



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1792

Introduced 2/23/2007, by Rep. Deborah L. Graham

#### SYNOPSIS AS INTRODUCED:

750 ILCS 5/601

from Ch. 40, par. 601

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that the felony conviction of a grandparent shall not be deemed to disqualify the grandparent from being granted custody of his or her grandchild, if more than 3 years have elapsed since the date of the grandparent's release from the incarceration for the felony or the date of conviction, if there was no incarceration.

LRB095 08769 AJO 28953 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 Section 601 as follows:

6 (750 ILCS 5/601) (from Ch. 40, par. 601)

7 Sec. 601. Jurisdiction; Commencement of Proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (C) the surviving parent had: (i) received

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

8 (b-5) No felony conviction of a grandparent shall be deemed  
9 to disqualify the grandparent from being granted custody of a  
10 grandchild after a date which is 3 years after his or her  
11 release from incarceration for the felony or 3 years after the  
12 date of the conviction, if he or she was not incarcerated for  
13 the felony.

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

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

1 moving for a temporary order under Section 603 of this Act.

2 (e) (Blank).

3 (f) The court shall, at the court's discretion or upon the  
4 request of any party entitled to petition for custody of the  
5 child, appoint a guardian ad litem to represent the best  
6 interest of the child for the duration of the custody  
7 proceeding or for any modifications of any custody orders  
8 entered. Nothing in this Section shall be construed to prevent  
9 the court from appointing the same guardian ad litem for 2 or  
10 more children that are siblings or half-siblings.

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