



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB2741

Introduced 2/19/2021, by Rep. Suzanne Ness

#### 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.

LRB102 14910 LNS 20265 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 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  
15 supervise the interaction with and care of a child provided by  
16 others, or for obtaining the resources allowing for the  
17 provision of these functions. The term includes, but is not  
18 limited to, the 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  
15 this State that is more than 25 miles from the child's  
16 current residence, as measured by an Internet mapping  
17 service;

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

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

1 service.

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

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

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

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

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

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

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

18 (750 ILCS 5/602.9)

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

20 (a) As used in this Section:

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

1 electronic mail, instant messaging, video conferencing or  
2 other wired or wireless technologies via the Internet, or  
3 another medium of communication;

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

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

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

18 (b) General provisions.

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

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

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

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

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

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

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

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

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

26           (4) There is a rebuttable presumption that a fit

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

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

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

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

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

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

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

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

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



1           (H) any other fact that establishes that the loss  
2           of the relationship between the petitioner and the  
3           child is likely to unduly harm the child's mental,  
4           physical, or emotional health; and

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

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

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

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

25          (1) Grandparents, great-grandparents, step-parents,  
26          and siblings of a minor child who is one year old or older

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

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

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

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

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

1 Code of Criminal Procedure of 1963) and at least one  
2 parent does not object to the grandparent,  
3 great-grandparent, step-parent, or sibling having  
4 visitation with the child. The visitation of the  
5 grandparent, great-grandparent, step-parent, or  
6 sibling must not diminish the parenting time of the  
7 parent who is not related to the grandparent,  
8 great-grandparent, step-parent, or sibling seeking  
9 visitation; or

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

26 (2) In addition to the factors set forth in

1 subdivision (b)(5) of this Section, the court should  
2 consider:

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

6 (B) whether the child had frequent and regular  
7 contact or visitation with the petitioner for at least  
8 12 consecutive months; and

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

14 (3) An order granting visitation privileges under this  
15 Section is subject to subsections (c) and (d) of Section  
16 603.10.

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

22 (d) Modification of visitation orders.

23 (1) Unless by stipulation of the parties, no motion to  
24 modify a grandparent, great-grandparent, sibling, or  
25 step-parent visitation order may be made earlier than 2  
26 years after the date the order was filed, unless the court

1           permits it to be made on the basis of affidavits that there  
2           is reason to believe the child's present environment may  
3           endanger seriously the child's mental, physical, or  
4           emotional health.

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

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

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

1 vexatious and constitutes harassment.

2 (e) No child's grandparent, great-grandparent, sibling, or  
3 step-parent, or any person to whom the court is considering  
4 granting visitation privileges pursuant to subsection (d) of  
5 Section 602.7, who was convicted of any offense involving an  
6 illegal sex act perpetrated upon a victim less than 18 years of  
7 age including, but not limited to, offenses for violations of  
8 Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-1.70,  
9 or Article 12 of the Criminal Code of 1961 or the Criminal Code  
10 of 2012, is entitled to visitation while incarcerated or while  
11 on parole, probation, conditional discharge, periodic  
12 imprisonment, or mandatory supervised release for that  
13 offense, and upon discharge from incarceration for a  
14 misdemeanor offense or upon discharge from parole, probation,  
15 conditional discharge, periodic imprisonment, or mandatory  
16 supervised release for a felony offense. Visitation shall be  
17 denied until the person successfully completes a treatment  
18 program approved by the court. Upon completion of treatment,  
19 the court may deny visitation based on the factors listed in  
20 subdivision (b) (5) of this Section.

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

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

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

17 (750 ILCS 5/607.6)

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

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

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

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

1           (3) abuse of allocated parenting time under Section  
2           607.5 has occurred; or

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

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

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

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

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

17          Section 99. Effective date. This Act takes effect upon  
18          becoming law.