



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 1019

2 AMENDMENT NO. _____. Amend House Bill 1019 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Sections 602, 607, and 610
6 and by adding Section 612 as follows:

7 (750 ILCS 5/602) (from Ch. 40, par. 602)

8 Sec. 602. Best Interest of Child.

9 (a) The court shall determine custody in accordance with
10 the best interest of the child. The court shall consider all
11 relevant factors including:

12 (1) the wishes of the child's parent or parents as to
13 his custody;

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

15 (3) the interaction and interrelationship of the child
16 with his parent or parents, his siblings and any other

1 person who may significantly affect the child's best
2 interest;

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

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

7 (6) the physical violence or threat of physical
8 violence by the child's potential custodian, whether
9 directed against the child or directed against another
10 person;

11 (7) the occurrence of ongoing or repeated abuse as
12 defined in Section 103 of the Illinois Domestic Violence
13 Act of 1986, whether directed against the child or directed
14 against another person;

15 (8) the willingness and ability of each parent to
16 facilitate and encourage a close and continuing
17 relationship between the other parent and the child;

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

19 (10) the terms of a parent's military family-care plan
20 that a parent must complete before deployment if a parent
21 is a member of the United States Armed Forces who is being
22 deployed; ~~and.~~

23 (11) whether there has been a finding under Section 612
24 of this Act that a party has made a false allegation that
25 the child is an abused or neglected child.

26 In the case of a custody proceeding in which a stepparent

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

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

8 (c) Unless the court finds the occurrence of ongoing abuse
9 as defined in Section 103 of the Illinois Domestic Violence Act
10 of 1986, the court shall presume that the maximum involvement
11 and cooperation of both parents regarding the physical, mental,
12 moral, and emotional well-being of their child is in the best
13 interest of the child. There shall be no presumption in favor
14 of or against joint custody.

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

16 (750 ILCS 5/607) (from Ch. 40, par. 607)

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; and -

13 (L) whether there has been a finding under Section 612
14 of this Act that a party has made a false allegation that
15 the child is an abused or neglected child.

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

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

1 (2) The court shall not modify an order that grants
2 visitation to a grandparent, great-grandparent, or sibling
3 unless it finds by clear and convincing evidence, upon the
4 basis of facts that have arisen since the prior visitation
5 order or that were unknown to the court at the time of entry of
6 the prior visitation, that a change has occurred in the
7 circumstances of the child or his or her custodian, and that
8 the modification is necessary to protect the mental, physical,
9 or emotional health of the child. The court shall state in its
10 decision specific findings of fact in support of its
11 modification or termination of the grandparent,
12 great-grandparent, or sibling visitation. A child's parent may
13 always petition to modify visitation upon changed
14 circumstances when necessary to promote the child's best
15 interest.

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

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

22 (b) (1) (Blank.)

23 (1.5) The Court may grant reasonable visitation privileges
24 to a stepparent upon petition to the court by the stepparent,
25 with notice to the parties required to be notified under
26 Section 601 of this Act, if the court determines that it is in

1 the best interests and welfare of the child, and may issue any
2 necessary orders to enforce those visitation privileges. A
3 petition for visitation privileges may be filed under this
4 paragraph (1.5) whether or not a petition pursuant to this Act
5 has been previously filed or is currently pending if the
6 following circumstances are met:

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

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

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

12 (D) the child wishes to have reasonable visitation with
13 the stepparent; and

14 (E) the stepparent was providing for the care, control,
15 and welfare to the child prior to the initiation of the
16 petition for visitation.

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

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

1 adopted by an individual or individuals who are not related to
2 the biological parents of the child or is the subject of a
3 pending adoption petition by an individual or individuals who
4 are not related to the biological parents of the child.

5 (3) (Blank).

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

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

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

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

1 (ii) a court has entered an order restricting the
2 non-custodial parent's contact with the child, and the
3 grandparent or great-grandparent is found to have used
4 his or her visitation privileges to facilitate contact
5 between the child and the non-custodial parent in a
6 manner that violates the terms of the order restricting
7 the non-custodial parent's contact with the child.

8 Nothing in this subdivision (1) limits the authority of
9 the court to enforce its orders in any manner permitted by
10 law.

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

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

21 (e) No parent, not granted custody of the child, or
22 grandparent, or great-grandparent, or stepparent, or sibling
23 of any minor child, convicted of any offense involving an
24 illegal sex act perpetrated upon a victim less than 18 years of
25 age including but not limited to offenses for violations of
26 Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-1.70,

1 or Article 12 of the Criminal Code of 1961 or the Criminal Code
2 of 2012, is entitled to visitation rights while incarcerated or
3 while on parole, probation, conditional discharge, periodic
4 imprisonment, or mandatory supervised release for that
5 offense, and upon discharge from incarceration for a
6 misdemeanor offense or upon discharge from parole, probation,
7 conditional discharge, periodic imprisonment, or mandatory
8 supervised release for a felony offense, visitation shall be
9 denied until the person successfully completes a treatment
10 program approved by the court.

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

1 legal guardian.

2 (g) (Blank).

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

14 (Source: P.A. 96-331, eff. 1-1-10; 97-659, eff. 6-1-12;
15 97-1150, eff. 1-25-13.)

16 (750 ILCS 5/610) (from Ch. 40, par. 610)

17 Sec. 610. Modification.

18 (a) Unless by stipulation of the parties or except as
19 provided in subsection (a-5), no motion to modify a custody
20 judgment may be made earlier than 2 years after its date,
21 unless the court permits it to be made on the basis of (i)
22 affidavits that there is reason to believe the child's present
23 environment may endanger seriously his physical, mental, moral
24 or emotional health; or (ii) a determination under Section 612
25 of this Act that a party has made a false allegation that the

1 child is an abused or neglected child.

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

5 (b) The court shall not modify a prior custody judgment
6 unless it finds by clear and convincing evidence, upon the
7 basis of facts that have arisen since the prior judgment or
8 that were unknown to the court at the time of entry of the
9 prior judgment, that a change has occurred in the circumstances
10 of the child or his custodian, or in the case of a joint
11 custody arrangement that a change has occurred in the
12 circumstances of the child or either or both parties having
13 custody, and that the modification is necessary to serve the
14 best interest of the child. The existence of facts requiring
15 notice to be given under Section 609.5 of this Act shall be
16 considered a change in circumstance. In the case of joint
17 custody, if the parties agree to a termination of a joint
18 custody arrangement, the court shall so terminate the joint
19 custody and make any modification which is in the child's best
20 interest. The court shall state in its decision specific
21 findings of fact in support of its modification or termination
22 of joint custody if either parent opposes the modification or
23 termination.

24 (c) Attorney fees and costs shall be assessed against a
25 party seeking modification if the court finds that the
26 modification action is vexatious and constitutes harassment.

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

3 (e) (Blank).

4 (f) A court may only provide for a temporary modification
5 of a custody or visitation order during a period of a parent's
6 deployment by the United States Armed Forces in order to make
7 reasonable accommodations necessitated by the deployment. The
8 temporary order shall specify that deployment is the basis for
9 the order and shall include provisions for:

10 (1) custody or reasonable visitation during a period of
11 leave granted to the deployed parent if the custody or
12 reasonable visitation is in the child's best interest;

13 (2) if appropriate, visitation by electronic
14 communication; and

15 (3) the court's reservation of jurisdiction to modify
16 or terminate the temporary modification order upon the
17 termination of the deployed parent's deployment upon such
18 terms and conditions as the court may deem necessary to
19 serve the child's best interest at the time of the
20 termination of the deployment.

21 (g) A party's past, current, or possible future absence or
22 relocation, or failure to comply with the court's orders on
23 custody, visitation, or parenting time may not, by itself, be
24 sufficient to justify a modification of a prior order if the
25 reason for the absence, relocation or failure to comply is the
26 party's deployment as a member of the United States Armed

1 Forces.

2 (h) A determination under Section 612 of this Act that an
3 occurrence of a false allegation in a custody or visitation
4 proceeding that the child is an abused or neglected child shall
5 be considered a change in circumstance for the purposes of
6 subsection (b) of this Section.

7 (Source: P.A. 96-676, eff. 1-1-10; 97-659, eff. 6-1-12.)

8 (750 ILCS 5/612 new)

9 Sec. 612. Allegations of abuse or neglect.

10 (a) As used in this Section:

11 "Abused child" has the meaning ascribed to it in Section 3
12 of the Abused and Neglected Child Reporting Act;

13 "Neglected child" has the meaning ascribed to it in Section
14 3 of the Abused and Neglected Child Reporting Act.

15 (b) If an allegation that a child is an abused or neglected
16 child is made in a custody or visitation proceeding, the court
17 may request that a local law enforcement agency conduct an
18 investigation of the allegation. Upon completion of the
19 investigation, the local law enforcement agency shall report
20 its findings to the court. If the local law enforcement agency
21 finds that the allegation is unfounded, the court shall hold a
22 hearing to review all available evidence regarding the
23 allegation.

24 (c) If the court determines, based on the investigation
25 described in subsection (b) or based on other evidence

1 presented to the court, that an allegation that a child is an
2 abused or neglected child is false and that the person who made
3 the allegation knew it to be false at the time it was made and
4 that the person intended the allegation to influence a court
5 ruling in the custody or visitation proceeding, the court may:

6 (1) impose reasonable monetary sanctions equal to (i)
7 the total of all costs incurred by the accused party as a
8 direct result of defending the allegation and by the local
9 law enforcement agency as a direct result of investigating
10 the allegation; and (ii) reasonable attorney's fees
11 incurred in recovering the sanctions against the person
12 making the allegation; and

13 (2) hold the person who made the false allegation in
14 civil contempt or criminal contempt, or both.

15 (d) The court shall direct the circuit court clerk to
16 provide a written notice to any party in a proceeding in which
17 custody or visitation is in issue that:

18 (1) making a false allegation that a child is an abused
19 or neglected child in a custody or visitation proceeding
20 may result in monetary sanctions and a holding of the
21 person in contempt; and

22 (2) any person who knowingly transmits a false report
23 to the Department of Children and Family Services commits
24 the offense of disorderly conduct under subsection (a) (7)
25 of Section 26-1 of the Criminal Code of 2012, a Class 4
26 felony."