



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by Robert F. Flider

SYNOPSIS AS INTRODUCED:

750 ILCS 5/607

from Ch. 40, par. 607

Amends the Illinois Marriage and Dissolution of Marriage Act. Adds to the list of circumstances under which grandparents, great-grandparents, or siblings can file a petition for visitation: (i) the deceased parent's last will and testament or a notarized document state that there shall be reasonable visitation; (ii) the grandparents, great-grandparents, or sibling demonstrate that they were an active part of the grandchild's life, with past routine visitation; (iii) the grandparents, great-grandparents, or sibling provided some care for the child prior to the initiation of the visitation proceedings; or (iv) the child wishes to have visitation with the grandparents, great-grandparents, or sibling. Provides that any grandparent, great-grandparent, or sibling who has custody or is the legal guardian of a child shall not interfere with visitation privileges of the grandparents, great-grandparents, or siblings who are not the child's custodian or guardian if the court rules it is in the best interest of the child to have reasonable visitation.

LRB093 16580 LCB 42229 b

1 AN ACT concerning visitation.

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 (b) (1) The court may grant reasonable visitation
19 privileges to a grandparent, great-grandparent, or sibling of
20 any minor child upon petition to the court by the grandparents
21 or great-grandparents or on behalf of the sibling, with notice
22 to the parties required to be notified under Section 601 of
23 this Act, if the court determines that it is in the best
24 interests and welfare of the child, and may issue any necessary
25 orders to enforce such visitation privileges. Except as
26 provided in paragraph (2) of this subsection (b), a petition
27 for visitation privileges may be filed under this paragraph (1)
28 whether or not a petition pursuant to this Act has been
29 previously filed or is currently pending if one or more of the
30 following circumstances exist:

31 (A) the parents are not currently cohabiting on a
32 permanent or an indefinite basis;

1 (B) one of the parents has been absent from the marital
2 abode for more than one month without the spouse knowing
3 his or her whereabouts;

4 (C) one of the parents is deceased;

5 (D) one of the parents joins in the petition with the
6 grandparents, great-grandparents, or sibling; ~~or~~

7 (E) a sibling is in State custody; ~~or~~

8 (F) the deceased parent's last will and testament or a
9 notarized document states that there shall be reasonable
10 visitation;

11 (G) the grandparents, great-grandparents, or sibling
12 demonstrate that they were an active part of the
13 grandchild's life, with past routine visitation;

14 (H) the grandparents, great-grandparents, or sibling
15 provided some care for the child prior to the initiation of
16 the visitation proceedings; or

17 (I) the child wishes to have visitation with the
18 grandparents, great-grandparents, or sibling.

19 (1.3) Any grandparent, great-grandparent, or sibling who
20 has custody or is the legal guardian of a child shall not
21 interfere with visitation privileges of the grandparents,
22 great-grandparents, or siblings who are not the child's
23 custodian or guardian if the court rules it is in the best
24 interest of the child to have reasonable visitation.

25 (1.5) The Court may grant reasonable visitation privileges
26 to a stepparent upon petition to the court by the stepparent,
27 with notice to the parties required to be notified under
28 Section 601 of this Act, if the court determines that it is in
29 the best interests and welfare of the child, and may issue any
30 necessary orders to enforce those visitation privileges. A
31 petition for visitation privileges may be filed under this
32 paragraph (1.5) whether or not a petition pursuant to this Act
33 has been previously filed or is currently pending if the
34 following circumstances are met:

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

36 (B) the child resided continuously with the parent and

1 stepparent for at least 5 years;

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

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

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

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

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

23 (3) When one parent is deceased, the surviving parent shall
24 not interfere with the visitation rights of the grandparents.

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

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

4 (Source: P.A. 90-782, eff. 8-14-98; 90-801, eff. 6-1-99;
5 91-357, eff. 7-29-99; 91-610, eff. 8-19-99.)