

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 607 as follows:

6 (750 ILCS 5/607) (from Ch. 40, par. 607)

7 Sec. 607. Visitation.

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

18 (a-3) Grandparents, great-grandparents, and siblings of a
19 minor child, who is one year old or older, have standing to
20 bring an action in circuit court by petition, requesting
21 visitation in accordance with this Section. The term "sibling"
22 in this Section means a brother, sister, stepbrother, or
23 stepsister of the minor child. Grandparents,
24 great-grandparents, and siblings also have standing to file a
25 petition for visitation rights in a pending dissolution
26 proceeding or any other proceeding that involves custody or
27 visitation issues, requesting visitation in accordance with
28 this Section. A petition for visitation with a child by a
29 person other than a parent must be filed in the county in which
30 the child resides. Nothing in this subsection (a-3) and
31 subsection (a-5) of this Section shall apply to a child in
32 whose interests a petition is pending under Section 2-13 of the

1 Juvenile Court Act of 1987 or a petition to adopt an unrelated
2 child is pending under the Adoption Act.

3 (a-5)(1) Except as otherwise provided in this subsection
4 (a-5), any grandparent, great-grandparent, or sibling may file
5 a petition for visitation rights to a minor child if there is
6 an unreasonable denial of visitation by a parent and at least
7 one of the following conditions exists:

8 (A) (Blank); ~~one parent of the child is incompetent as~~
9 ~~a matter of law or deceased or has been sentenced to a~~
10 ~~period of imprisonment for more than 1 year;~~

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

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

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

21 (B) the child's mother and father are divorced or have
22 been legally separated from each other or there is pending
23 a dissolution proceeding involving a parent of the child or
24 another court proceeding involving custody or visitation
25 of the child (other than any adoption proceeding of an
26 unrelated child) during the 3 month period prior to the
27 ~~filing of the petition~~ and at least one parent does not
28 object to the grandparent, great-grandparent, or sibling
29 having visitation with the child. The visitation of the
30 grandparent, great-grandparent, or sibling must not
31 diminish the visitation of the parent who is not related to
32 the grandparent, great-grandparent, or sibling seeking
33 visitation;

34 (C) (Blank); ~~the court, other than a Juvenile Court,~~
35 ~~has terminated a parent-child relationship and the~~
36 ~~grandparent, great grandparent, or sibling is the parent~~

1 ~~of the person whose parental rights have been terminated,~~
2 ~~except in cases of adoption. The visitation must not be~~
3 ~~used to allow the parent who lost parental rights to~~
4 ~~unlawfully visit with the child;~~

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

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

14 (2) Any visitation rights granted pursuant to this Section
15 before the filing of a petition for adoption of a child shall
16 automatically terminate by operation of law upon the entry of
17 an order terminating parental rights or granting the adoption
18 of the child, whichever is earlier. If the person or persons
19 who adopted the child are related to the child, as defined by
20 Section 1 of the Adoption Act, any person who was related to
21 the child as grandparent, great-grandparent, or sibling prior
22 to the adoption shall have standing to bring an action pursuant
23 to this Section requesting visitation with the child. The
24 ~~grandparent, great-grandparent, or sibling of a parent whose~~
25 ~~parental rights have been terminated through an adoption~~
26 ~~proceeding may not petition for visitation rights.~~

27 (3) In making a determination under this subsection (a-5),
28 there is a rebuttable presumption that a fit parent's actions
29 and decisions regarding grandparent, great-grandparent, or
30 sibling visitation are not harmful to the child's mental,
31 physical, or emotional health. The burden is on the party
32 filing a petition under this Section to prove that the parent's
33 actions and decisions regarding visitation times are harmful to
34 the child's mental, physical, or emotional health.

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

1 (A) the preference of the child if the child is
2 determined to be of sufficient maturity to express a
3 preference;

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

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

7 (D) the length and quality of the prior relationship
8 between the child and the grandparent, great-grandparent,
9 or sibling;

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

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

12 (G) the quantity of the visitation time requested and
13 the potential adverse impact that visitation would have on
14 the child's customary activities;

15 (H) whether the child resided with the petitioner for
16 at least 6 consecutive months with or without the current
17 custodian present;

18 (I) whether the petitioner had frequent or regular
19 contact or visitation with the child for at least 12
20 consecutive months; ~~and~~

21 (J) any other fact that establishes that the loss of
22 the relationship between the petitioner and the child is
23 likely to harm the child's mental, physical, or emotional
24 health; ~~and~~.

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

28 (5) The court may order visitation rights for the
29 grandparent, great-grandparent, or sibling that include
30 reasonable access without requiring overnight or possessory
31 visitation.

32 (a-7) (1) Unless by stipulation of the parties, no motion to
33 modify a grandparent, great-grandparent, or sibling visitation
34 order may be made earlier than 2 years after the date the order
35 was filed, unless the court permits it to be made on the basis
36 of affidavits that there is reason to believe the child's

1 present environment may endanger seriously the child's mental,
2 physical, or emotional health.

3 (2) The court shall not modify an a prior grandparent,
4 great-grandparent, or sibling visitation order that grants
5 visitation to a grandparent, great-grandparent, or sibling
6 unless it finds by clear and convincing evidence, upon the
7 basis of facts that have arisen since the prior visitation
8 order or that were unknown to the court at the time of entry of
9 the prior visitation, that a change has occurred in the
10 circumstances of the child or his or her custodian, and that
11 the modification is necessary to protect the mental, physical,
12 or emotional health of the child. The court shall state in its
13 decision specific findings of fact in support of its
14 modification or termination of the grandparent,
15 great-grandparent, or sibling visitation. A child's parent may
16 always petition to modify visitation upon changed
17 circumstances when necessary to promote the child's best
18 interest.

19 (3) Attorney fees and costs shall be assessed against a
20 party seeking modification of the visitation order if the court
21 finds that the modification action is vexatious and constitutes
22 harassment.

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

25 (b) (1) (Blank.)

26 (1.5) The Court may grant reasonable visitation privileges
27 to a stepparent upon petition to the court by the stepparent,
28 with notice to the parties required to be notified under
29 Section 601 of this Act, if the court determines that it is in
30 the best interests and welfare of the child, and may issue any
31 necessary orders to enforce those visitation privileges. A
32 petition for visitation privileges may be filed under this
33 paragraph (1.5) whether or not a petition pursuant to this Act
34 has been previously filed or is currently pending if the
35 following circumstances are met:

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

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

3 (C) the parent is deceased or is disabled and is unable
4 to care for the child;

5 (D) the child wishes to have reasonable visitation with
6 the stepparent; and

7 (E) the stepparent was providing for the care, control,
8 and welfare to the child prior to the initiation of the
9 petition for visitation.

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

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

24 (3) (Blank).

25 (c) The court may modify an order granting or denying
26 visitation rights of a parent whenever modification would serve
27 the best interest of the child; but the court shall not
28 restrict a parent's visitation rights unless it finds that the
29 visitation would endanger seriously the child's physical,
30 mental, moral or emotional health. ~~The court may modify an~~
31 ~~order granting, denying, or limiting visitation rights of a~~
32 ~~grandparent, great-grandparent, or sibling of any minor child~~
33 ~~whenever a change of circumstances has occurred based on facts~~
34 ~~occurring subsequent to the judgment and the court finds by~~
35 ~~clear and convincing evidence that the modification is in the~~
36 ~~best interest of the minor child.~~

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

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

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

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

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

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

30 "If the (grandparent or great-grandparent, whichever
31 is applicable) who has been granted visitation privileges
32 under this order uses the visitation privileges to
33 facilitate contact between the child and the child's
34 non-custodial parent, the visitation privileges granted
35 under this order shall be permanently revoked."

36 (e) No parent, not granted custody of the child, or

1 grandparent, or great-grandparent, or stepparent, or sibling
2 of any minor child, convicted of any offense involving an
3 illegal sex act perpetrated upon a victim less than 18 years of
4 age including but not limited to offenses for violations of
5 Article 12 of the Criminal Code of 1961, is entitled to
6 visitation rights while incarcerated or while on parole,
7 probation, conditional discharge, periodic imprisonment, or
8 mandatory supervised release for that offense, and upon
9 discharge from incarceration for a misdemeanor offense or upon
10 discharge from parole, probation, conditional discharge,
11 periodic imprisonment, or mandatory supervised release for a
12 felony offense, visitation shall be denied until the person
13 successfully completes a treatment program approved by the
14 court.

15 (f) Unless the court determines, after considering all
16 relevant factors, including but not limited to those set forth
17 in Section 602(a), that it would be in the best interests of
18 the child to allow visitation, the court shall not enter an
19 order providing visitation rights and pursuant to a motion to
20 modify visitation shall revoke visitation rights previously
21 granted to any person who would otherwise be entitled to
22 petition for visitation rights under this Section who has been
23 convicted of first degree murder of the parent, grandparent,
24 great-grandparent, or sibling of the child who is the subject
25 of the order. Until an order is entered pursuant to this
26 subsection, no person shall visit, with the child present, a
27 person who has been convicted of first degree murder of the
28 parent, grandparent, great-grandparent, or sibling of the
29 child without the consent of the child's parent, other than a
30 parent convicted of first degree murder as set forth herein, or
31 legal guardian.

32 (g) (Blank). ~~If an order has been entered limiting, for~~
33 ~~cause, a minor child's contact or visitation with a~~
34 ~~grandparent, great-grandparent, or sibling on the grounds that~~
35 ~~it was in the best interest of the child to do so, that order~~
36 ~~may be modified only upon a showing of a substantial change in~~

1 ~~circumstances occurring subsequent to the entry of the order~~
2 ~~with proof by clear and convincing evidence that modification~~
3 ~~is in the best interest of the minor child.~~

4 (Source: P.A. 93-911, eff. 1-1-05; 94-229, eff. 1-1-06.)