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Since January 1, 2016, there have been significant amendments made to the Illinois Marriage and Resolution Act ("Act"). These amendments were made to reflect the ever-changing societal norms around family and child rearing. In the past, courts would often give a child's mother sole custody of the child. She was responsible for every aspect of taking care of the child and made all decisions related to childcare. However, over time, the family dynamic has changed. Fathers have begun to play just as an important role in making decisions for their children as mothers and increasingly act as the primary parent. Legally, the definition of family has also widened to include two same sex parents, non-parental guardians, and parents who co parent despite divorce. The changes to the Marriage and Dissolution Act specifically addresses the children of divorced parents and better ensures that no matter the family dynamic, each parent has the opportunity to play an equal role in the upbringing of their child or children. The amended Act restructures parental responsibility and includes new terms that emphasize the best interests of the child and reflect the evolving family structure.

One of the most significant changes to the Act is how parental responsibility is allocated. When a divorce proceeding with a child or children commences, the couple becomes responsible for formulating a plan for how they will parent the child or children. The parents must agree on who will make decisions regarding education, health, religion, and extracurricular activities. Further, the plan must allocate parenting time; how much time each parent has with the child or children. This plan includes with whom the child or children will reside with during the school year, weekends, vacation time, holidays, or any other special days. If the parents are unable to come to an agreement, the judge presiding over the divorce decides for the parents, keeping in mind the best interests of the child or children.

Another major change to the Act has been the amendment of the definition of key words in the Act, thus impacting how courts may interpret the Act. For example, "custody" is now referred to as "decision making" and "visitation" is now referred to as "parenting time". The changes in the language of the Act highlight the evolution of family dynamics over the decades. The transition from the previous language in the statute to the present language is best exemplified in cases such as *In re Marriage of Perez* and *In re Marriage of Adamson.* Both cases affirm that the Court has been correct in its analysis of parental allocation of time and decision-making, leading the way for the changes made in the Illinois Marriage and Resolution Act.

In re Marriage of Perez, the Court ruled on whether divorced parents could alter their parenting plan when an existing plan was already in effect. Stacy and Robert Perez were married and had one child, a daughter, S.P. When they divorced, Stacey and Robert agreed on a temporary joint custody arrangement. They established a well-planned schedule designating when each parent would have custody over S.P. Robert was given visitation rights for every other weekend, every Monday, and dinner-time on Thursday. Robert and Stacy even agreed to a first right of refusal if S.P. had to stay with a third party. Stacey and Robert also set a plan for child support, health care, and education for S.P. When the marriage was finally dissolved in 2014, the Court ordered "50/50 care" allocating equal, joint-custody and responsibility for the child. Soon after however, Stacey wanted more parenting time with S.P. and for her home to be

recognized as the primary residence of S.P. Although equal parenting time was not mandatory in joint custody situations, the Court ruled that equal parenting time was best. Due to evidence of the "extraordinary level of cooperation" demonstrated by both Stacey and Robert, the Court heavily weighed how involved Stacy and Robert were in S.P.'s life. Prior to Stacey's request for more time, Stacy and Robert provided equal input on every aspect of S.P.'s life, even after the dissolution of their marriage. Therefore, the Court ultimately decided that it was in the best interest of the child for the parents to continue to have a 50/50 parenting arrangement.

The Court's reasoning in *In re Marriage of Perez* demonstrates the Illinois court's shift toward the specific delegation of parental responsibilities; a shift that the Act reflects. Both Stacey and Robert made decisions regarding what school S.P. attended and what happened during her wellness visits benchmark checkups and doctor appointments. Similarly, the Act allocates different responsibilities and has the parents decide their level of responsibility for each aspect. If the parents are unable to agree on an arrangement then the judge steps in to make decisions for the best interest of the child. The Court's decision in *Perez* demonstrates decision-making that centers around the child. In *Perez,* the parents allocated their time with the child equally and made joint decisions about their child's education and health. The Court's decision in *Perez* parallels the amendments to the Act that followed the decision, which push for individualized parenting plans that keep the child's best interests in mind. The necessity of centering the best interest of the child is further affirmed by cases following the changes in the Act, such as *In re Marriage of Adamson.*

In *Adamson,* the parents James and Jennifer dissolved their marriage in 2007. They had two children from the marriage and the judgment for dissolution also incorporated shared joint custody and physical custody over the children. The agreement specified parenting time and outlined when each parent was to have the children. Around the summer of 2013, Jennifer wished to change the parenting times and reduce the amount of time that James had with the children. Jennifer did not believe that the previously set schedule would continue to work because she had secured a different job and both children were now in school full-time.. Jennifer also argued that the oldest child was not fond of his father's living arrangements. James argued that he specifically changed his work schedule to revolve around his scheduled parenting times, and therefore, the set schedule should remain in place. The lower court ruled that the current parenting times were in the best interests of the children and Jennifer appealed. The Court agreed, finding that the testimony from both the mother and the father in this case reinforced that there was no sufficient reason to reduce the amount of parenting time the court previously allotted for James. Although traditionally the Court tried to honor the wishes of the children involved, the Court found that it was in the best interest to continue with the well-planned schedule because it kept the child exposed to two parents that were able to properly care and provide for the children.

In *Adamson*, the Court's decision aligned with its decision in *Perez*. In both cases, the Court decided that when parents set out a joint custody and physical custody arrangement, it is in the best interest of the children to continue that plan. The Court exercised its discretion to affirm previous decisions that allocated parental responsibilities in a way that was best for the child or children involved. There is a clear push towards parents collaborating to create efficient and harmonious arrangements with one another. According to this pattern, the courts should see an increase of joint parental efforts to ensure the ultimate well-being of the child. It is necessary and beneficial for the children for parents to have well-planned arrangements for raising their

children after their marriage have dissolved. The changes of the Marriage and Dissolution Act evolve as the modern family evolve to address the need of both parents involvement in raising a child.

Sources

In re Marriage of Adamson, 48 N.E.3d 809, (Ill. App. 3 Dist. 2016).

In re Marriage of Perez, 29 N.E.3d 1217, (Ill. App. 3 Dist. 2015).

Illinois Marriage and Dissolution Act 705 ILCS 5/602.5