

1 AN ACT concerning visitation.

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

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 607 as follows:

6 (750 ILCS 5/607) (from Ch. 40, par. 607)

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

23 (A) one parent of the child is incompetent as a matter
24 of law or deceased or has been sentenced to a period of
25 imprisonment for more than 1 year;

26 (B) the child's mother and father are divorced or have
27 been legally separated from each other during the 3 month
28 period prior to the filing of the petition and at least one
29 parent does not object to the grandparent,
30 great-grandparent, or sibling having visitation with the
31 child. The visitation of the grandparent,
32 great-grandparent, or sibling must not diminish the

1 visitation of the parent who is not related to the
2 grandparent, great-grandparent, or sibling seeking
3 visitation;

4 (C) the court has terminated a parent-child
5 relationship and the grandparent, great-grandparent, or
6 sibling is the parent of the person whose parental rights
7 have been terminated, except in cases of adoption. The
8 visitation must not be used to allow the parent who lost
9 parental rights to unlawfully visit with the child;

10 (D) the child resided in the home of the grandparent,
11 great-grandparent, or sibling for a period of 6 consecutive
12 months or more and the grandparent, great-grandparent, or
13 sibling was the primary caregiver for the child within the
14 2 years prior to the filing of the petition;

15 (E) the child is illegitimate, the parents are not
16 living together, and the petitioner is a maternal
17 grandparent, great-grandparent, or sibling of the
18 illegitimate child; or

19 (F) the child is illegitimate, the parents are not
20 living together, the petitioner is a paternal grandparent,
21 great-grandparent, or sibling, and the paternity has been
22 established by a court of competent jurisdiction.

23 (2) The grandparent, great-grandparent, or sibling of a
24 parent whose parental rights have been terminated through an
25 adoption proceeding may not petition for visitation rights.

26 (3) In making a determination under this subsection (a-5),
27 there is a rebuttable presumption that a fit parent's actions
28 and decisions regarding grandparent, great-grandparent, or
29 sibling visitation are not harmful to the child's mental,
30 physical, or emotional health. The burden is on the party
31 filing a petition under this Section to prove that the parent's
32 actions and decisions regarding visitation times are harmful to
33 the child's mental, physical, or emotional health.

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

36 (A) the preference of the child if the child is

1 determined to be of sufficient maturity to express a
2 preference;

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

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

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

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

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

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

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

17 (I) whether the petitioner had frequent or regular
18 contact with the child for at least 12 consecutive months;
19 and

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

24 (5) The court may order visitation rights for the
25 grandparent, great-grandparent, or sibling that include
26 reasonable access without requiring overnight or possessory
27 visitation.

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

35 (2) The court shall not modify a prior grandparent,
36 great-grandparent, or sibling visitation order unless it finds

1 by clear and convincing evidence, upon the basis of facts that
2 have arisen since the prior visitation order or that were
3 unknown to the court at the time of entry of the prior
4 visitation, that a change has occurred in the circumstances of
5 the child or his or her custodian, and that the modification is
6 necessary to protect the mental, physical, or emotional health
7 of the child. The court shall state in its decision specific
8 findings of fact in support of its modification or termination
9 of the grandparent, great-grandparent, or sibling visitation.

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

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

16 ~~(b) (1) (Blank.) The court may grant reasonable visitation~~
17 ~~privileges to a grandparent, great grandparent, or sibling of~~
18 ~~any minor child upon petition to the court by the grandparents~~
19 ~~or great grandparents or on behalf of the sibling, with notice~~
20 ~~to the parties required to be notified under Section 601 of~~
21 ~~this Act, if the court determines that it is in the best~~
22 ~~interests and welfare of the child, and may issue any necessary~~
23 ~~orders to enforce such visitation privileges. Except as~~
24 ~~provided in paragraph (2) of this subsection (b), a petition~~
25 ~~for visitation privileges may be filed under this paragraph (1)~~
26 ~~whether or not a petition pursuant to this Act has been~~
27 ~~previously filed or is currently pending if one or more of the~~
28 ~~following circumstances exist:~~

29 ~~(A) the parents are not currently cohabiting on a~~
30 ~~permanent or an indefinite basis;~~

31 ~~(B) one of the parents has been absent from the marital~~
32 ~~abode for more than one month without the spouse knowing~~
33 ~~his or her whereabouts;~~

34 ~~(C) one of the parents is deceased;~~

35 ~~(D) one of the parents joins in the petition with the~~
36 ~~grandparents, great grandparents, or sibling; or~~

1 ~~(E) a sibling is in State custody.~~

2 (1.5) The Court may grant reasonable visitation privileges
3 to a stepparent upon petition to the court by the stepparent,
4 with notice to the parties required to be notified under
5 Section 601 of this Act, if the court determines that it is in
6 the best interests and welfare of the child, and may issue any
7 necessary orders to enforce those visitation privileges. A
8 petition for visitation privileges may be filed under this
9 paragraph (1.5) whether or not a petition pursuant to this Act
10 has been previously filed or is currently pending if the
11 following circumstances are met:

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

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

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

17 (D) the child wishes to have reasonable visitation with
18 the stepparent; and

19 (E) the stepparent was providing for the care, control,
20 and welfare to the child prior to the initiation of the
21 petition for visitation.

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

26 (B) A petition for visitation privileges may not be filed
27 under this subsection (b) if the child who is the subject of
28 the grandparents' or great-grandparents' petition has been
29 voluntarily surrendered by the parent or parents, except for a
30 surrender to the Illinois Department of Children and Family
31 Services or a foster care facility, or has been previously
32 adopted by an individual or individuals who are not related to
33 the biological parents of the child or is the subject of a
34 pending adoption petition by an individual or individuals who
35 are not related to the biological parents of the child.

36 (3) (Blank). ~~When one parent is deceased, the surviving~~

1 ~~parent shall not interfere with the visitation rights of the~~
2 ~~grandparents.~~

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. The court may modify an
9 order granting, denying, or limiting visitation rights of a
10 grandparent, great-grandparent, or sibling of any minor child
11 whenever a change of circumstances has occurred based on facts
12 occurring subsequent to the judgment and the court finds by
13 clear and convincing evidence that the modification is in the
14 best interest of the minor child.

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

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

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

30 (ii) a court has entered an order restricting the
31 non-custodial parent's contact with the child, and the
32 grandparent or great-grandparent is found to have used
33 his or her visitation privileges to facilitate contact
34 between the child and the non-custodial parent in a
35 manner that violates the terms of the order restricting
36 the non-custodial parent's contact with the child.

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

4 (2) Any order granting visitation privileges with the
5 child to a grandparent or great-grandparent who is related
6 to the child through the non-custodial parent shall contain
7 the following provision:

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

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

29 (f) Unless the court determines, after considering all
30 relevant factors, including but not limited to those set forth
31 in Section 602(a), that it would be in the best interests of
32 the child to allow visitation, the court shall not enter an
33 order providing visitation rights and pursuant to a motion to
34 modify visitation shall revoke visitation rights previously
35 granted to any person who would otherwise be entitled to
36 petition for visitation rights under this Section who has been

1 convicted of first degree murder of the parent, grandparent,
2 great-grandparent, or sibling of the child who is the subject
3 of the order. Until an order is entered pursuant to this
4 subsection, no person shall visit, with the child present, a
5 person who has been convicted of first degree murder of the
6 parent, grandparent, great-grandparent, or sibling of the
7 child without the consent of the child's parent, other than a
8 parent convicted of first degree murder as set forth herein, or
9 legal guardian.

10 (g) If an order has been entered limiting, for cause, a
11 minor child's contact or visitation with a grandparent,
12 great-grandparent, or sibling on the grounds that it was in the
13 best interest of the child to do so, that order may be modified
14 only upon a showing of a substantial change in circumstances
15 occurring subsequent to the entry of the order with proof by
16 clear and convincing evidence that modification is in the best
17 interest of the minor child.

18 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;
19 91-357, eff. 7-29-99; 91-610, eff. 8-19-99.)