

SB2471



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2471

Introduced 1/19/2020, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

750 ILCS 5/600
750 ILCS 5/602.9
750 ILCS 5/607.6

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that "step-parent" includes a person joined in a civil union to a child's parent. Deletes language providing that: all counseling sessions shall be confidential; and communications in counseling shall not be used in any manner in litigation nor relied upon by any expert appointed by the court or retained by any party. Effective immediately.

LRB101 16527 LNS 65911 b

A BILL FOR

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 600, 602.9, and
6 607.6 as follows:

7 (750 ILCS 5/600)

8 Sec. 600. Definitions. For purposes of this Part VI:

9 (a) "Abuse" has the meaning ascribed to that term in
10 Section 103 of the Illinois Domestic Violence Act of 1986.

11 (b) "Allocation judgment" means a judgment allocating
12 parental responsibilities.

13 (c) "Caretaking functions" means tasks that involve
14 interaction with a child or that direct, arrange, and supervise
15 the interaction with and care of a child provided by others, or
16 for obtaining the resources allowing for the provision of these
17 functions. The term includes, but is not limited to, the
18 following:

19 (1) satisfying a child's nutritional needs; managing a
20 child's bedtime and wake-up routines; caring for a child
21 when the child is sick or injured; being attentive to a
22 child's personal hygiene needs, including washing,
23 grooming, and dressing; playing with a child and ensuring

1 the child attends scheduled extracurricular activities;
2 protecting a child's physical safety; and providing
3 transportation for a child;

4 (2) directing a child's various developmental needs,
5 including the acquisition of motor and language skills,
6 toilet training, self-confidence, and maturation;

7 (3) providing discipline, giving instruction in
8 manners, assigning and supervising chores, and performing
9 other tasks that attend to a child's needs for behavioral
10 control and self-restraint;

11 (4) ensuring the child attends school, including
12 remedial and special services appropriate to the child's
13 needs and interests, communicating with teachers and
14 counselors, and supervising homework;

15 (5) helping a child develop and maintain appropriate
16 interpersonal relationships with peers, siblings, and
17 other family members;

18 (6) ensuring the child attends medical appointments
19 and is available for medical follow-up and meeting the
20 medical needs of the child in the home;

21 (7) providing moral and ethical guidance for a child;
22 and

23 (8) arranging alternative care for a child by a family
24 member, babysitter, or other child care provider or
25 facility, including investigating such alternatives,
26 communicating with providers, and supervising such care.

1 (d) "Parental responsibilities" means both parenting time
2 and significant decision-making responsibilities with respect
3 to a child.

4 (e) "Parenting time" means the time during which a parent
5 is responsible for exercising caretaking functions and
6 non-significant decision-making responsibilities with respect
7 to the child.

8 (f) "Parenting plan" means a written agreement that
9 allocates significant decision-making responsibilities,
10 parenting time, or both.

11 (g) "Relocation" means:

12 (1) a change of residence from the child's current
13 primary residence located in the county of Cook, DuPage,
14 Kane, Lake, McHenry, or Will to a new residence within this
15 State that is more than 25 miles from the child's current
16 residence, as measured by an Internet mapping service;

17 (2) a change of residence from the child's current
18 primary residence located in a county not listed in
19 paragraph (1) to a new residence within this State that is
20 more than 50 miles from the child's current primary
21 residence, as measured by an Internet mapping service; or

22 (3) a change of residence from the child's current
23 primary residence to a residence outside the borders of
24 this State that is more than 25 miles from the current
25 primary residence, as measured by an Internet mapping
26 service.

1 (h) "Religious upbringing" means the choice of religion or
2 denomination of a religion, religious schooling, religious
3 training, or participation in religious customs or practices.

4 (i) "Restriction of parenting time" means any limitation or
5 condition placed on parenting time, including supervision.

6 (j) "Right of first refusal" has the meaning provided in
7 subsection (b) of Section 602.3 of this Act.

8 (k) "Significant decision-making" means deciding issues of
9 long-term importance in the life of a child.

10 (l) "Step-parent" means a person married or joined in a
11 civil union to a child's parent, including a person married or
12 joined in a civil union to the child's parent immediately prior
13 to the parent's death.

14 (m) "Supervision" means the presence of a third party
15 during a parent's exercise of parenting time.

16 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17.)

17 (750 ILCS 5/602.9)

18 Sec. 602.9. Visitation by certain non-parents.

19 (a) As used in this Section:

20 (1) "electronic communication" means time that a
21 grandparent, great-grandparent, sibling, or step-parent
22 spends with a child during which the child is not in the
23 person's actual physical custody, but which is facilitated
24 by the use of communication tools such as the telephone,
25 electronic mail, instant messaging, video conferencing or

1 other wired or wireless technologies via the Internet, or
2 another medium of communication;

3 (2) "sibling" means a brother or sister either of the
4 whole blood or the half blood, stepbrother, or stepsister
5 of the minor child;

6 (3) "step-parent" means a person married or joined in a
7 civil union to a child's parent, including a person married
8 or joined in a civil union to the child's parent
9 immediately prior to the parent's death; and

10 (4) "visitation" means in-person time spent between a
11 child and the child's grandparent, great-grandparent,
12 sibling, step-parent, or any person designated under
13 subsection (d) of Section 602.7. In appropriate
14 circumstances, visitation may include electronic
15 communication under conditions and at times determined by
16 the court.

17 (b) General provisions.

18 (1) An appropriate person, as identified in subsection
19 (c) of this Section, may bring an action in circuit court
20 by petition, or by filing a petition in a pending
21 dissolution proceeding or any other proceeding that
22 involves parental responsibilities or visitation issues
23 regarding the child, requesting visitation with the child
24 pursuant to this Section. If there is not a pending
25 proceeding involving parental responsibilities or
26 visitation with the child, the petition for visitation with

1 the child must be filed in the county in which the child
2 resides. Notice of the petition shall be given as provided
3 in subsection (c) of Section 601.2 of this Act.

4 (2) This Section does not apply to a child:

5 (A) in whose interests a petition is pending under
6 Section 2-13 of the Juvenile Court Act of 1987; or

7 (B) in whose interests a petition to adopt by an
8 unrelated person is pending under the Adoption Act; or

9 (C) who has been voluntarily surrendered by the
10 parent or parents, except for a surrender to the
11 Department of Children and Family Services or a foster
12 care facility; or

13 (D) who has been previously adopted by an
14 individual or individuals who are not related to the
15 biological parents of the child or who is the subject
16 of a pending adoption petition by an individual or
17 individuals who are not related to the biological
18 parents of the child; or

19 (E) who has been relinquished pursuant to the
20 Abandoned Newborn Infant Protection Act.

21 (3) A petition for visitation may be filed under this
22 Section only if there has been an unreasonable denial of
23 visitation by a parent and the denial has caused the child
24 undue mental, physical, or emotional harm.

25 (4) There is a rebuttable presumption that a fit
26 parent's actions and decisions regarding grandparent,

1 great-grandparent, sibling, or step-parent visitation are
2 not harmful to the child's mental, physical, or emotional
3 health. The burden is on the party filing a petition under
4 this Section to prove that the parent's actions and
5 decisions regarding visitation will cause undue harm to the
6 child's mental, physical, or emotional health.

7 (5) In determining whether to grant visitation, the
8 court shall consider the following:

9 (A) the wishes of the child, taking into account
10 the child's maturity and ability to express reasoned
11 and independent preferences as to visitation;

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

13 (C) the mental and physical health of the
14 grandparent, great-grandparent, sibling, or
15 step-parent;

16 (D) the length and quality of the prior
17 relationship between the child and the grandparent,
18 great-grandparent, sibling, or step-parent;

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

21 (F) the good faith of the person denying
22 visitation;

23 (G) the quantity of the visitation time requested
24 and the potential adverse impact that visitation would
25 have on the child's customary activities;

26 (H) any other fact that establishes that the loss

1 of the relationship between the petitioner and the
2 child is likely to unduly harm the child's mental,
3 physical, or emotional health; and

4 (I) whether visitation can be structured in a way
5 to minimize the child's exposure to conflicts between
6 the adults.

7 (6) Any visitation rights granted under this Section
8 before the filing of a petition for adoption of the child
9 shall automatically terminate by operation of law upon the
10 entry of an order terminating parental rights or granting
11 the adoption of the child, whichever is earlier. If the
12 person or persons who adopted the child are related to the
13 child, as defined by Section 1 of the Adoption Act, any
14 person who was related to the child as grandparent,
15 great-grandparent, or sibling prior to the adoption shall
16 have standing to bring an action under this Section
17 requesting visitation with the child.

18 (7) The court may order visitation rights for the
19 grandparent, great-grandparent, sibling, or step-parent
20 that include reasonable access without requiring overnight
21 or possessory visitation.

22 (c) Visitation by grandparents, great-grandparents,
23 step-parents, and siblings.

24 (1) Grandparents, great-grandparents, step-parents,
25 and siblings of a minor child who is one year old or older
26 may bring a petition for visitation and electronic

1 communication under this Section if there is an
2 unreasonable denial of visitation by a parent that causes
3 undue mental, physical, or emotional harm to the child and
4 if at least one of the following conditions exists:

5 (A) the child's other parent is deceased or has
6 been missing for at least 90 days. For the purposes of
7 this subsection a parent is considered to be missing if
8 the parent's location has not been determined and the
9 parent has been reported as missing to a law
10 enforcement agency; or

11 (B) a parent of the child is incompetent as a
12 matter of law; or

13 (C) a parent has been incarcerated in jail or
14 prison for a period in excess of 90 days immediately
15 prior to the filing of the petition; or

16 (D) the child's parents have been granted a
17 dissolution of marriage or have been legally separated
18 from each other or there is pending a dissolution
19 proceeding involving a parent of the child or another
20 court proceeding involving parental responsibilities
21 or visitation of the child (other than an adoption
22 proceeding of an unrelated child, a proceeding under
23 Article II of the Juvenile Court Act of 1987, or an
24 action for an order of protection under the Illinois
25 Domestic Violence Act of 1986 or Article 112A of the
26 Code of Criminal Procedure of 1963) and at least one

1 parent does not object to the grandparent,
2 great-grandparent, step-parent, or sibling having
3 visitation with the child. The visitation of the
4 grandparent, great-grandparent, step-parent, or
5 sibling must not diminish the parenting time of the
6 parent who is not related to the grandparent,
7 great-grandparent, step-parent, or sibling seeking
8 visitation; or

9 (E) (i) the child is born to parents who are not
10 married to each other; (ii) the parents are not living
11 together; (iii) the petitioner is a grandparent,
12 great-grandparent, step-parent, or sibling of the
13 child; and (iv) the parent-child relationship has been
14 legally established. For purposes of this subdivision
15 (E), if the petitioner is a grandparent or
16 great-grandparent, the parent-child relationship need
17 be legally established only with respect to the parent
18 who is related to the grandparent or
19 great-grandparent. For purposes of this subdivision
20 (E), if the petitioner is a step-parent, the
21 parent-child relationship need be legally established
22 only with respect to the parent who is married to the
23 petitioner or was married to the petitioner
24 immediately before the parent's death.

25 (2) In addition to the factors set forth in subdivision
26 (b) (5) of this Section, the court should consider:

1 (A) whether the child resided with the petitioner
2 for at least 6 consecutive months with or without a
3 parent present;

4 (B) whether the child had frequent and regular
5 contact or visitation with the petitioner for at least
6 12 consecutive months; and

7 (C) whether the grandparent, great-grandparent,
8 sibling, or step-parent was a primary caretaker of the
9 child for a period of not less than 6 consecutive
10 months within the 24-month period immediately
11 preceding the commencement of the proceeding.

12 (3) An order granting visitation privileges under this
13 Section is subject to subsections (c) and (d) of Section
14 603.10.

15 (4) A petition for visitation privileges may not be
16 filed pursuant to this subsection (c) by the parents or
17 grandparents of a parent of the child if parentage between
18 the child and the related parent has not been legally
19 established.

20 (d) Modification of visitation orders.

21 (1) Unless by stipulation of the parties, no motion to
22 modify a grandparent, great-grandparent, sibling, or
23 step-parent visitation order may be made earlier than 2
24 years after the date the order was filed, unless the court
25 permits it to be made on the basis of affidavits that there
26 is reason to believe the child's present environment may

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

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

19 (3) Notice of a motion requesting modification of a
20 visitation order shall be provided as set forth in
21 subsection (c) of Section 601.2 of this Act.

22 (4) Attorney's fees and costs shall be assessed against
23 a party seeking modification of the visitation order if the
24 court finds that the modification action is vexatious and
25 constitutes harassment.

26 (e) No child's grandparent, great-grandparent, sibling, or

1 step-parent, or any person to whom the court is considering
2 granting visitation privileges pursuant to subsection (d) of
3 Section 602.7, who was convicted of any offense involving an
4 illegal sex act perpetrated upon a victim less than 18 years of
5 age including, but not limited to, offenses for violations of
6 Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-1.70,
7 or Article 12 of the Criminal Code of 1961 or the Criminal Code
8 of 2012, is entitled to visitation while incarcerated or while
9 on parole, probation, conditional discharge, periodic
10 imprisonment, or mandatory supervised release for that
11 offense, and upon discharge from incarceration for a
12 misdemeanor offense or upon discharge from parole, probation,
13 conditional discharge, periodic imprisonment, or mandatory
14 supervised release for a felony offense. Visitation shall be
15 denied until the person successfully completes a treatment
16 program approved by the court. Upon completion of treatment,
17 the court may deny visitation based on the factors listed in
18 subdivision (b) (5) of this Section.

19 (f) No child's grandparent, great-grandparent, sibling, or
20 step-parent, or any person to whom the court is considering
21 granting visitation privileges pursuant to subsection (d) of
22 Section 602.7, may be granted visitation if he or she has been
23 convicted of first degree murder of a parent, grandparent,
24 great-grandparent, or sibling of the child who is the subject
25 of the visitation request. Pursuant to a motion to modify
26 visitation, the court shall revoke visitation rights

1 previously granted to any person who would otherwise be
2 entitled to petition for visitation rights under this Section
3 or granted visitation under subsection (d) of Section 602.7, if
4 the person has been convicted of first degree murder of a
5 parent, grandparent, great-grandparent, or sibling of the
6 child who is the subject of the visitation order. Until an
7 order is entered pursuant to this subsection, no person may
8 visit, with the child present, a person who has been convicted
9 of first degree murder of the parent, grandparent,
10 great-grandparent, or sibling of the child without the consent
11 of the child's parent, other than a parent convicted of first
12 degree murder as set forth herein, or legal guardian.

13 (Source: P.A. 99-90, eff. 1-1-16; 99-763, eff. 1-1-17; 100-706,
14 eff. 1-1-19.)

15 (750 ILCS 5/607.6)

16 Sec. 607.6. Court-ordered counseling. ~~Counseling.~~

17 (a) The court may order individual counseling for the
18 child, family counseling for one or more of the parties and the
19 child, or parental education for one or more of the parties, if
20 it finds one or more of the following:

21 (1) both parents or all parties agree to the order;

22 (2) the child's physical health is endangered or that
23 the child's emotional development is impaired;

24 (3) abuse of allocated parenting time under Section
25 607.5 has occurred; or

1 (4) one or both of the parties have violated the
2 allocation judgment with regard to conduct affecting or in
3 the presence of the child.

4 (b) The court may apportion the costs of counseling between
5 the parties as appropriate.

6 (c) The remedies provided in this Section are in addition
7 to, and do not diminish or abridge in any way, the court's
8 power to exercise its authority through contempt or other
9 proceedings.

10 (d) (Blank). ~~All counseling sessions shall be~~
11 ~~confidential. The communications in counseling shall not be~~
12 ~~used in any manner in litigation nor relied upon by any expert~~
13 ~~appointed by the court or retained by any party.~~

14 (Source: P.A. 99-763, eff. 1-1-17.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.