

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 602 and 610 as  
6 follows:

7 (750 ILCS 5/602) (from Ch. 40, par. 602)

8 Sec. 602. Best Interest of Child.

9 (a) The court shall determine custody in accordance with  
10 the best interest of the child. The court shall consider all  
11 relevant factors including:

12 (1) the wishes of the child's parent or parents as to  
13 his custody;

14 (2) the wishes of the child as to his custodian;

15 (3) the interaction and interrelationship of the child  
16 with his parent or parents, his siblings and any other  
17 person who may significantly affect the child's best  
18 interest;

19 (4) the child's adjustment to his home, school and  
20 community;

21 (5) the mental and physical health of all individuals  
22 involved;

23 (6) the physical violence or threat of physical

1 violence by the child's potential custodian, whether  
2 directed against the child or directed against another  
3 person;

4 (7) the occurrence of ongoing or repeated abuse as  
5 defined in Section 103 of the Illinois Domestic Violence  
6 Act of 1986, whether directed against the child or directed  
7 against another person;

8 (8) the willingness and ability of each parent to  
9 facilitate and encourage a close and continuing  
10 relationship between the other parent and the child; ~~and~~

11 (9) whether one of the parents is a sex offender; ~~and~~

12 (10) the terms of a parent's military family-care plan  
13 that a parent must complete before deployment if a parent  
14 is a member of the United States Armed Forces who is being  
15 deployed.

16 In the case of a custody proceeding in which a stepparent  
17 has standing under Section 601, it is presumed to be in the  
18 best interest of the minor child that the natural parent have  
19 the custody of the minor child unless the presumption is  
20 rebutted by the stepparent.

21 (b) The court shall not consider conduct of a present or  
22 proposed custodian that does not affect his relationship to the  
23 child.

24 (c) Unless the court finds the occurrence of ongoing abuse  
25 as defined in Section 103 of the Illinois Domestic Violence Act  
26 of 1986, the court shall presume that the maximum involvement

1 and cooperation of both parents regarding the physical, mental,  
2 moral, and emotional well-being of their child is in the best  
3 interest of the child. There shall be no presumption in favor  
4 of or against joint custody.

5 (Source: P.A. 94-377, eff. 7-29-05; 94-643, eff. 1-1-06;  
6 95-331, eff. 8-21-07.)

7 (750 ILCS 5/610) (from Ch. 40, par. 610)

8 Sec. 610. Modification.

9 (a) Unless by stipulation of the parties or except as  
10 provided in subsection (a-5), no motion to modify a custody  
11 judgment may be made earlier than 2 years after its date,  
12 unless the court permits it to be made on the basis of  
13 affidavits that there is reason to believe the child's present  
14 environment may endanger seriously his physical, mental, moral  
15 or emotional health.

16 (a-5) A motion to modify a custody judgment may be made at  
17 any time by a party who has been informed of the existence of  
18 facts requiring notice to be given under Section 609.5.

19 (b) The court shall not modify a prior custody judgment  
20 unless it finds by clear and convincing evidence, upon the  
21 basis of facts that have arisen since the prior judgment or  
22 that were unknown to the court at the time of entry of the  
23 prior judgment, that a change has occurred in the circumstances  
24 of the child or his custodian, or in the case of a joint  
25 custody arrangement that a change has occurred in the

1 circumstances of the child or either or both parties having  
2 custody, and that the modification is necessary to serve the  
3 best interest of the child. The existence of facts requiring  
4 notice to be given under Section 609.5 of this Act shall be  
5 considered a change in circumstance. In the case of joint  
6 custody, if the parties agree to a termination of a joint  
7 custody arrangement, the court shall so terminate the joint  
8 custody and make any modification which is in the child's best  
9 interest. The court shall state in its decision specific  
10 findings of fact in support of its modification or termination  
11 of joint custody if either parent opposes the modification or  
12 termination.

13 (c) Attorney fees and costs shall be assessed against a  
14 party seeking modification if the court finds that the  
15 modification action is vexatious and constitutes harassment.

16 (d) Notice under this Section shall be given as provided in  
17 subsections (c) and (d) of Section 601.

18 (e) A party's absence, relocation, or failure to comply  
19 with the court's orders on custody, visitation, or parenting  
20 time may not, by itself, be sufficient to justify a  
21 modification of a prior order if the reason for the absence,  
22 relocation, or failure to comply is the party's deployment as a  
23 member of the United States Armed Forces.

24 (Source: P.A. 94-643, eff. 1-1-06.)