

AN ACT concerning civil law.

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

Section 5. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Sections 602 and 610 and adding Section 609.5 as follows:

(750 ILCS 5/602) (from Ch. 40, par. 602)

Sec. 602. Best Interest of Child.

(a) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including:

(1) the wishes of the child's parent or parents as to his custody;

(2) the wishes of the child as to his custodian;

(3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest;

(4) the child's adjustment to his home, school and community;

(5) the mental and physical health of all individuals involved;

(6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person;

(7) the occurrence of ongoing abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, whether directed against the child or directed against another person; ~~and~~

(8) the willingness and ability of each parent to facilitate and encourage a close and continuing

relationship between the other parent and the child; ~~and~~ (9) whether one of the parents is a sex offender.

In the case of a custody proceeding in which a stepparent has standing under Section 601, it is presumed to be in the best interest of the minor child that the natural parent have the custody of the minor child unless the presumption is rebutted by the stepparent.

(b) The court shall not consider conduct of a present or proposed custodian that does not affect his relationship to the child.

(c) Unless the court finds the occurrence of ongoing abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, the court shall presume that the maximum involvement and cooperation of both parents regarding the physical, mental, moral, and emotional well-being of their child is in the best interest of the child. There shall be no presumption in favor of or against joint custody.

(Source: P.A. 90-782, eff. 8-14-98.)

(750 ILCS 5/609.5 new)

Sec. 609.5. Notification of remarriage or residency with a sex offender. A parent who intends to marry or reside with a sex offender, and knows or should know that the person with whom he or she intends to marry or reside is a sex offender, shall provide reasonable notice to the other parent with whom he or she has a minor child prior to the marriage or the commencement of the residency.

(750 ILCS 5/610) (from Ch. 40, par. 610)

Sec. 610. Modification.

(a) Unless by stipulation of the parties or except as provided in subsection (a-5), no motion to modify a custody judgment may be made earlier than 2 years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously his physical, mental, moral

or emotional health.

(a-5) A motion to modify a custody judgment may be made at any time by a party who has been informed of the existence of facts requiring notice to be given under Section 609.5.

(b) The court shall not modify a prior custody judgment unless it finds by clear and convincing evidence, upon the basis of facts that have arisen since the prior judgment or that were unknown to the court at the time of entry of the prior judgment, that a change has occurred in the circumstances of the child or his custodian, or in the case of a joint custody arrangement that a change has occurred in the circumstances of the child or either or both parties having custody, and that the modification is necessary to serve the best interest of the child. The existence of facts requiring notice to be given under Section 609.5 of this Act shall be considered a change in circumstance. In the case of joint custody, if the parties agree to a termination of a joint custody arrangement, the court shall so terminate the joint custody and make any modification which is in the child's best interest. The court shall state in its decision specific findings of fact in support of its modification or termination of joint custody if either parent opposes the modification or termination.

(c) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

(d) Notice under this Section shall be given as provided in subsections (c) and (d) of Section 601.

(Source: P.A. 87-1255.)