

1 AN ACT concerning families.

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 Sections 506 and 608 as  
6 follows:

7 (750 ILCS 5/506) (from Ch. 40, par. 506)

8 Sec. 506. Representation of child.

9 (a) Duties. In any proceedings involving the support,  
10 custody, visitation, education, parentage, property interest,  
11 or general welfare of a minor or dependent child, the court  
12 may, on its own motion or that of any party, ~~and subject to the~~  
13 ~~terms or specifications the court determines,~~ appoint an  
14 attorney to serve in one of the following capacities to address  
15 the issues the court delineates:

16 (1) Attorney. The attorney shall provide independent  
17 legal counsel for the child and shall owe the same duties  
18 of undivided loyalty, confidentiality, and competent  
19 representation as are due an adult client. ~~as an attorney~~  
20 ~~to represent the child;~~

21 (2) Guardian ad litem. The guardian ad litem shall  
22 testify or submit a written report to the court regarding  
23 his or her recommendations in accordance with the best  
24 interest of the child. The report shall be made available  
25 to all parties. The guardian ad litem may be called as a  
26 witness for purposes of cross-examination regarding the  
27 guardian ad litem's report or recommendations. The  
28 guardian ad litem shall investigate the facts of the case  
29 and interview the child and the parties. ~~as a guardian ad~~  
30 ~~litem to address issues the court delineates;~~

31 (3) Child representative. The child representative  
32 shall ~~as a child's representative whose duty shall be to~~

1 advocate what the child representative finds to be in the  
2 best interests of the child after reviewing the facts and  
3 circumstances of the case. The child representative shall  
4 meet with the child and the parties, investigate the facts  
5 of the case, and encourage settlement and the use of  
6 alternative forms of dispute resolution. The child ~~child's~~  
7 representative shall have the same ~~power and~~ authority and  
8 obligation to participate ~~take part~~ in the ~~conduct of the~~  
9 litigation as does an attorney for a party and shall  
10 possess all the powers of investigation ~~and recommendation~~  
11 as does a guardian ad litem. The child ~~child's~~  
12 representative shall consider, but not be bound by, the  
13 expressed wishes of the child. A child ~~child's~~  
14 representative shall have received training in child  
15 advocacy or shall possess such experience as determined to  
16 be equivalent to such training by the chief judge of the  
17 circuit where the child ~~child's~~ representative has been  
18 appointed. The child ~~child's~~ representative shall not  
19 disclose confidential communications made by the child,  
20 except as required by law or by the Rules of Professional  
21 Conduct. The child ~~child's~~ representative shall not render  
22 an opinion, recommendation, or report to the court and  
23 shall not be called as a witness, but shall offer  
24 evidence-based legal arguments ~~regarding the issues set~~  
25 ~~forth in this subsection.~~ The child representative shall  
26 disclose the position as to what the child representative  
27 intends to advocate in a pre-trial memorandum that shall be  
28 served upon all counsel of record prior to the trial. The  
29 position disclosed in the pre-trial memorandum shall not be  
30 considered evidence. The court and the parties may consider  
31 the position of the child representative for purposes of a  
32 settlement conference.

33 (a-3) Additional appointments. During the proceedings the  
34 court may appoint an additional attorney to serve in the  
35 capacity described in subdivision (a)(1) or an additional  
36 attorney to serve in another of the capacities described in

1 subdivision ~~subdivisions~~ ~~(a) (1),~~ (a) (2), or (a) (3) on the  
2 court's ~~its~~ own motion or that of a party only for good cause  
3 shown and when the reasons for the additional appointment are  
4 set forth in specific findings.

5 (a-5) Appointment considerations. In deciding whether to  
6 make an appointment of an attorney for the minor child, a  
7 guardian ad litem, or a child representative, the court shall  
8 consider the nature and adequacy of the evidence to be  
9 presented by the parties and the availability of other methods  
10 of obtaining information, including social service  
11 organizations and evaluations by mental health professions, as  
12 well as resources for payment.

13 In no event is this Section intended to or designed to  
14 abrogate the decision making power of the trier of fact. Any  
15 appointment made under this Section is not intended to nor  
16 should it serve to place any appointed individual in the role  
17 of a surrogate judge.

18 (b) Fees and costs. The court shall enter an order as  
19 appropriate for costs, fees, and disbursements, including a  
20 retainer, when the attorney, guardian ad litem, or child's  
21 representative is appointed, ~~and thereafter as necessary.~~ Any  
22 person appointed under this Section shall file with the court  
23 within 90 days of his or her appointment, and every subsequent  
24 90-day period thereafter during the course of his or her  
25 representation, a detailed invoice for services rendered with a  
26 copy being sent to each party. The court shall review the  
27 invoice submitted and approve the fees, if they are reasonable  
28 and necessary. Any order approving the fees ~~Such orders~~ shall  
29 require payment by either or both parents, by any other party  
30 or source, or from the marital estate or the child's separate  
31 estate. The court may not order payment by the Illinois  
32 Department of Public Aid in cases in which the Department is  
33 providing child support enforcement services under Article X of  
34 the Illinois Public Aid Code. Unless otherwise ordered by the  
35 court at the time fees and costs are approved, all fees and  
36 costs payable to an attorney, guardian ad litem, or child

1 ~~child's~~ representative under this Section are by implication  
2 deemed to be in the nature of support of the child and are  
3 within the exceptions to discharge in bankruptcy under 11  
4 U.S.C.A. 523. The provisions of Sections 501 and 508 of this  
5 Act shall apply to fees and costs for attorneys appointed under  
6 this Section.

7 (Source: P.A. 91-410, eff. 1-1-00; 92-590, eff. 7-1-02.)

8 (750 ILCS 5/608) (from Ch. 40, par. 608)

9 Sec. 608. Judicial Supervision.

10 (a) Except as otherwise agreed by the parties in writing at  
11 the time of the custody judgment or as otherwise ordered by the  
12 court, the custodian may determine the child's upbringing,  
13 including but not limited to, his education, health care and  
14 religious training, unless the court, after hearing, finds,  
15 upon motion by the noncustodial parent, that the absence of a  
16 specific limitation of the custodian's authority would clearly  
17 be contrary to the best interests of the child.

18 (b) If both parents or all contestants agree to the order,  
19 or if the court finds that in the absence of agreement the  
20 child's physical health would be endangered or his emotional  
21 development significantly impaired, the court may order the  
22 Department of Children and Family Services to exercise  
23 continuing supervision over the case to assure that the  
24 custodial or visitation terms of the judgment are carried out.  
25 Supervision shall be carried out under the provisions of  
26 Section 5 of the Children and Family Services Act.

27 (c) The court may order individual counseling for the  
28 child, family counseling for one or more of the parties and the  
29 child, or parental education for one or more of the parties,  
30 when it finds one or more of the following:

31 (1) both parents or all parties agree to the order;

32 (2) the court finds that the child's physical health is  
33 endangered or his or her emotional development is impaired  
34 including, but not limited to, a finding of visitation  
35 abuse as defined by Section 607.1; or

1           (3) the court finds that one or both of the parties  
2           have violated the joint parenting agreement with regard to  
3           conduct affecting or in the presence of the child.

4           (d) If the court finds that one or more of the parties has  
5           violated an order of the court with regards to custody,  
6           visitation, or joint parenting, the court shall assess the  
7           costs of counseling against the violating party or parties.  
8           Otherwise, the court may apportion the costs between the  
9           parties as appropriate.

10           (e) The remedies provided in this Section are in addition  
11           to, and shall not diminish or abridge in any way, the court's  
12           power to exercise its authority through contempt or other  
13           proceedings.

14           (f) All counseling sessions shall be confidential. The  
15           communications in counseling shall not be used in any manner in  
16           litigation nor relied upon by any expert appointed by the court  
17           or retained by any party.

18           (Source: P.A. 87-824.)