

Chicago Daily Law Bulletin®

Volume 162, No. 240

Serving Chicago's legal community for 161 years

Getting ready for new year: What to know about marriage act changes

This year, the Illinois legislature revamped the existing Illinois Marriage and Dissolution of Marriage Act. Upon identifying errors and ambiguities within the revision, the legislature introduced a bill, which became Public Act 99-0763. This bill is meant to serve as a necessary cleanup and goes into effect on Jan. 1.

To help you be prepared, this article serves as a concise summary of the changes you can expect.

Removal, relocation

A time frame has been imposed on the length of time a child can be removed from the jurisdiction by a parent. Moving forward, a party may request a temporary restraining order or preliminary injunction to enjoin a party from removing a child from the jurisdiction for more than 14 days. 750 ILCS 5/501(a)(2)(ii).

When the current act went into effect, many were left wondering how the court planned on measuring a change in residence. In the new bill, a change of residence (25 miles) is to be "measured by an internet mapping service." 750 ILCS 5/600(1-3).

Disposition of property, debts

Clarifications have been made to determine the liability allocation. With respect to marital property, the standard is now crystal clear. For example, a presumption of marital property "is overcome" by showing with clear and convincing evidence that a transfer "between spouses" was not intended to be a gift. 750 ILCS 5/503(b)(1).

Maintenance

A new subsection has been added regarding maintenance. This gives the court four options when reviewing previously ordered maintenance: (1) extend maintenance for further review, (2) extend maintenance for a fixed, nonmodifiable term, (3) extend maintenance for an indefinite term or (4) permanently

terminate maintenance. 750 ILCS 5/504(b-8).

Child support

Only minor clarifications were made to the child support statute. There is a simple language change from respondent to supporting parent. 750 ILCS 5/505(a-5). Pay close attention, however, a Public Act 99-0764 will take effect July 1, 2017. This bill details a major overhaul to the IMDMA's child support section. Spoiler alert: The new bill adopts an income shares model of child support calculation, which considers both parents income in determining child support.

College expenses

A major clarification on college expenses has been made indicating the upper limit for educational expenses is based upon in-state University of Illinois at Urbana-Champaign tuition and fees. 750 ILCS 5/513(d)(1).

Parenting plan

An addition has been made regarding the submission of parenting plans within 120 days. As amended, the bill states that if no appearance has been filed by the respondent, a parenting plan is not required unless ordered by the court. 750 ILCS 5/602.10(a).

Furthermore, the agreement submitted by the parties is binding upon the court unless the

COLLABORATIVE CONCEPTS



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allocating parental decision-making does not apply to parenting time. Secondly, parenting time can be modified at any time without showing serious endangerment. The standard moving forward is simply a showing of changed circumstances to serve the best interests of the child. 750 ILCS 5/610.5(a) and 602.10(a).

Interviews, evaluations, investigation

Under the existing marriage act, the court is currently required to examine and consider a report from a court-appointed professional only after it has been admitted into evidence. This language has been removed and the new bill allows the court to review the report upon receipt. Language

and other expenses incurred by any person who is present and necessary to determine the best interest of the child. The court determines when a person's attendance is necessary. 750 ILCS 5/606.5(a-5).

Parental access to records

In the existing act, a parent not allocated parenting time could not gain access to the child's school or health records unless the court determined access to be in the child's best interest. This language has been removed and replaced in its entirety. Moving forward, a parent cannot access records only if he or she is prohibited from doing so under an order of protection. 750 ILCS 5/602.11(a).

Counseling

A critical error has been remedied. As amended, the bill restores a section of the marriage act that allows the court to order counseling and parenting classes.

This new section allows the court to order individual counseling for the child, family counseling or parent education for one or both of the parents.

The court may order counseling if one or more of the following are true: (1) Both parents or all parties agree; (2) the child's physical health is endangered or emotional health is impaired; (3) abuse of allocated parenting time has occurred; and/or (4) one or both of the parties have violated the allocation judgment with conduct that either affects or was in the presence of the child. The court has discretion when dividing the costs of counseling.

Where counseling is ordered, all sessions are to be kept confidential. Any communication in counseling shall neither be used in litigation, nor relied upon by appointed or retained experts. 750 ILCS 5/607.6(a)(1-4) and 5/607.5(c)(3).

— *The author would like to acknowledge the substantial contributions to this article by law clerk Missy Turk.*

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court finds that the agreement is not in the best interests of the child, rather than the existing standard, which is that the agreement cannot be unconscionable. 750 ILCS 5/602.10(d).

Decision-making, parenting time

The new bill clarifies that the two-year time frame regarding motions to modify an order

requiring the report to be "under seal" has been removed. 750 ILCS 604.10(b).

In addition, if a child is interviewed in chambers, the court reporter costs are no longer paid by the court.

Hearings

A minor change has been made adding a new section that allows the court to tax as costs the travel