

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 Section 602.1 as follows:

6 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

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

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

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

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

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

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

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

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

8 (1) express agreement of the parties; or

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

11 (e) Notwithstanding any other provision of law, access to
12 records and information pertaining to a child, including but
13 not limited to medical, dental, child care and school records,
14 shall not be denied to a parent for the reason that such parent
15 is not the child's custodial parent; however, no parent shall
16 have access to the school records of a child if the parent is
17 prohibited by an order of protection from inspecting or
18 obtaining such records pursuant to the Illinois Domestic
19 Violence Act of 1986, as now or hereafter amended. No parent
20 who is a named respondent in an order of protection issued
21 pursuant to the Domestic Violence Act of 1986 shall have access
22 to the health care records of a child who is a protected person
23 under that order of protection.

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

25 Section 10. The Illinois Domestic Violence Act of 1986 is

1 amended by changing Section 222 as follows:

2 (750 ILCS 60/222) (from Ch. 40, par. 2312-22)

3 Sec. 222. Notice of orders.

4 (a) Entry and issuance. Upon issuance of any order of
5 protection, the clerk shall immediately, or on the next court
6 day if an emergency order is issued in accordance with
7 subsection (c) of Section 217, (i) enter the order on the
8 record and file it in accordance with the circuit court
9 procedures and (ii) provide a file stamped copy of the order to
10 respondent, if present, and to petitioner.

11 (b) Filing with sheriff. The clerk of the issuing judge
12 shall, or the petitioner may, on the same day that an order of
13 protection is issued, file a certified copy of that order with
14 the sheriff or other law enforcement officials charged with
15 maintaining Department of State Police records or charged with
16 serving the order upon respondent. If the order was issued in
17 accordance with subsection (c) of Section 217, the clerk shall
18 on the next court day, file a certified copy of the order with
19 the Sheriff or other law enforcement officials charged with
20 maintaining Department of State Police records.

21 (c) Service by sheriff. Unless respondent was present in
22 court when the order was issued, the sheriff, other law
23 enforcement official or special process server shall promptly
24 serve that order upon respondent and file proof of such
25 service, in the manner provided for service of process in civil

1 proceedings. Instead of serving the order upon the respondent,
2 however, the sheriff, other law enforcement official, or
3 special process server may serve the respondent with a short
4 form notification as provided in Section 222.10. If process has
5 not yet been served upon the respondent, it shall be served
6 with the order or short form notification. A single fee may be
7 charged for service of an order obtained in civil court, or for
8 service of such an order together with process, unless waived
9 or deferred under Section 210.

10 (c-5) If the person against whom the order of protection is
11 issued is arrested and the written order is issued in
12 accordance with subsection (c) of Section 217 and received by
13 the custodial law enforcement agency before the respondent or
14 arrestee is released from custody, the custodial law
15 enforcement agent shall promptly serve the order upon the
16 respondent or arrestee before the respondent or arrestee is
17 released from custody. In no event shall detention of the
18 respondent or arrestee be extended for hearing on the petition
19 for order of protection or receipt of the order issued under
20 Section 217 of this Act.

21 (d) Extensions, modifications and revocations. Any order
22 extending, modifying or revoking any order of protection shall
23 be promptly recorded, issued and served as provided in this
24 Section.

25 (e) Notice to schools. Upon the request of the petitioner,
26 within 24 hours of the issuance of an order of protection, the

1 clerk of the issuing judge shall send written notice of the
2 order of protection along with a certified copy of the order of
3 protection to the day-care facility, pre-school or
4 pre-kindergarten, or private school or the principal office of
5 the public school district or any college or university in
6 which any child who is a protected person under the order of
7 protection or any child of the petitioner is enrolled. If the
8 child transfers enrollment to another day-care facility,
9 pre-school, pre-kindergarten, private school, public school,
10 college, or university, the petitioner may, within 24 hours of
11 the transfer, send to the clerk written notice of the transfer,
12 including the name and address of the institution to which the
13 child is transferring. Within 24 hours of receipt of notice
14 from the petitioner that a child is transferring to another
15 day-care facility, pre-school, pre-kindergarten, private
16 school, public school, college, or university, the clerk shall
17 send written notice of the order of protection, along with a
18 certified copy of the order, to the institution to which the
19 child is transferring.

20 (f) Disclosure by schools. After receiving a certified copy
21 of an order of protection that prohibits a respondent's access
22 to records, neither a day-care facility, pre-school,
23 pre-kindergarten, public or private school, college, or
24 university nor its employees shall allow a respondent access to
25 a protected child's records or release information in those
26 records to the respondent. The school shall file the copy of

1 the order of protection in the records of a child who is a
2 protected person under the order of protection. When a child
3 who is a protected person under the order of protection
4 transfers to another day-care facility, pre-school,
5 pre-kindergarten, public or private school, college, or
6 university, the institution from which the child is
7 transferring may, at the request of the petitioner, provide,
8 within 24 hours of the transfer, written notice of the order of
9 protection, along with a certified copy of the order, to the
10 institution to which the child is transferring.

11 (g) Notice to health care facilities and health care
12 practitioners. Upon the request of the petitioner, the clerk of
13 the circuit court shall send a certified copy of the order of
14 protection to any specified health care facility or health care
15 practitioner requested by the petitioner at the mailing address
16 provided by the petitioner.

17 (h) Disclosure by health care facilities and health care
18 practitioners. After receiving a certified copy of an order of
19 protection that prohibits a respondent's access to records, no
20 health care facility or health care practitioner shall allow a
21 respondent access to the records of any child who is a
22 protected person under the order of protection, or release
23 information in those records to the respondent, unless the
24 order has expired or the respondent shows a certified copy of
25 the court order vacating the corresponding order of protection
26 that was sent to the health care facility or practitioner.

1 Nothing in this Section shall be construed to require health
2 care facilities or health care practitioners to alter
3 procedures related to billing and payment. The health care
4 facility or health care practitioner may file the copy of the
5 order of protection in the records of a child who is a
6 protected person under the order of protection, or may employ
7 any other method to identify the records to which a respondent
8 is prohibited access. No health care facility or health care
9 practitioner shall be civilly or professionally liable for
10 reliance on a copy of an order of protection, except for
11 willful and wanton misconduct.

12 (Source: P.A. 92-90, eff. 7-18-01; 92-162, eff. 1-1-02; 92-651,
13 eff. 7-11-02.)