



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB2266**

Introduced 2/18/2009, by Rep. Paul D. Froehlich

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/10-5.5

750 ILCS 5/607.1

from Ch. 40, par. 607.1

Amends the Criminal Code of 1961. In provisions concerning the offense of unlawful visitation interference, changes the name of the offense to unlawful parenting time interference and changes references from "visitation" to "parenting time"; also adds references to "custody time". Amends the Illinois Marriage and Dissolution of Marriage Act to change a cross reference to the offense. Effective immediately.

LRB096 10590 RLC 20762 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 10-5.5 as follows:

6 (720 ILCS 5/10-5.5)

7 Sec. 10-5.5. Unlawful parenting time ~~visitation~~  
8 interference.

9 (a) As used in this Section, the terms "child", "detain",  
10 and "lawful custodian" shall have the meanings ascribed to them  
11 in Section 10-5 of this Code.

12 (b) Every person who, in violation of the visitation,  
13 parenting time, or custody time provisions of a court order  
14 relating to child custody, detains or conceals a child with the  
15 intent to deprive another person of his or her rights to  
16 visitation, parenting time, or custody time shall be guilty of  
17 unlawful parenting time ~~visitation~~ interference.

18 (c) A person committing unlawful parenting time ~~visitation~~  
19 interference is guilty of a petty offense. However, any person  
20 violating this Section after 2 prior convictions of unlawful  
21 visitation interference or unlawful parenting time  
22 interference is guilty of a Class A misdemeanor.

23 (d) Any law enforcement officer who has probable cause to

1 believe that a person has committed or is committing an act in  
2 violation of this Section shall issue to that person a notice  
3 to appear.

4 (e) The notice shall:

5 (1) be in writing;

6 (2) state the name of the person and his address, if  
7 known;

8 (3) set forth the nature of the offense;

9 (4) be signed by the officer issuing the notice; and

10 (5) request the person to appear before a court at a  
11 certain time and place.

12 (f) Upon failure of the person to appear, a summons or  
13 warrant of arrest may be issued.

14 (g) It is an affirmative defense that:

15 (1) a person or lawful custodian committed the act to  
16 protect the child from imminent physical harm, provided  
17 that the defendant's belief that there was physical harm  
18 imminent was reasonable and that the defendant's conduct in  
19 withholding visitation rights, parenting time, or custody  
20 time was a reasonable response to the harm believed  
21 imminent;

22 (2) the act was committed with the mutual consent of  
23 all parties having a right to custody and visitation of the  
24 child or parenting time with the child; or

25 (3) the act was otherwise authorized by law.

26 (h) A person convicted of unlawful parenting time

1 ~~visitation~~ interference shall not be subject to a civil  
2 contempt citation for the same conduct for violating  
3 visitation, parenting time, or custody time provisions of a  
4 court order issued under the Illinois Marriage and Dissolution  
5 of Marriage Act.

6 (Source: P.A. 88-96.)

7 Section 10. The Illinois Marriage and Dissolution of  
8 Marriage Act is amended by changing Section 607.1 as follows:

9 (750 ILCS 5/607.1) (from Ch. 40, par. 607.1)

10 Sec. 607.1. Enforcement of visitation orders; visitation  
11 abuse.

12 (a) The circuit court shall provide an expedited procedure  
13 for enforcement of court ordered visitation in cases of  
14 visitation abuse. Visitation abuse occurs when a party has  
15 willfully and without justification: (1) denied another party  
16 visitation as set forth by the court; or (2) exercised his or  
17 her visitation rights in a manner that is harmful to the child  
18 or child's custodian.

19 (b) An Action may be commenced by filing a petition setting  
20 forth: (i) the petitioner's name, residence address or mailing  
21 address, and telephone number; (ii) respondent's name and place  
22 of residence, place of employment, or mailing address; (iii)  
23 the nature of the visitation abuse, giving dates and other  
24 relevant information; (iv) that a reasonable attempt was made

1 to resolve the dispute; and (v) the relief sought.

2 Notice of the filing of the petitions shall be given as  
3 provided in Section 511.

4 (c) After hearing all of the evidence, the court may order  
5 one or more of the following:

6 (1) Modification of the visitation order to  
7 specifically outline periods of visitation or restrict  
8 visitation as provided by law.

9 (2) Supervised visitation with a third party or public  
10 agency.

11 (3) Make up visitation of the same time period, such as  
12 weekend for weekend, holiday for holiday.

13 (4) Counseling or mediation, except in cases where  
14 there is evidence of domestic violence, as defined in  
15 Section 1 of the Domestic Violence Shelters Act, occurring  
16 between the parties.

17 (5) Other appropriate relief deemed equitable.

18 (d) Nothing contained in this Section shall be construed to  
19 limit the court's contempt power, except as provided in  
20 subsection (g) of this Section.

21 (e) When the court issues an order holding a party in  
22 contempt of court for violation of a visitation order, the  
23 clerk shall transmit a copy of the contempt order to the  
24 sheriff of the county. The sheriff shall furnish a copy of each  
25 contempt order to the Department of State Police on a daily  
26 basis in the form and manner required by the Department. The

1 Department shall maintain a complete record and index of the  
2 contempt orders and make this data available to all local law  
3 enforcement agencies.

4 (f) Attorney fees and costs shall be assessed against a  
5 party if the court finds that the enforcement action is  
6 vexatious and constitutes harassment.

7 (g) A person convicted of unlawful parenting time  
8 ~~visitation~~ interference under Section 10-5.5 of the Criminal  
9 Code of 1961 shall not be subject to the provisions of this  
10 Section and the court may not enter a contempt order for  
11 visitation abuse against any person for the same conduct for  
12 which the person was convicted of unlawful visitation  
13 interference or subject that person to the sanctions provided  
14 for in this Section.

15 (Source: P.A. 87-895; 88-96.)

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