



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB3675

Introduced 2/28/2007, by Rep. Ronald A. Wait

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/602.1

from Ch. 40, par. 602.1

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that in a joint custodial situation, the parents of the child may agree, or the court may order, that the physical residence of the child shall be the former marital residence and that one parent shall reside at the residence with the child during the time that that parent has physical custody of the child pursuant to the Joint Parenting Agreement or Joint Parenting Order and the other parent shall reside elsewhere during that time. Provides that this provision may be referred to as the "child homestead stability" provision of the Act. Effective immediately.

LRB095 10260 DRJ 32353 b

1 AN ACT concerning civil law, which may be referred to as  
2 the Child Homestead Stability Act.

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

5 Section 5. The Illinois Marriage and Dissolution of  
6 Marriage Act is amended by changing Section 602.1 as follows:

7 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

8 Sec. 602.1. (a) The dissolution of marriage, the  
9 declaration of invalidity of marriage, the legal separation of  
10 the parents, or the parents living separate and apart shall not  
11 diminish parental powers, rights, and responsibilities except  
12 as the court for good reason may determine under the standards  
13 of Section 602.

14 (b) Upon the application of either or both parents, or upon  
15 its own motion, the court shall consider an award of joint  
16 custody. Joint custody means custody determined pursuant to a  
17 Joint Parenting Agreement or a Joint Parenting Order. In such  
18 cases, the court shall initially request the parents to produce  
19 a Joint Parenting Agreement. Such Agreement shall specify each  
20 parent's powers, rights and responsibilities for the personal  
21 care of the child and for major decisions such as education,  
22 health care, and religious training. The Agreement shall  
23 further specify a procedure by which proposed changes, disputes

1 and alleged breaches may be mediated or otherwise resolved and  
2 shall provide for a periodic review of its terms by the  
3 parents. In producing a Joint Parenting Agreement, the parents  
4 shall be flexible in arriving at resolutions which further the  
5 policy of this State as expressed in Sections 102 and 602. For  
6 the purpose of assisting the court in making a determination  
7 whether an award of joint custody is appropriate, the court may  
8 order mediation and may direct that an investigation be  
9 conducted pursuant to the provisions of Section 605. If there  
10 is a danger to the health or safety of a partner, joint  
11 mediation shall not be required by the court. In the event the  
12 parents fail to produce a Joint Parenting Agreement, the court  
13 may enter an appropriate Joint Parenting Order under the  
14 standards of Section 602 which shall specify and contain the  
15 same elements as a Joint Parenting Agreement, or it may award  
16 sole custody under the standards of Sections 602, 607, and 608.

17 (c) The court may enter an order of joint custody if it  
18 determines that joint custody would be in the best interests of  
19 the child, taking into account the following:

20 (1) the ability of the parents to cooperate effectively  
21 and consistently in matters that directly affect the joint  
22 parenting of the child. "Ability of the parents to  
23 cooperate" means the parents' capacity to substantially  
24 comply with a Joint Parenting Order. The court shall not  
25 consider the inability of the parents to cooperate  
26 effectively and consistently in matters that do not

1 directly affect the joint parenting of the child;

2 (2) The residential circumstances of each parent; and

3 (3) all other factors which may be relevant to the best  
4 interest of the child.

5 (d) Nothing within this section shall imply or presume that  
6 joint custody shall necessarily mean equal parenting time. The  
7 physical residence of the child in joint custodial situations  
8 shall be determined by:

9 (1) express agreement of the parties; or

10 (2) order of the court under the standards of this  
11 Section.

12 (d-5) In a joint custodial situation, the parents of the  
13 child may agree, or the court may order, that the physical  
14 residence of the child shall be the former marital residence  
15 and that one parent shall reside at the residence with the  
16 child during the time that that parent has physical custody of  
17 the child pursuant to the Joint Parenting Agreement or Joint  
18 Parenting Order and the other parent shall reside elsewhere  
19 during that time. This subsection (d-5) may be referred to as  
20 the "child homestead stability" provision of this Act.

21 (e) Notwithstanding any other provision of law, access to  
22 records and information pertaining to a child, including but  
23 not limited to medical, dental, child care and school records,  
24 shall not be denied to a parent for the reason that such parent  
25 is not the child's custodial parent; however, no parent shall  
26 have access to the school records of a child if the parent is

1 prohibited by an order of protection from inspecting or  
2 obtaining such records pursuant to the Illinois Domestic  
3 Violence Act of 1986, as now or hereafter amended.

4 (Source: P.A. 94-377, eff. 7-29-05.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.