



Sen. Iris Y. Martinez

**Filed: 5/5/2009**

09600HB2283sam001

LRB096 09929 AJO 26096 a

1 AMENDMENT TO HOUSE BILL 2283

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2283 by replacing  
3 everything after the enacting clause with the following:

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

1 person who may significantly affect the child's best  
2 interest;

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

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

7 (6) the physical violence or threat of physical  
8 violence by the child's potential custodian, whether  
9 directed against the child or directed against another  
10 person;

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

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

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

19 (10) the terms of a parent's military family-care plan  
20 that a parent must complete before deployment if a parent  
21 is a member of the United States armed forces who is being  
22 deployed.

23 In the case of a custody proceeding in which a stepparent  
24 has standing under Section 601, it is presumed to be in the  
25 best interest of the minor child that the natural parent have  
26 the custody of the minor child unless the presumption is

1 rebutted by the stepparent.

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

5 (c) Unless the court finds the occurrence of ongoing abuse  
6 as defined in Section 103 of the Illinois Domestic Violence Act  
7 of 1986, the court shall presume that the maximum involvement  
8 and cooperation of both parents regarding the physical, mental,  
9 moral, and emotional well-being of their child is in the best  
10 interest of the child. There shall be no presumption in favor  
11 of or against joint custody.

12 (Source: P.A. 94-377, eff. 7-29-05; 94-643, eff. 1-1-06;  
13 95-331, eff. 8-21-07.)

14 (750 ILCS 5/610) (from Ch. 40, par. 610)

15 Sec. 610. Modification.

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

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

1           (b) The court shall not modify a prior custody judgment  
2 unless it finds by clear and convincing evidence, upon the  
3 basis of facts that have arisen since the prior judgment or  
4 that were unknown to the court at the time of entry of the  
5 prior judgment, that a change has occurred in the circumstances  
6 of the child or his custodian, or in the case of a joint  
7 custody arrangement that a change has occurred in the  
8 circumstances of the child or either or both parties having  
9 custody, and that the modification is necessary to serve the  
10 best interest of the child. The existence of facts requiring  
11 notice to be given under Section 609.5 of this Act shall be  
12 considered a change in circumstance. In the case of joint  
13 custody, if the parties agree to a termination of a joint  
14 custody arrangement, the court shall so terminate the joint  
15 custody and make any modification which is in the child's best  
16 interest. The court shall state in its decision specific  
17 findings of fact in support of its modification or termination  
18 of joint custody if either parent opposes the modification or  
19 termination.

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

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

25           (e) A party's absence, relocation, or failure to comply  
26 with the court's orders on custody, visitation, or parenting

1 time may not, by itself, be sufficient to justify a  
2 modification of a prior order if the reason for the absence,  
3 relocation, or failure to comply is the party's deployment as a  
4 member of the United States armed forces.

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