

1 AN ACT concerning civil law.

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 607 and 609 as  
6 follows:

7 (750 ILCS 5/607) (from Ch. 40, par. 607)

8 Sec. 607. Visitation.

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

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

23 (2) "Electronic communication" means time that a

1 parent spends with his or her child during which the child  
2 is not in the parent's actual physical custody, but which  
3 is facilitated by the use of communication tools such as  
4 the telephone, electronic mail, instant messaging, video  
5 conferencing or other wired or wireless technologies via  
6 the Internet, or another medium of communication.

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

25 (a-5) (1) Except as otherwise provided in this subsection  
26 (a-5), any grandparent, great-grandparent, or sibling may file

1 a petition for visitation rights to a minor child if there is  
2 an unreasonable denial of visitation by a parent and at least  
3 one of the following conditions exists:

4 (A) (Blank);

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

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

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

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

1 (C) (Blank);

2 (D) the child is born out of wedlock, the parents are  
3 not living together, and the petitioner is a maternal  
4 grandparent, great-grandparent, or sibling of the child  
5 born out of wedlock; or

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

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

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

1 actions and decisions regarding visitation times are harmful to  
2 the child's mental, physical, or emotional health.

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

5 (A) the preference of the child if the child is  
6 determined to be of sufficient maturity to express a  
7 preference;

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

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

11 (D) the length and quality of the prior relationship  
12 between the child and the grandparent, great-grandparent,  
13 or sibling;

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

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

16 (G) the quantity of the visitation time requested and  
17 the potential adverse impact that visitation would have on  
18 the child's customary activities;

19 (H) whether the child resided with the petitioner for  
20 at least 6 consecutive months with or without the current  
21 custodian present;

22 (I) whether the petitioner had frequent or regular  
23 contact or visitation with the child for at least 12  
24 consecutive months;

25 (J) any other fact that establishes that the loss of  
26 the relationship between the petitioner and the child is

1           likely to harm the child's mental, physical, or emotional  
2           health; and

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

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

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

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

1 modification or termination of the grandparent,  
2 great-grandparent, or sibling visitation. A child's parent may  
3 always petition to modify visitation upon changed  
4 circumstances when necessary to promote the child's best  
5 interest.

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

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

12 (b) (1) (Blank.)

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

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

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

26 (C) the parent is deceased or is disabled and is unable

1 to care for the child;

2 (D) the child wishes to have reasonable visitation with  
3 the stepparent; and

4 (E) the stepparent was providing for the care, control,  
5 and welfare to the child prior to the initiation of the  
6 petition for visitation.

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

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

21 (3) (Blank).

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



1 mental, moral or emotional health.

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

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

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

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

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

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

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

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

26          (f) Unless the court determines, after considering all

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

17 (g) (Blank).

18 (Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06;  
19 94-1026, eff. 1-1-07.)

20 (750 ILCS 5/609) (from Ch. 40, par. 609)

21 Sec. 609. Leave to Remove Children.)

22 (a) The court may grant leave, before or after judgment, to  
23 any party having custody of any minor child or children to  
24 remove such child or children from Illinois whenever such  
25 approval is in the best interests of such child or children.

1 The burden of proving that such removal is in the best  
2 interests of such child or children is on the party seeking the  
3 removal. When such removal is permitted, the court may require  
4 the party removing such child or children from Illinois to give  
5 reasonable security guaranteeing the return of such children.

6 (b) Before a minor child is temporarily removed from  
7 Illinois, the parent responsible for the removal shall inform  
8 the other parent, or the other parent's attorney, of the  
9 address and telephone number where the child may be reached  
10 during the period of temporary removal, and the date on which  
11 the child shall return to Illinois.

12 (c) The court may not use the availability of electronic  
13 communication as a factor in support of a removal of a child by  
14 the custodial parent from Illinois.

15 The State of Illinois retains jurisdiction when the minor  
16 child is absent from the State pursuant to this subsection.

17 (Source: P.A. 85-768.)