



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2143

Introduced 2/14/2008, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

750 ILCS 5/601	from Ch. 40, par. 601
750 ILCS 5/604	from Ch. 40, par. 604
750 ILCS 5/604.5	

Amends the Illinois Marriage and Dissolution of Marriage Act. Requires 3 hours of domestic violence training for: a guardian ad litem in a custody proceeding; a professional from whom the court seeks advice; and an evaluator in a proceeding for custody, visitation, or removal of a child from Illinois. Provides that the training in domestic violence and its effects shall be provided by a State-certified local domestic violence shelter or domestic violence counselor. Provides that after completion of the training, the participant shall file a training certificate with the clerk of the court. Effective immediately.

SRS095 00014 JEJ 20014 b

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 601, 604, and
6 604.5 as follows:

7 (750 ILCS 5/601) (from Ch. 40, par. 601)

8 Sec. 601. Jurisdiction; Commencement of Proceeding.

9 (a) A court of this State competent to decide child custody
10 matters has jurisdiction to make a child custody determination
11 in original or modification proceedings as provided in Section
12 201 of the Uniform Child-Custody Jurisdiction and Enforcement
13 Act as adopted by this State.

14 (b) A child custody proceeding is commenced in the court:

15 (1) by a parent, by filing a petition:

16 (i) for dissolution of marriage or legal
17 separation or declaration of invalidity of marriage;
18 or

19 (ii) for custody of the child, in the county in
20 which he is permanently resident or found;

21 (2) by a person other than a parent, by filing a
22 petition for custody of the child in the county in which he
23 is permanently resident or found, but only if he is not in

1 the physical custody of one of his parents; or

2 (3) by a stepparent, by filing a petition, if all of
3 the following circumstances are met:

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

5 (B) the custodial parent and stepparent were
6 married for at least 5 years during which the child
7 resided with the parent and stepparent;

8 (C) the custodial parent is deceased or is disabled
9 and cannot perform the duties of a parent to the child;

10 (D) the stepparent provided for the care, control,
11 and welfare to the child prior to the initiation of
12 custody proceedings;

13 (E) the child wishes to live with the stepparent;
14 and

15 (F) it is alleged to be in the best interests and
16 welfare of the child to live with the stepparent as
17 provided in Section 602 of this Act.

18 (4) When one of the parents is deceased, by a
19 grandparent who is a parent or stepparent of a deceased
20 parent, by filing a petition, if one or more of the
21 following existed at the time of the parent's death:

22 (A) the surviving parent had been absent from the
23 marital abode for more than one month without the
24 deceased spouse knowing his or her whereabouts;

25 (B) the surviving parent was in State or federal
26 custody; or

1 (C) the surviving parent had: (i) received
2 supervision for or been convicted of any violation of
3 Article 12 of the Criminal Code of 1961 directed
4 towards the deceased parent or the child; or (ii)
5 received supervision or been convicted of violating an
6 order of protection entered under Section 217, 218, or
7 219 of the Illinois Domestic Violence Act of 1986 for
8 the protection of the deceased parent or the child.

9 (c) Notice of a child custody proceeding, including an
10 action for modification of a previous custody order, shall be
11 given to the child's parents, guardian and custodian, who may
12 appear, be heard, and file a responsive pleading. The court,
13 upon showing of good cause, may permit intervention of other
14 interested parties.

15 (d) Proceedings for modification of a previous custody
16 order commenced more than 30 days following the entry of a
17 previous custody order must be initiated by serving a written
18 notice and a copy of the petition for modification upon the
19 child's parent, guardian and custodian at least 30 days prior
20 to hearing on the petition. Nothing in this Section shall
21 preclude a party in custody modification proceedings from
22 moving for a temporary order under Section 603 of this Act.

23 (e) (Blank).

24 (f) The court shall, at the court's discretion or upon the
25 request of any party entitled to petition for custody of the
26 child, appoint a guardian ad litem to represent the best

1 interest of the child for the duration of the custody
2 proceeding or for any modifications of any custody orders
3 entered. Prior to appointment by the court, a guardian ad litem
4 must have completed 3 hours of training in domestic violence
5 and its effects on the partner and the child, provided by a
6 State-certified local domestic violence shelter or by a person
7 who has completed the 40-hour training to become a domestic
8 violence counselor, and must have registered a certificate of
9 completion of the training with the clerk of the court. Nothing
10 in this Section shall be construed to prevent the court from
11 appointing the same guardian ad litem for 2 or more children
12 that are siblings or half-siblings.

13 (Source: P.A. 93-108, eff. 1-1-04; 93-1026, eff. 1-1-05.)

14 (750 ILCS 5/604) (from Ch. 40, par. 604)

15 Sec. 604. Interviews.) (a) The court may interview the
16 child in chambers to ascertain the child's wishes as to his
17 custodian and as to visitation. Counsel shall be present at the
18 interview unless otherwise agreed upon by the parties. The
19 court shall cause a court reporter to be present who shall make
20 a complete record of the interview instantaneously to be part
21 of the record in the case.

22 (b) The court may seek the advice of professional
23 personnel, whether or not employed by the court on a regular
24 basis. Prior to rendering any advice to the court, any
25 professional must have completed 3 hours of training in

1 domestic violence and its effects on the partner and the child,
2 provided by a State-certified local domestic violence shelter
3 or by a person who has completed the 40-hour training to become
4 a domestic violence counselor, and must have registered a
5 certificate of completion of the training with the clerk of the
6 court. The advice given shall be in writing and made available
7 by the court to counsel. Counsel may examine, as a witness, any
8 professional personnel consulted by the court, designated as a
9 court's witness.

10 (Source: P.A. 80-923.)

11 (750 ILCS 5/604.5)

12 Sec. 604.5. Evaluation of child's best interest.

13 (a) In a proceeding for custody, visitation, or removal of
14 a child from Illinois, upon notice and motion made within a
15 reasonable time before trial, the court may order an evaluation
16 concerning the best interest of the child as it relates to
17 custody, visitation, or removal. Prior to appointment by the
18 court, an evaluator must have completed 3 hours of training in
19 domestic violence and its effects on the partner and the child,
20 provided by a State-certified local domestic violence shelter
21 or by a person who has completed the 40-hour training to become
22 a domestic violence counselor, and must have registered a
23 certificate of completion of the training with the clerk of the
24 court. The motion may be made by a party, a parent, the child's
25 custodian, the attorney for the child, the child's guardian ad

1 litem, or the child's representative. The requested evaluation
2 may be in place of or in addition to an evaluation conducted
3 under subsection (b) of Section 604.

4 The motion shall state the identity of the proposed
5 evaluator and set forth the evaluator's specialty or
6 discipline. The court may refuse to order an evaluation by the
7 proposed evaluator, but in that event, the court may permit the
8 party seeking the evaluation to propose one or more other
9 evaluators.

10 (b) An order for an evaluation shall fix the time, place,
11 conditions, and scope of the evaluation and shall designate the
12 evaluator. A party or person shall not be required to travel an
13 unreasonable distance for the evaluation.

14 (c) The person requesting an evaluator shall pay the fee
15 for the evaluation unless otherwise ordered by the court.

16 (d) Within 21 days after the completion of the evaluation,
17 if the moving party or person intends to call the evaluator as
18 a witness, the evaluator shall prepare and mail or deliver to
19 the attorneys of record duplicate originals of the written
20 evaluation. The evaluation shall set forth the evaluator's
21 findings, the results of all tests administered, and the
22 evaluator's conclusions and recommendations. If the written
23 evaluation is not delivered or mailed to the attorneys within
24 21 days or within any extensions or modifications granted by
25 the court, the written evaluation and the evaluator's
26 testimony, conclusions, and recommendations may not be

1 received into evidence.

2 (e) The person calling an evaluator to testify at trial
3 shall disclose the evaluator as an opinion witness in
4 accordance with the Supreme Court Rules.

5 (f) Subject to compliance with the Supreme Court Rules,
6 nothing in this Section bars a person who did not request the
7 evaluation from calling the evaluator as a witness. In that
8 case, however, that person shall pay the evaluator's fee for
9 testifying unless otherwise ordered by the court.

10 (Source: P.A. 91-746, eff. 6-2-00.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.