoxicating  
10 compound or compounds or any combination thereof as defined  
11 in subparagraph (F) of paragraph (1) of subsection (d) of  
12 Section 11-501 of the Illinois Vehicle Code, or if  
13 convicted of aggravated driving under the influence of  
14 alcohol, other drug or drugs, or intoxicating compound or  
15 compounds or any combination thereof as defined in  
16 subparagraph (C) of paragraph (1) of subsection (d) of  
17 Section 11-501 of the Illinois Vehicle Code committed on or  
18 after January 1, 2011 (the effective date of Public Act  
19 96-1230), or if convicted of an offense enumerated in  
20 paragraph (a)(2.4) of this Section that is committed on or  
21 after July 15, 1999 (the effective date of Public Act  
22 91-121), or first degree murder, a Class X felony, criminal  
23 sexual assault, felony criminal sexual abuse, aggravated  
24 criminal sexual abuse, aggravated battery with a firearm as  
25 described in Section 12-4.2 or subdivision (e)(1), (e)(2),  
26 (e)(3), or (e)(4) of Section 12-3.05, or any predecessor or

1 successor offenses with the same or substantially the same  
2 elements, or any inchoate offenses relating to the  
3 foregoing offenses. No inmate shall be eligible for the  
4 additional good conduct credit under this paragraph (4) who  
5 (i) has previously received increased good conduct credit  
6 under this paragraph (4) and has subsequently been  
7 convicted of a felony, or (ii) has previously served more  
8 than one prior sentence of imprisonment for a felony in an  
9 adult correctional facility.

10 Educational, vocational, substance abuse and  
11 correctional industry programs under which good conduct  
12 credit may be increased under this paragraph (4) and  
13 paragraph (4.1) of this subsection (a) shall be evaluated  
14 by the Department on the basis of documented standards. The  
15 Department shall report the results of these evaluations to  
16 the Governor and the General Assembly by September 30th of  
17 each year. The reports shall include data relating to the  
18 recidivism rate among program participants.

19 Availability of these programs shall be subject to the  
20 limits of fiscal resources appropriated by the General  
21 Assembly for these purposes. Eligible inmates who are  
22 denied immediate admission shall be placed on a waiting  
23 list under criteria established by the Department. The  
24 inability of any inmate to become engaged in any such  
25 programs by reason of insufficient program resources or for  
26 any other reason established under the rules and

1 regulations of the Department shall not be deemed a cause  
2 of action under which the Department or any employee or  
3 agent of the Department shall be liable for damages to the  
4 inmate.

5 (4.1) The rules and regulations shall also provide that  
6 an additional 60 days of good conduct credit shall be  
7 awarded to any prisoner who passes the high school level  
8 Test of General Educational Development (GED) while the  
9 prisoner is incarcerated. The good conduct credit awarded  
10 under this paragraph (4.1) shall be in addition to, and  
11 shall not affect, the award of good conduct under any other  
12 paragraph of this Section, but shall also be pursuant to  
13 the guidelines and restrictions set forth in paragraph (4)  
14 of subsection (a) of this Section. The good conduct credit  
15 provided for in this paragraph shall be available only to  
16 those prisoners who have not previously earned a high  
17 school diploma or a GED. If, after an award of the GED good  
18 conduct credit has been made and the Department determines  
19 that the prisoner was not eligible, then the award shall be  
20 revoked.

21 (4.5) The rules and regulations on early release shall  
22 also provide that when the court's sentencing order  
23 recommends a prisoner for substance abuse treatment and the  
24 crime was committed on or after September 1, 2003 (the  
25 effective date of Public Act 93-354), the prisoner shall  
26 receive no good conduct credit awarded under clause (3) of

1           this subsection (a) unless he or she participates in and  
2           completes a substance abuse treatment program. The  
3           Director may waive the requirement to participate in or  
4           complete a substance abuse treatment program and award the  
5           good conduct credit in specific instances if the prisoner  
6           is not a good candidate for a substance abuse treatment  
7           program for medical, programming, or operational reasons.  
8           Availability of substance abuse treatment shall be subject  
9           to the limits of fiscal resources appropriated by the  
10          General Assembly for these purposes. If treatment is not  
11          available and the requirement to participate and complete  
12          the treatment has not been waived by the Director, the  
13          prisoner shall be placed on a waiting list under criteria  
14          established by the Department. The Director may allow a  
15          prisoner placed on a waiting list to participate in and  
16          complete a substance abuse education class or attend  
17          substance abuse self-help meetings in lieu of a substance  
18          abuse treatment program. A prisoner on a waiting list who  
19          is not placed in a substance abuse program prior to release  
20          may be eligible for a waiver and receive good conduct  
21          credit under clause (3) of this subsection (a) at the  
22          discretion of the Director.

23                 (4.6) The rules and regulations on early release shall  
24                 also provide that a prisoner who has been convicted of a  
25                 sex offense as defined in Section 2 of the Sex Offender  
26                 Registration Act shall receive no good conduct credit

1 unless he or she either has successfully completed or is  
2 participating in sex offender treatment as defined by the  
3 Sex Offender Management Board. However, prisoners who are  
4 waiting to receive such treatment, but who are unable to do  
5 so due solely to the lack of resources on the part of the  
6 Department, may, at the Director's sole discretion, be  
7 awarded good conduct credit at such rate as the Director  
8 shall determine.

9 (5) Whenever the Department is to release any inmate  
10 earlier than it otherwise would because of a grant of good  
11 conduct credit for meritorious service given at any time  
12 during the term, the Department shall give reasonable  
13 notice of the impending release not less than 14 days prior  
14 to the date of the release to the State's Attorney of the  
15 county where the prosecution of the inmate took place, and  
16 if applicable, the State's Attorney of the county into  
17 which the inmate will be released. The Department must also  
18 make identification information and a recent photo of the  
19 inmate being released accessible on the Internet by means  
20 of a hyperlink labeled "Community Notification of Inmate  
21 Early Release" on the Department's World Wide Web homepage.  
22 The identification information shall include the inmate's:  
23 name, any known alias, date of birth, physical  
24 characteristics, residence address, commitment offense and  
25 county where conviction was imposed. The identification  
26 information shall be placed on the website within 3 days of



1 the inmate's release and the information may not be removed  
2 until either: completion of the first year of mandatory  
3 supervised release or return of the inmate to custody of  
4 the Department.

5 (b) Whenever a person is or has been committed under  
6 several convictions, with separate sentences, the sentences  
7 shall be construed under Section 5-8-4 in granting and  
8 forfeiting of good time.

9 (c) The Department shall prescribe rules and regulations  
10 for revoking good conduct credit, or suspending or reducing the  
11 rate of accumulation of good conduct credit for specific rule  
12 violations, during imprisonment. These rules and regulations  
13 shall provide that no inmate may be penalized more than one  
14 year of good conduct credit for any one infraction.

15 When the Department seeks to revoke, suspend or reduce the  
16 rate of accumulation of any good conduct credits for an alleged  
17 infraction of its rules, it shall bring charges therefor  
18 against the prisoner sought to be so deprived of good conduct  
19 credits before the Prisoner Review Board as provided in  
20 subparagraph (a)(4) of Section 3-3-2 of this Code, if the  
21 amount of credit at issue exceeds 30 days or when during any 12  
22 month period, the cumulative amount of credit revoked exceeds  
23 30 days except where the infraction is committed or discovered  
24 within 60 days of scheduled release. In those cases, the  
25 Department of Corrections may revoke up to 30 days of good  
26 conduct credit. The Board may subsequently approve the

1 revocation of additional good conduct credit, if the Department  
2 seeks to revoke good conduct credit in excess of 30 days.  
3 However, the Board shall not be empowered to review the  
4 Department's decision with respect to the loss of 30 days of  
5 good conduct credit within any calendar year for any prisoner  
6 or to increase any penalty beyond the length requested by the  
7 Department.

8 The Director of the Department of Corrections, in  
9 appropriate cases, may restore up to 30 days good conduct  
10 credits which have been revoked, suspended or reduced. Any  
11 restoration of good conduct credits in excess of 30 days shall  
12 be subject to review by the Prisoner Review Board. However, the  
13 Board may not restore good conduct credit in excess of the  
14 amount requested by the Director.

15 Nothing contained in this Section shall prohibit the  
16 Prisoner Review Board from ordering, pursuant to Section  
17 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
18 sentence imposed by the court that was not served due to the  
19 accumulation of good conduct credit.

20 (d) If a lawsuit is filed by a prisoner in an Illinois or  
21 federal court against the State, the Department of Corrections,  
22 or the Prisoner Review Board, or against any of their officers  
23 or employees, and the court makes a specific finding that a  
24 pleading, motion, or other paper filed by the prisoner is  
25 frivolous, the Department of Corrections shall conduct a  
26 hearing to revoke up to 180 days of good conduct credit by

1 bringing charges against the prisoner sought to be deprived of  
2 the good conduct credits before the Prisoner Review Board as  
3 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.  
4 If the prisoner has not accumulated 180 days of good conduct  
5 credit at the time of the finding, then the Prisoner Review  
6 Board may revoke all good conduct credit accumulated by the  
7 prisoner.

8 For purposes of this subsection (d):

9 (1) "Frivolous" means that a pleading, motion, or other  
10 filing which purports to be a legal document filed by a  
11 prisoner in his or her lawsuit meets any or all of the  
12 following criteria:

13 (A) it lacks an arguable basis either in law or in  
14 fact;

15 (B) it is being presented for any improper purpose,  
16 such as to harass or to cause unnecessary delay or  
17 needless increase in the cost of litigation;

18 (C) the claims, defenses, and other legal  
19 contentions therein are not warranted by existing law  
20 or by a nonfrivolous argument for the extension,  
21 modification, or reversal of existing law or the  
22 establishment of new law;

23 (D) the allegations and other factual contentions  
24 do not have evidentiary support or, if specifically so  
25 identified, are not likely to have evidentiary support  
26 after a reasonable opportunity for further

1 investigation or discovery; or

2 (E) the denials of factual contentions are not  
3 warranted on the evidence, or if specifically so  
4 identified, are not reasonably based on a lack of  
5 information or belief.

6 (2) "Lawsuit" means a motion pursuant to Section 116-3  
7 of the Code of Criminal Procedure of 1963, a habeas corpus  
8 action under Article X of the Code of Civil Procedure or  
9 under federal law (28 U.S.C. 2254), a petition for claim  
10 under the Court of Claims Act, an action under the federal  
11 Civil Rights Act (42 U.S.C. 1983), or a second or  
12 subsequent petition for post-conviction relief under  
13 Article 122 of the Code of Criminal Procedure of 1963  
14 whether filed with or without leave of court or a second or  
15 subsequent petition for relief from judgment under Section  
16 2-1401 of the Code of Civil Procedure.

17 (e) Nothing in Public Act 90-592 or 90-593 affects the  
18 validity of Public Act 89-404.

19 (f) Whenever the Department is to release any inmate who  
20 has been convicted of a violation of an order of protection  
21 under Section 12-3.4 or 12-30 of the Criminal Code of 1961,  
22 earlier than it otherwise would because of a grant of good  
23 conduct credit, the Department, as a condition of such early  
24 release, shall require that the person, upon release, be placed  
25 under electronic surveillance as provided in Section 5-8A-7 of  
26 this Code.

1       (g) Whenever the Department is to release any inmate who  
2       has been convicted of a felony, earlier than it otherwise would  
3       because of a grant of good conduct credit, the Department shall  
4       give written notice of the impending release not less than 120  
5       days prior to the date of the release to the victim of the  
6       offense for which the inmate was convicted and the victim's  
7       family members. The notice shall include, but need not be  
8       limited to, the inmate's name and the location where the inmate  
9       will reside upon his or her release.

10       (Source: P.A. 95-134, eff. 8-13-07; 95-585, eff. 6-1-08;  
11       95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09;  
12       95-876, eff. 8-21-08; 96-860, eff. 1-15-10; 96-1110, eff.  
13       7-19-10; 96-1128, eff. 1-1-11; 96-1200, eff. 7-22-10; 96-1224,  
14       eff. 7-23-10; 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11;  
15       97-333, eff. 8-12-11.)

16       Section 10. The Illinois Marriage and Dissolution of  
17       Marriage Act is amended by changing Sections 602 and 607 as  
18       follows:

19             (750 ILCS 5/602) (from Ch. 40, par. 602)

20             Sec. 602. Best Interest of Child.

21             (a) The court shall determine custody in accordance with  
22       the best interest of the child. The court shall consider all  
23       relevant factors including:

24             (1) the wishes of the child's parent or parents as to

1 his custody;

2 (2) the wishes of the child as to his custodian;

3 (3) the interaction and interrelationship of the child  
4 with his parent or parents, his siblings and any other  
5 person who may significantly affect the child's best  
6 interest;

7 (4) the child's adjustment to his home, school and  
8 community;

9 (5) the mental and physical health of all individuals  
10 involved;

11 (6) the physical violence or threat of physical  
12 violence by the child's potential custodian, whether  
13 directed against the child or directed against another  
14 person;

15 (7) the occurrence of ongoing or repeated abuse as  
16 defined in Section 103 of the Illinois Domestic Violence  
17 Act of 1986, whether directed against the child or directed  
18 against another person;

19 (8) the willingness and ability of each parent to  
20 facilitate and encourage a close and continuing  
21 relationship between the other parent and the child;

22 (9) whether one of the parents is a sex offender; and

23 (10) the terms of a parent's military family-care plan  
24 that a parent must complete before deployment if a parent  
25 is a member of the United States Armed Forces who is being  
26 deployed.

1           In the case of a custody proceeding in which a stepparent  
2 has standing under Section 601, it is presumed to be in the  
3 best interest of the minor child that the natural parent have  
4 the custody of the minor child unless the presumption is  
5 rebutted by the stepparent.

6           (a-5) The court may not award either sole custody or joint  
7 custody to a parent who has been convicted of a felony unless  
8 all of the following criteria are first met:

9           (1) A psychological examination of the parent has been  
10 conducted by a qualified individual, and that individual is  
11 of the opinion that the parent is a fit person to raise and  
12 care for the child.

13           (2) The child consents to an award of custody to the  
14 parent.

15           (3) If the child is not legally capable of giving  
16 consent to an award of custody to the parent, the child's  
17 legal guardian has given such consent. A guardian may not  
18 unreasonably withhold his or her consent to an award of  
19 custody to the parent.

20           (b) The court shall not consider conduct of a present or  
21 proposed custodian that does not affect his relationship to the  
22 child.

23           (c) Unless the court finds the occurrence of ongoing abuse  
24 as defined in Section 103 of the Illinois Domestic Violence Act  
25 of 1986, the court shall presume that the maximum involvement  
26 and cooperation of both parents regarding the physical, mental,

1 moral, and emotional well-being of their child is in the best  
2 interest of the child. There shall be no presumption in favor  
3 of or against joint custody.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-676, eff. 1-1-10.)

5 (750 ILCS 5/607) (from Ch. 40, par. 607)

6 (Text of Section before amendment by P.A. 97-659)

7 Sec. 607. Visitation.

8 (a) A parent not granted custody of the child is entitled  
9 to reasonable visitation rights unless the court finds, after a  
10 hearing, that visitation would endanger seriously the child's  
11 physical, mental, moral or emotional health. If the custodian's  
12 street address is not identified, pursuant to Section 708, the  
13 court shall require the parties to identify reasonable  
14 alternative arrangements for visitation by a non-custodial  
15 parent, including but not limited to visitation of the minor  
16 child at the residence of another person or at a local public  
17 or private facility.

18 (1) "Visitation" means in-person time spent between a  
19 child and the child's parent. In appropriate  
20 circumstances, it may include electronic communication  
21 under conditions and at times determined by the court.

22 (2) "Electronic communication" means time that a  
23 parent spends with his or her child during which the child  
24 is not in the parent's actual physical custody, but which  
25 is facilitated by the use of communication tools such as



1 the telephone, electronic mail, instant messaging, video  
2 conferencing or other wired or wireless technologies via  
3 the Internet, or another medium of communication.

4 (a-3) Grandparents, great-grandparents, and siblings of a  
5 minor child, who is one year old or older, have standing to  
6 bring an action in circuit court by petition, requesting  
7 visitation in accordance with this Section. The term "sibling"  
8 in this Section means a brother, sister, stepbrother, or  
9 stepsister of the minor child. Grandparents,  
10 great-grandparents, and siblings also have standing to file a  
11 petition for visitation and any electronic communication  
12 rights in a pending dissolution proceeding or any other  
13 proceeding that involves custody or visitation issues,  
14 requesting visitation in accordance with this Section. A  
15 petition for visitation with a child by a person other than a  
16 parent must be filed in the county in which the child resides.  
17 Nothing in this subsection (a-3) and subsection (a-5) of this  
18 Section shall apply to a child in whose interests a petition is  
19 pending under Section 2-13 of the Juvenile Court Act of 1987 or  
20 a petition to adopt an unrelated child is pending under the  
21 Adoption Act.

22 (a-5) (1) Except as otherwise provided in this subsection  
23 (a-5), any grandparent, great-grandparent, or sibling may file  
24 a petition for visitation rights to a minor child if there is  
25 an unreasonable denial of visitation by a parent and at least  
26 one of the following conditions exists:

1 (A) (Blank);

2 (A-5) the child's other parent is deceased or has been  
3 missing for at least 3 months. For the purposes of this  
4 Section a parent is considered to be missing if the  
5 parent's location has not been determined and the parent  
6 has been reported as missing to a law enforcement agency;

7 (A-10) a parent of the child is incompetent as a matter  
8 of law;

9 (A-15) a parent has been incarcerated in jail or prison  
10 during the 3 month period preceding the filing of the  
11 petition;

12 (B) the child's mother and father are divorced or have  
13 been legally separated from each other or there is pending  
14 a dissolution proceeding involving a parent of the child or  
15 another court proceeding involving custody or visitation  
16 of the child (other than any adoption proceeding of an  
17 unrelated child) and at least one parent does not object to  
18 the grandparent, great-grandparent, or sibling having  
19 visitation with the child. The visitation of the  
20 grandparent, great-grandparent, or sibling must not  
21 diminish the visitation of the parent who is not related to  
22 the grandparent, great-grandparent, or sibling seeking  
23 visitation;

24 (C) (Blank);

25 (D) the child is born out of wedlock, the parents are  
26 not living together, and the petitioner is a maternal

1 grandparent, great-grandparent, or sibling of the child  
2 born out of wedlock; or

3 (E) the child is born out of wedlock, the parents are  
4 not living together, the petitioner is a paternal  
5 grandparent, great-grandparent, or sibling, and the  
6 paternity has been established by a court of competent  
7 jurisdiction.

8 (2) Any visitation rights granted pursuant to this Section  
9 before the filing of a petition for adoption of a child shall  
10 automatically terminate by operation of law upon the entry of  
11 an order terminating parental rights or granting the adoption  
12 of the child, whichever is earlier. If the person or persons  
13 who adopted the child are related to the child, as defined by  
14 Section 1 of the Adoption Act, any person who was related to  
15 the child as grandparent, great-grandparent, or sibling prior  
16 to the adoption shall have standing to bring an action pursuant  
17 to this Section requesting visitation with the child.

18 (3) In making a determination under this subsection (a-5),  
19 there is a rebuttable presumption that a fit parent's actions  
20 and decisions regarding grandparent, great-grandparent, or  
21 sibling visitation are not harmful to the child's mental,  
22 physical, or emotional health. The burden is on the party  
23 filing a petition under this Section to prove that the parent's  
24 actions and decisions regarding visitation times are harmful to  
25 the child's mental, physical, or emotional health.

26 (4) In determining whether to grant visitation, the court

1 shall consider the following:

2 (A) the preference of the child if the child is  
3 determined to be of sufficient maturity to express a  
4 preference;

5 (B) the mental and physical health of the child;

6 (C) the mental and physical health of the grandparent,  
7 great-grandparent, or sibling;

8 (D) the length and quality of the prior relationship  
9 between the child and the grandparent, great-grandparent,  
10 or sibling;

11 (E) the good faith of the party in filing the petition;

12 (F) the good faith of the person denying visitation;

13 (G) the quantity of the visitation time requested and  
14 the potential adverse impact that visitation would have on  
15 the child's customary activities;

16 (H) whether the child resided with the petitioner for  
17 at least 6 consecutive months with or without the current  
18 custodian present;

19 (I) whether the petitioner had frequent or regular  
20 contact or visitation with the child for at least 12  
21 consecutive months;

22 (J) any other fact that establishes that the loss of  
23 the relationship between the petitioner and the child is  
24 likely to harm the child's mental, physical, or emotional  
25 health; and

26 (K) whether the grandparent, great-grandparent, or

1 sibling was a primary caretaker of the child for a period  
2 of not less than 6 consecutive months.

3 (5) The court may order visitation rights for the  
4 grandparent, great-grandparent, or sibling that include  
5 reasonable access without requiring overnight or possessory  
6 visitation.

7 (a-7) (1) Unless by stipulation of the parties, no motion to  
8 modify a grandparent, great-grandparent, or sibling visitation  
9 order may be made earlier than 2 years after the date the order  
10 was filed, unless the court permits it to be made on the basis  
11 of affidavits that there is reason to believe the child's  
12 present environment may endanger seriously the child's mental,  
13 physical, or emotional health.

14 (2) The court shall not modify an order that grants  
15 visitation to a grandparent, great-grandparent, or sibling  
16 unless it finds by clear and convincing evidence, upon the  
17 basis of facts that have arisen since the prior visitation  
18 order or that were unknown to the court at the time of entry of  
19 the prior visitation, that a change has occurred in the  
20 circumstances of the child or his or her custodian, and that  
21 the modification is necessary to protect the mental, physical,  
22 or emotional health of the child. The court shall state in its  
23 decision specific findings of fact in support of its  
24 modification or termination of the grandparent,  
25 great-grandparent, or sibling visitation. A child's parent may  
26 always petition to modify visitation upon changed

1 circumstances when necessary to promote the child's best  
2 interest.

3 (3) Attorney fees and costs shall be assessed against a  
4 party seeking modification of the visitation order if the court  
5 finds that the modification action is vexatious and constitutes  
6 harassment.

7 (4) Notice under this subsection (a-7) shall be given as  
8 provided in subsections (c) and (d) of Section 601.

9 (b) (1) (Blank.)

10 (1.5) The Court may grant reasonable visitation privileges  
11 to a stepparent upon petition to the court by the stepparent,  
12 with notice to the parties required to be notified under  
13 Section 601 of this Act, if the court determines that it is in  
14 the best interests and welfare of the child, and may issue any  
15 necessary orders to enforce those visitation privileges. A  
16 petition for visitation privileges may be filed under this  
17 paragraph (1.5) whether or not a petition pursuant to this Act  
18 has been previously filed or is currently pending if the  
19 following circumstances are met:

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

21 (B) the child resided continuously with the parent and  
22 stepparent for at least 5 years;

23 (C) the parent is deceased or is disabled and is unable  
24 to care for the child;

25 (D) the child wishes to have reasonable visitation with  
26 the stepparent; and

1           (E) the stepparent was providing for the care, control,  
2           and welfare to the child prior to the initiation of the  
3           petition for visitation.

4           (2) (A) A petition for visitation privileges shall not be  
5           filed pursuant to this subsection (b) by the parents or  
6           grandparents of a putative father if the paternity of the  
7           putative father has not been legally established.

8           (B) A petition for visitation privileges may not be filed  
9           under this subsection (b) if the child who is the subject of  
10          the grandparents' or great-grandparents' petition has been  
11          voluntarily surrendered by the parent or parents, except for a  
12          surrender to the Illinois Department of Children and Family  
13          Services or a foster care facility, or has been previously  
14          adopted by an individual or individuals who are not related to  
15          the biological parents of the child or is the subject of a  
16          pending adoption petition by an individual or individuals who  
17          are not related to the biological parents of the child.

18          (3) (Blank).

19          (c) The court may modify an order granting or denying  
20          visitation rights of a parent whenever modification would serve  
21          the best interest of the child; but the court shall not  
22          restrict a parent's visitation rights unless it finds that the  
23          visitation would endanger seriously the child's physical,  
24          mental, moral or emotional health.

25          (d) If any court has entered an order prohibiting a  
26          non-custodial parent of a child from any contact with a child

1 or restricting the non-custodial parent's contact with the  
2 child, the following provisions shall apply:

3 (1) If an order has been entered granting visitation  
4 privileges with the child to a grandparent or  
5 great-grandparent who is related to the child through the  
6 non-custodial parent, the visitation privileges of the  
7 grandparent or great-grandparent may be revoked if:

8 (i) a court has entered an order prohibiting the  
9 non-custodial parent from any contact with the child,  
10 and the grandparent or great-grandparent is found to  
11 have used his or her visitation privileges to  
12 facilitate contact between the child and the  
13 non-custodial parent; or

14 (ii) a court has entered an order restricting the  
15 non-custodial parent's contact with the child, and the  
16 grandparent or great-grandparent is found to have used  
17 his or her visitation privileges to facilitate contact  
18 between the child and the non-custodial parent in a  
19 manner that violates the terms of the order restricting  
20 the non-custodial parent's contact with the child.

21 Nothing in this subdivision (1) limits the authority of  
22 the court to enforce its orders in any manner permitted by  
23 law.

24 (2) Any order granting visitation privileges with the  
25 child to a grandparent or great-grandparent who is related  
26 to the child through the non-custodial parent shall contain



1 the following provision:

2 "If the (grandparent or great-grandparent, whichever  
3 is applicable) who has been granted visitation privileges  
4 under this order uses the visitation privileges to  
5 facilitate contact between the child and the child's  
6 non-custodial parent, the visitation privileges granted  
7 under this order shall be permanently revoked."

8 (e) No parent, not granted custody of the child, or  
9 grandparent, or great-grandparent, or stepparent, or sibling  
10 of any minor child, convicted of any offense involving an  
11 illegal sex act perpetrated upon a victim less than 18 years of  
12 age including but not limited to offenses for violations of  
13 Article 12 of the Criminal Code of 1961, is entitled to  
14 visitation rights while incarcerated or while on parole,  
15 probation, conditional discharge, periodic imprisonment, or  
16 mandatory supervised release for that offense, and upon  
17 discharge from incarceration for a misdemeanor offense or upon  
18 discharge from parole, probation, conditional discharge,  
19 periodic imprisonment, or mandatory supervised release for a  
20 felony offense, visitation shall be denied until the person  
21 successfully completes a treatment program approved by the  
22 court.

23 (f) Unless the court determines, after considering all  
24 relevant factors, including but not limited to those set forth  
25 in Section 602(a), that it would be in the best interests of  
26 the child to allow visitation, the court shall not enter an

1 order providing visitation rights and pursuant to a motion to  
2 modify visitation shall revoke visitation rights previously  
3 granted to any person who would otherwise be entitled to  
4 petition for visitation rights under this Section who has been  
5 convicted of first degree murder of the parent, grandparent,  
6 great-grandparent, or sibling of the child who is the subject  
7 of the order. Until an order is entered pursuant to this  
8 subsection, no person shall visit, with the child present, a  
9 person who has been convicted of first degree murder of the  
10 parent, grandparent, great-grandparent, or sibling of the  
11 child without the consent of the child's parent, other than a  
12 parent convicted of first degree murder as set forth herein, or  
13 legal guardian.

14 (g) (Blank).

15 (Source: P.A. 96-331, eff. 1-1-10.)

16 (Text of Section after amendment by P.A. 97-659)

17 Sec. 607. Visitation.

18 (a) A parent not granted custody of the child is entitled  
19 to reasonable visitation rights unless the court finds, after a  
20 hearing, that visitation would endanger seriously the child's  
21 physical, mental, moral or emotional health. If the custodian's  
22 street address is not identified, pursuant to Section 708, the  
23 court shall require the parties to identify reasonable  
24 alternative arrangements for visitation by a non-custodial  
25 parent, including but not limited to visitation of the minor

1 child at the residence of another person or at a local public  
2 or private facility.

3 (1) "Visitation" means in-person time spent between a  
4 child and the child's parent. In appropriate  
5 circumstances, it may include electronic communication  
6 under conditions and at times determined by the court.

7 (2) "Electronic communication" means time that a  
8 parent spends with his or her child during which the child  
9 is not in the parent's actual physical custody, but which  
10 is facilitated by the use of communication tools such as  
11 the telephone, electronic mail, instant messaging, video  
12 conferencing or other wired or wireless technologies via  
13 the Internet, or another medium of communication.

14 (a-3) Grandparents, great-grandparents, and siblings of a  
15 minor child, who is one year old or older, have standing to  
16 bring an action in circuit court by petition, requesting  
17 visitation in accordance with this Section. The term "sibling"  
18 in this Section means a brother, sister, stepbrother, or  
19 stepsister of the minor child. Grandparents,  
20 great-grandparents, and siblings also have standing to file a  
21 petition for visitation and any electronic communication  
22 rights in a pending dissolution proceeding or any other  
23 proceeding that involves custody or visitation issues,  
24 requesting visitation in accordance with this Section. A  
25 petition for visitation with a child by a person other than a  
26 parent must be filed in the county in which the child resides.

1 Nothing in this subsection (a-3) and subsection (a-5) of this  
2 Section shall apply to a child in whose interests a petition is  
3 pending under Section 2-13 of the Juvenile Court Act of 1987 or  
4 a petition to adopt an unrelated child is pending under the  
5 Adoption Act.

6 (a-5) (1) Except as otherwise provided in this subsection  
7 (a-5), any grandparent, great-grandparent, or sibling may file  
8 a petition for visitation rights to a minor child if there is  
9 an unreasonable denial of visitation by a parent and at least  
10 one of the following conditions exists:

11 (A) (Blank);

12 (A-5) the child's other parent is deceased or has been  
13 missing for at least 3 months. For the purposes of this  
14 Section a parent is considered to be missing if the  
15 parent's location has not been determined and the parent  
16 has been reported as missing to a law enforcement agency;

17 (A-10) a parent of the child is incompetent as a matter  
18 of law;

19 (A-15) a parent has been incarcerated in jail or prison  
20 during the 3 month period preceding the filing of the  
21 petition;

22 (B) the child's mother and father are divorced or have  
23 been legally separated from each other or there is pending  
24 a dissolution proceeding involving a parent of the child or  
25 another court proceeding involving custody or visitation  
26 of the child (other than any adoption proceeding of an

1 unrelated child) and at least one parent does not object to  
2 the grandparent, great-grandparent, or sibling having  
3 visitation with the child. The visitation of the  
4 grandparent, great-grandparent, or sibling must not  
5 diminish the visitation of the parent who is not related to  
6 the grandparent, great-grandparent, or sibling seeking  
7 visitation;

8 (C) (Blank);

9 (D) the child is born out of wedlock, the parents are  
10 not living together, and the petitioner is a maternal  
11 grandparent, great-grandparent, or sibling of the child  
12 born out of wedlock; or

13 (E) the child is born out of wedlock, the parents are  
14 not living together, the petitioner is a paternal  
15 grandparent, great-grandparent, or sibling, and the  
16 paternity has been established by a court of competent  
17 jurisdiction.

18 (2) Any visitation rights granted pursuant to this Section  
19 before the filing of a petition for adoption of a child shall  
20 automatically terminate by operation of law upon the entry of  
21 an order terminating parental rights or granting the adoption  
22 of the child, whichever is earlier. If the person or persons  
23 who adopted the child are related to the child, as defined by  
24 Section 1 of the Adoption Act, any person who was related to  
25 the child as grandparent, great-grandparent, or sibling prior  
26 to the adoption shall have standing to bring an action pursuant

1 to this Section requesting visitation with the child.

2 (3) In making a determination under this subsection (a-5),  
3 there is a rebuttable presumption that a fit parent's actions  
4 and decisions regarding grandparent, great-grandparent, or  
5 sibling visitation are not harmful to the child's mental,  
6 physical, or emotional health. The burden is on the party  
7 filing a petition under this Section to prove that the parent's  
8 actions and decisions regarding visitation times are harmful to  
9 the child's mental, physical, or emotional health.

10 (4) In determining whether to grant visitation, the court  
11 shall consider the following:

12 (A) the preference of the child if the child is  
13 determined to be of sufficient maturity to express a  
14 preference;

15 (B) the mental and physical health of the child;

16 (C) the mental and physical health of the grandparent,  
17 great-grandparent, or sibling;

18 (D) the length and quality of the prior relationship  
19 between the child and the grandparent, great-grandparent,  
20 or sibling;

21 (E) the good faith of the party in filing the petition;

22 (F) the good faith of the person denying visitation;

23 (G) the quantity of the visitation time requested and  
24 the potential adverse impact that visitation would have on  
25 the child's customary activities;

26 (H) whether the child resided with the petitioner for

1 at least 6 consecutive months with or without the current  
2 custodian present;

3 (I) whether the petitioner had frequent or regular  
4 contact or visitation with the child for at least 12  
5 consecutive months;

6 (J) any other fact that establishes that the loss of  
7 the relationship between the petitioner and the child is  
8 likely to harm the child's mental, physical, or emotional  
9 health; and

10 (K) whether the grandparent, great-grandparent, or  
11 sibling was a primary caretaker of the child for a period  
12 of not less than 6 consecutive months.

13 (5) The court may order visitation rights for the  
14 grandparent, great-grandparent, or sibling that include  
15 reasonable access without requiring overnight or possessory  
16 visitation.

17 (a-7)(1) Unless by stipulation of the parties, no motion to  
18 modify a grandparent, great-grandparent, or sibling visitation  
19 order may be made earlier than 2 years after the date the order  
20 was filed, unless the court permits it to be made on the basis  
21 of affidavits that there is reason to believe the child's  
22 present environment may endanger seriously the child's mental,  
23 physical, or emotional health.

24 (2) The court shall not modify an order that grants  
25 visitation to a grandparent, great-grandparent, or sibling  
26 unless it finds by clear and convincing evidence, upon the

1 basis of facts that have arisen since the prior visitation  
2 order or that were unknown to the court at the time of entry of  
3 the prior visitation, that a change has occurred in the  
4 circumstances of the child or his or her custodian, and that  
5 the modification is necessary to protect the mental, physical,  
6 or emotional health of the child. The court shall state in its  
7 decision specific findings of fact in support of its  
8 modification or termination of the grandparent,  
9 great-grandparent, or sibling visitation. A child's parent may  
10 always petition to modify visitation upon changed  
11 circumstances when necessary to promote the child's best  
12 interest.

13 (3) Attorney fees and costs shall be assessed against a  
14 party seeking modification of the visitation order if the court  
15 finds that the modification action is vexatious and constitutes  
16 harassment.

17 (4) Notice under this subsection (a-7) shall be given as  
18 provided in subsections (c) and (d) of Section 601.

19 (b) (1) (Blank.)

20 (1.5) The Court may grant reasonable visitation privileges  
21 to a stepparent upon petition to the court by the stepparent,  
22 with notice to the parties required to be notified under  
23 Section 601 of this Act, if the court determines that it is in  
24 the best interests and welfare of the child, and may issue any  
25 necessary orders to enforce those visitation privileges. A  
26 petition for visitation privileges may be filed under this



1 paragraph (1.5) whether or not a petition pursuant to this Act  
2 has been previously filed or is currently pending if the  
3 following circumstances are met:

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

5 (B) the child resided continuously with the parent and  
6 stepparent for at least 5 years;

7 (C) the parent is deceased or is disabled and is unable  
8 to care for the child;

9 (D) the child wishes to have reasonable visitation with  
10 the stepparent; and

11 (E) the stepparent was providing for the care, control,  
12 and welfare to the child prior to the initiation of the  
13 petition for visitation.

14 (2) (A) A petition for visitation privileges shall not be  
15 filed pursuant to this subsection (b) by the parents or  
16 grandparents of a putative father if the paternity of the  
17 putative father has not been legally established.

18 (B) A petition for visitation privileges may not be filed  
19 under this subsection (b) if the child who is the subject of  
20 the grandparents' or great-grandparents' petition has been  
21 voluntarily surrendered by the parent or parents, except for a  
22 surrender to the Illinois Department of Children and Family  
23 Services or a foster care facility, or has been previously  
24 adopted by an individual or individuals who are not related to  
25 the biological parents of the child or is the subject of a  
26 pending adoption petition by an individual or individuals who

1 are not related to the biological parents of the child.

2 (3) (Blank).

3 (c) The court may modify an order granting or denying  
4 visitation rights of a parent whenever modification would serve  
5 the best interest of the child; but the court shall not  
6 restrict a parent's visitation rights unless it finds that the  
7 visitation would endanger seriously the child's physical,  
8 mental, moral or emotional health.

9 (d) If any court has entered an order prohibiting a  
10 non-custodial parent of a child from any contact with a child  
11 or restricting the non-custodial parent's contact with the  
12 child, the following provisions shall apply:

13 (1) If an order has been entered granting visitation  
14 privileges with the child to a grandparent or  
15 great-grandparent who is related to the child through the  
16 non-custodial parent, the visitation privileges of the  
17 grandparent or great-grandparent may be revoked if:

18 (i) a court has entered an order prohibiting the  
19 non-custodial parent from any contact with the child,  
20 and the grandparent or great-grandparent is found to  
21 have used his or her visitation privileges to  
22 facilitate contact between the child and the  
23 non-custodial parent; or

24 (ii) a court has entered an order restricting the  
25 non-custodial parent's contact with the child, and the  
26 grandparent or great-grandparent is found to have used

1 his or her visitation privileges to facilitate contact  
2 between the child and the non-custodial parent in a  
3 manner that violates the terms of the order restricting  
4 the non-custodial parent's contact with the child.

5 Nothing in this subdivision (1) limits the authority of  
6 the court to enforce its orders in any manner permitted by  
7 law.

8 (2) Any order granting visitation privileges with the  
9 child to a grandparent or great-grandparent who is related  
10 to the child through the non-custodial parent shall contain  
11 the following provision:

12 "If the (grandparent or great-grandparent, whichever  
13 is applicable) who has been granted visitation privileges  
14 under this order uses the visitation privileges to  
15 facilitate contact between the child and the child's  
16 non-custodial parent, the visitation privileges granted  
17 under this order shall be permanently revoked."

18 (e) No parent, not granted custody of the child, or  
19 grandparent, or great-grandparent, or stepparent, or sibling  
20 of any minor child, convicted of any offense involving an  
21 illegal sex act perpetrated upon a victim less than 18 years of  
22 age including but not limited to offenses for violations of  
23 Article 12 of the Criminal Code of 1961, is entitled to  
24 visitation rights while incarcerated or while on parole,  
25 probation, conditional discharge, periodic imprisonment, or  
26 mandatory supervised release for that offense, and upon

1 discharge from incarceration for a misdemeanor offense or upon  
2 discharge from parole, probation, conditional discharge,  
3 periodic imprisonment, or mandatory supervised release for a  
4 felony offense, visitation shall be denied until the person  
5 successfully completes a treatment program approved by the  
6 court.

7 (f) Unless the court determines, after considering all  
8 relevant factors, including but not limited to those set forth  
9 in Section 602(a), that it would be in the best interests of  
10 the child to allow visitation, the court shall not enter an  
11 order providing visitation rights and pursuant to a motion to  
12 modify visitation shall revoke visitation rights previously  
13 granted to any person who would otherwise be entitled to  
14 petition for visitation rights under this Section who has been  
15 convicted of first degree murder of the parent, grandparent,  
16 great-grandparent, or sibling of the child who is the subject  
17 of the order. Until an order is entered pursuant to this  
18 subsection, no person shall visit, with the child present, a  
19 person who has been convicted of first degree murder of the  
20 parent, grandparent, great-grandparent, or sibling of the  
21 child without the consent of the child's parent, other than a  
22 parent convicted of first degree murder as set forth herein, or  
23 legal guardian.

24 (f-5) The court may not award unsupervised visitation to a  
25 parent who has been convicted of a felony unless all of the  
26 following criteria are first met:

1           (1) A psychological examination of the parent has been  
2           conducted by a qualified individual, and that individual is  
3           of the opinion that the parent is a fit person to raise and  
4           care for the child.

5           (2) The child consents to an award of unsupervised  
6           visitation to the parent.

7           (3) If the child is not legally capable of giving  
8           consent to an award of unsupervised visitation to the  
9           parent, the child's legal guardian has given such consent.  
10          A guardian may not unreasonably withhold his or her consent  
11          to an award of unsupervised visitation to the parent.

12          (f-10) If a parent has exercised unsupervised visitation  
13          with a child, and if the child alleges that he or she has been a  
14          victim of abuse or sexual molestation perpetrated by a person  
15          in the home where the unsupervised visitation has taken place,  
16          then, upon petition to the court, the court shall immediately  
17          suspend the parent's unsupervised visitation with the child and  
18          shall direct the Department of Children and Family Services to  
19          make a full investigation of the child's allegations. The  
20          parent's unsupervised visitation shall remain suspended until  
21          the court specifically finds the following:

22               (1) The Department of Children and Family Services has  
23               made a full investigation of the child's allegations and  
24               has filed a written report of its findings with the court.

25               (2) The Department of Children and Family Services is  
26               of the opinion that the home where the unsupervised

1       visitation took place constitutes a safe home environment  
2       for the child.

3       (g) (Blank).

4       (h) Upon motion, the court may allow a parent who is  
5       deployed or who has orders to be deployed as a member of the  
6       United States Armed Forces to designate a person known to the  
7       child to exercise reasonable substitute visitation on behalf of  
8       the deployed parent, if the court determines that substitute  
9       visitation is in the best interest of the child. In determining  
10      whether substitute visitation is in the best interest of the  
11      child, the court shall consider all of the relevant factors  
12      listed in subsection (a) of Section 602 and apply those factors  
13      to the person designated as a substitute for the deployed  
14      parent for visitation purposes.

15      (Source: P.A. 96-331, eff. 1-1-10; 97-659, eff. 6-1-12.)

16      Section 95. No acceleration or delay. Where this Act makes  
17      changes in a statute that is represented in this Act by text  
18      that is not yet or no longer in effect (for example, a Section  
19      represented by multiple versions), the use of that text does  
20      not accelerate or delay the taking effect of (i) the changes  
21      made by this Act or (ii) provisions derived from any other  
22      Public Act.