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2026 IL App (3d) 260143-U

Order filed October 13, 2026

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2026

<i>In re</i> PARENTAGE OF G.L.,	)	Appeal from the Circuit Court
	)	of the 18th Judicial Circuit,
a Minor	)	Du Page County, Illinois,
	)	
(NICHOLAS S. LABIANCO,	)	
	)	
Petitioner-Appellee,	)	Appeal No. 3-26-0143
	)	Circuit No. 22-FA-473
v.	)	
	)	
VICTORIA L. DOUBEK,	)	Honorable
	)	Michael H. Burton,
Respondent-Appellant).	)	Judge, Presiding.

JUSTICE BERTANI delivered the judgment of the court.
Justices Davenport and Anderson concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The circuit court’s allocation of joint decision-making responsibilities and equal parenting time was not against the manifest weight of the evidence; (2) the court abused its discretion by denying respondent’s request for retroactive child support to the date the parentage petition was served; (3) the court abused its discretion by calculating child support based on the parties’ out of date financial information; (4) the court abused its discretion in summarily denying respondent’s contribution petition after it stated it would conduct a later hearing on the issue; and (5) the court abused its discretion by resetting guardian *ad litem* fees to be equally shared by the parties without conducting a hearing or affording argument on the issue.

¶ 2 In this parentage matter, respondent, Victoria L. Doubek, appeals the circuit court of Du Page County’s allocation order awarding joint decision-making and equal parenting time to her and petitioner, Nicholas S. LaBianco, over their minor child, G.L. The order also denied Victoria’s requests for retroactive child support and to increase prospective support, established Nicholas’s permanent monthly child support obligation by adopting the temporary support figure from its prior order, directed the parties to pay their own attorney fees at the conclusion of trial, and apportioned the guardian *ad litem*’s fees equally between them. On appeal, Victoria asserts the court’s allocation of parental responsibilities is not in G.L.’s best interest. She further contends that the court erred in denying her request for retroactive support, calculating support based on outdated financial figures, and denying her petition for contribution for attorney fees and costs without an evidentiary hearing. We affirm in part, reverse in part, and remand the cause with directions.¹

¶ 3 I. BACKGROUND

¶ 4 The parties never married. Their relationship resulted in one child, G.L., born on March 30, 2018. G.L. has been diagnosed with attention-deficit/hyperactivity disorder (ADHD), for which she takes medication, and neurofibromatosis, a genetic disorder she shares with her mother.

¹This matter qualifies for an accelerated disposition under Illinois Supreme Court Rule 311(a) (eff. July 1, 2018) because it involves a final order allocating parental responsibilities and parenting time. A decision was originally due August 10, 2026, with briefing to be completed by June 5, 2026. Appellant requested and was granted two extensions in which to file her opening brief and filed that brief four days after it was ultimately due. Appellee was granted one extension in which to file his brief. As such, briefing was not completed until August 5, 2026. Based on the foregoing, we find good cause to extend the deadline for disposition of this case. See Ill. S. Ct. R. 311(a)(5) (eff. July 1, 2018).

¶ 5 On August 17, 2022, Nicholas filed a petition to establish parentage, parental rights and responsibilities, and parenting time. The circuit court adjudicated Nicholas as G.L.’s biological father by agreement of the parties.

¶ 6 The pretrial judge entered an order appointing attorney Elizabeth Youakim as guardian *ad litem* (GAL) pursuant to section 506 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/506 (West 2024)), to investigate issues relating to decision-making and parenting time. The appointment order directed each party to pay one-half of the GAL’s fees, subject to later reallocation.

¶ 7 On September 27, 2023, Victoria filed a motion seeking retroactive, temporary, and permanent child support, primary decision-making, and primary parenting time. Her motion included requests for interim and temporary attorney fees and costs pursuant to sections 501(c-1) and 508(a) of the Marriage Act, as well as final contribution pursuant to section 503(j). 750 ILCS 5/501(c-1), 503(j), 508(a) (West 2024). The next day the court ordered the parties to exchange statutory financial affidavits with corroborating documents by October 20, 2023.

¶ 8 On February 26, 2024, following a hearing, the court issued a temporary child support order directing that Nicholas pay Victoria \$683.39 per month based on the parties’ respective gross monthly earnings of \$13,733 and \$4,060. The court reserved the issue of retroactive support. On April 25, 2024, the court entered an agreed order establishing an equal parenting time schedule. It also entered a “temporary order” directing Nicholas to contribute \$5,000 toward Victoria’s attorney fees without prejudice. The latter order also reallocated responsibility for past, present, and future GAL fees, requiring Nicholas to pay 75% and Victoria to pay 25%, effective retroactively to the date of the GAL’s appointment. Each of these orders was entered by the pretrial judge, who did not preside over the trial.

¶ 9 On July 17, 2024, Nicholas filed a motion *in limine* concerning Victoria’s alleged failure to answer written discovery. He requested, *inter alia*, that the court bar Victoria from testifying at trial and order her to contribute to his attorney fees and costs. The court denied Nicholas’s motion with respect to his request to bar Victoria’s testimony but reserved the issue of fees. At trial, however, the court orally barred the introduction of any evidence not included and produced in the parties’ trial binders, although it did allow the parties to testify to their current income. Nicholas testified that his current income was consistent with that disclosed on his financial affidavit. Victoria testified regarding her income from the school district where she began working in mid-October 2024.

¶ 10 On July 22, 2025, the court entered an income withholding order against Nicholas consistent with its February 2024 support order and established an obligation of \$683.39 per month based on his then-monthly income of \$13,733.

¶ 11 A. Trial

¶ 12 A 13-day trial was held over the course of 16 months from August 26, 2024, to January 5, 2026. Two motions pertinent to this appeal were filed during this period. Nicholas filed the first such motion in September 2024, seeking to reallocate the GAL fees and costs in which he argued that Victoria’s failure to acquiesce to the GAL’s recommendations resulted in unnecessary expenses related to the protracted testimony of the GAL. He requested that the court reallocate 80% of the GAL fees and costs to Victoria.

¶ 13 The parties levied competing allegations of abuse during trial. On May 7, 2025, Victoria filed the second pertinent motion, seeking to suspend Nicholas’s parenting time based on his alleged physical abuse of G.L. in the form of spanking. The motion also requested that the court order updated financial discovery for purposes of setting child support. The court tasked the GAL

to investigate Victoria's allegations of abuse and subsequently entered a July 15, 2025, order denying Victoria's request to reopen discovery to update financial affidavits. The order indicated that Victoria's motion to suspend parenting time would be heard with the trial.

¶ 14 The GAL, Nicholas, and Victoria testified during the proceedings. Victoria sought primary decision-making over G.L., a revised parenting schedule that would afford her the majority of parenting time during the school year, and approval to transfer G.L. to the school district where Victoria resided. Nicholas sought joint decision-making, equal parenting time consistent with the GAL's recommended schedule, and approval to keep G.L. in the school district where she was currently enrolled that was associated with his residence.

¶ 15 1. GAL's Testimony

¶ 16 The GAL described her investigation and continued involvement as the court's witness in this matter. Her initial recommendation for joint decision-making and equal parenting time was penned in January 2024 via a proposed allocation judgment pursuant to section 506 of the Marriage Act (750 ILCS 5/506 (West 2024)). The parties concurred, resulting in the entry of a temporary agreed order consistent with the recommendation on April 25, 2024. Prior to the entry of the agreed parenting-time order, Nicholas had been exercising the majority of parenting time starting around 2021, largely to accommodate Victoria who was pursuing her education. The GAL updated her recommendations in a July 29, 2024, letter in which she proposed minimal changes to the parenting schedule and stood by her recommendations at trial.

¶ 17 Regarding decision-making, the GAL recognized that the parties sometimes struggled to communicate but noted they reached agreement on a handful of significant educational and medical decisions that arose during litigation. Specifically, the parties agreed to allow G.L. to continue to attend school in the district associated with Nicholas's residence, subject to Nicholas's

agreement to pursue an individualized education program (IEP) for G.L. The parties subsequently agreed to an IEP, which G.L.'s elementary school implemented in December 2024 during her first-grade year.

¶ 18 The parties also agreed to have G.L. undergo a neuropsychological evaluation at Lurie Children's Hospital and to follow any resulting recommendations. The evaluation concluded that G.L. had ADHD and emphasized the benefits of a structured, predictable, and consistent environment. The GAL consequently testified that she was concerned about removing G.L. from her current school and starting her in a new district, as Victoria had requested. When G.L.'s current school recommended implementing a 504 plan² during her kindergarten year, Nicholas agreed to the plan. Victoria delayed responding to the recommendation but eventually agreed to the plan.

¶ 19 The GAL testified to her assessment of each of the statutory best-interests factors under sections 602.5(c) and 602.7(b) of the Marriage Act. She noted G.L. is well adjusted in the parties' homes, is "very well bonded with both of her parents," and clearly "loves both of her parents very much" and that love is reciprocated.

¶ 20 The GAL opined that the parties were able to cooperate and had been involved in past significant decision-making as noted above. She concluded that their communication issues did "not rise to the level that prevent[ed] them from making decisions together or making joint decisions" in G.L.'s best interests. The parties lived in close proximity to each other, Nicholas in Aurora and Victoria in Naperville. Each displayed the willingness and ability to facilitate a relationship between G.L. and the other parent.

²Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 (2018)) requires accommodation for students with disabilities through formalized educational arrangements known as 504 plans.

¶ 21 The GAL stated the factor of physical violence or threat of physical violence by the child's parent directed against the child was "not applicable" with the caveat that Nicholas acknowledged to spanking G.L. as a form of corporal punishment in the past but had agreed to discontinue the practice. Similarly, the occurrence of abuse against the child or other member of the child's household was not an applicable factor.

¶ 22 As to the catchall factor, the GAL stated it was apparent, based on conversations with Nicholas and personnel at G.L.'s school, that Nicholas had educated himself on G.L.'s medical condition. The GAL also acknowledged that Victoria works as a special education teacher and shares the same medical condition as G.L. Nonetheless, the GAL concluded that Victoria's profession and shared condition did not provide a basis to recommend Victoria's requested primary decision-making authority.

¶ 23 Regarding factors specific to parenting time, the GAL observed that G.L. had a strong relationship with her maternal grandmother and G.L. referred to Nicholas's significant other and her son as "friends." The GAL opined that a restriction on parenting time was not appropriate and that the parties had the willingness and ability to place the needs of the child before their own.

¶ 24 2. Victoria's Testimony

¶ 25 Victoria obtained a degree in learning and behavior in December 2022. She is employed as a special education teacher at MacArthur Middle School in Berkeley, Illinois, and earns \$48.75 per hour working approximately seven hours per day. She resides with her parents in their home where she pays \$450 in rent per month without a formal lease but admitted that the rent amount varies at times depending upon her finances. Her unsigned and undated financial affidavit reflected a gross monthly income of \$4,133. Her 2023 and 2024 tax returns were admitted into evidence with the latter reflecting \$41,316 in adjusted gross income.

¶ 26 Victoria alleged that Nicholas was abusive. She testified to a specific incident in July 2019 where Nicholas threw her against a wall, prompting her to flee to G.L.’s room and call the police. She identified several photographs which depicted bruises on her body resulting from the alleged abuse. However, she had never observed G.L. exhibiting fear around Nicholas.

¶ 27 Victoria testified that she and Nicholas disagreed over parental decision-making, the choice of G.L.’s school, and parenting style, though she admittedly has not observed Nicholas’s parenting style. Victoria stated they lack the ability to communicate in-person, and their communication is strictly accomplished through the Our Family Wizard computer application.

¶ 28 Victoria also testified to the parties’ decisions concerning G.L.’s healthcare and education. She called Nicholas, concerned that G.L. was exhibiting newfound anger and aggression and broached the subject of getting her behavioral therapy. She and Nicholas agreed that G.L. should receive therapy and have researched care providers. Nicholas agreed with Victoria’s recommendation that G.L. undergo a neuropsychological evaluation. Together they brought the child to Lurie’s for the evaluation which resulted in her diagnosis. Victoria initially expressed concern to the GAL about G.L.’s pediatrician’s recommendation that the child be prescribed ADHD medication. However, she agreed to administer the medication after speaking with the pediatrician. The parties continue to disagree over education, with each parent supporting G.L.’s attendance at the school district attendant to their respective residence.

¶ 29 Victoria testified that the current parenting schedule was not in G.L.’s best interest, because it involved excessive “back and forth” between the parties’ residences, noting G.L. struggles with transitions. Victoria proposed that she have primary care of G.L. during the majority of the school year, with Nicholas exercising parenting time for the majority of the summer in order to foster consistency.

¶ 30

3. Nicholas's Testimony

¶ 31

Nicholas testified to several instances in which he and Victoria had reached agreement on G.L.'s healthcare and education in relation to their ability to co-parent. For instance, and as noted by the GAL, both parties agreed that G.L. undergo the neuropsychological evaluation at Lurie's that resulted in her ADHD diagnosis. Subsequently, Nicholas applied for G.L. to receive a 504 plan in kindergarten, and the parties later agreed that G.L. should receive instruction under an IEP beginning in first grade.

¶ 32

He also recognized a few areas of dissension. The first involved the ADHD medication. While Nicholas immediately agreed to administer the prescription, Victoria overcame her initial misgivings to do so after consulting with the pediatrician. The second area of disagreement concerned G.L.'s school enrollment, with each advocating that the child be enrolled in the school district in which their respective homes are located.

¶ 33

The parties and G.L. resided together in Nicholas's home from 2018 to December 2021 during which Nicholas was the sole financial provider for the family unit. He had provided G.L.'s medical insurance and exclusively paid for her medical care, daycare, schooling, and certain necessities since her birth without contribution from Victoria. The parties implemented an informal parenting schedule after Victoria moved out, with Nicholas initially exercising approximately 70% of the parenting time while Victoria pursued her education. His time gradually decreased to roughly 57% until the implementation of the April 2024 equal parenting time order.

¶ 34

Nicholas testified that he holds two engineering degrees and works for the Chamberlain Group. While his position with his employer is not of record, he received a promotion in 2022 or 2023 and currently earns a gross annual salary of "[a]pproximately" \$170,000. His financial

affidavit reported \$108,058.01 in year-to-date gross earnings as of June 29, 2024, and a gross monthly income of \$14,334.16.

¶ 35 Nicholas maintained that Victoria was the aggressor in the 2019 domestic incident that Victoria described in her testimony.

¶ 36 4. Discussion of Contribution Petitions

¶ 37 The following exchange occurred on the sixth day of trial during the adverse examination of Victoria pursuant to 735 ILCS 5/2-1102 (West 2024), concerning the financial assistance she received from her parents for attorney fees:

“MR. CANULLI [(VICTORIA’S ATTORNEY)]: Judge, just a matter of procedure. Are you going to deal with the—I’m assuming you’re going to deal with the issue of legal fees when you are prepared to enter the judgment on this case.

THE COURT: I am.”

The following day, Victoria’s attorney asked the court for clarification on whether to reserve his line of questioning regarding Victoria’s intended repayment to her parents:

“MR. CANULLI: Okay. Judge, with regard to the attorney’s fees, the Court has indicated that it was going to reserve that until after the—after the trial.

THE COURT: Yes

MR. CANULLI: Do you want me to reserve my questions about the promissory notes and whatnot until we get to that point?

THE COURT: Yes.”

On the final day of trial, Victoria’s attorney advised the court that Victoria’s petition for contribution remained an outstanding matter in the following colloquy:

“MR. CANULLI: Well, there’s *** matters that are pending with regard to the case; one is a motion to suspend parenting time, which was continued from last October.

THE COURT: Right.

MR. CANULLI: *** And then my client’s contribution request, you said you would deal with that separately. So as far as today is concerned, I mean, those have not been set for hearing. I don’t know if you want to finish with Mr. LaBianco and then give us one date to deal with these motions separately?

THE COURT: I think that’s probably the best way to go about doing that.

MR. CANULLI: Makes sense.

MR. O’BRIEN [(NICHOLAS’S ATTORNEY)]: Yeah, that’s fine. We have a motion for contribution to fees as well, so we can deal with that.

THE COURT: Yeah, we’ll deal with the rest of those motions on a separate date.”

The court reemphasized its position that a hearing on the parties’ remaining motions would be postponed to a later date:

“THE COURT: *** I want to—let’s finish all this testimony so we can be done with this today, we can be done with this trial today, and we’ll have to deal with the motions at another time.”

¶ 38

B. Allocation Order

¶ 39

The circuit court issued a single-page order on February 11, 2026, that awarded the parties joint decision-making and equal parenting time. It explained that after reviewing the best interest factors in section 602.5(c) and considering the testimony, it believed it was in G.L.’s best interest

to allocate equal responsibility for decision-making regarding health, education, religion, and extracurricular activities.

¶ 40 It determined equal parenting time was in the best interest of G.L. after considering section 602.7(b) and relevant testimony. The judgment adopted the previously agreed upon parenting schedule. It ruled that Nicholas’s residence will remain G.L.’s primary residence for school enrollment, finding that such continuity was also in G.L.’s best interest.

¶ 41 It denied Victoria’s motions to increase and award child support retroactively. It recognized the discrepancy between the parties’ incomes and referenced section 505(a) of the Marriage Act before adopting the July 22, 2025, income withholding order to establish Nicholas’s monthly obligation of \$683.39. It ordered Victoria to pay 40% of past due child expenses paid by Nicholas and contribute the same amount to future expenses.

¶ 42 The court reinstated the parties’ equal responsibility for the GAL’s fees, directing that “no re-allocation of fees should occur.” It concluded that it was guided by section 508 of the Marriage Act to determine that each party should be responsible for their own fees, thereby denying Victoria’s and Nicholas’s respective petitions for contribution to attorney fees and costs.

¶ 43 Victoria appeals.

¶ 44 II. ANALYSIS

¶ 45 Victoria’s primary argument on appeal is that the circuit court erred in its allocation of parental responsibilities. She asserts that the parties’ high-conflict relationship, exacerbated by her allegations of abuse, should have precluded the court from awarding joint decision-making and equal parenting time. She further contends that no deference should be given to the court’s ruling because it failed to apply the relevant statutory factors set forth in sections 602.5(c) and 602.7(b)

of the Marriage Act. She argues a proper analysis of these factors favors her request for primary decision-making and parenting time.

¶ 46 Secondarily, Victoria raises issues of the court’s financial determinations with respect to child support and fees. She asks that we reverse the court’s denial of retroactive child support and argues the matter should be remanded for a recalculation of ongoing child support based on the parties’ current earnings. She contends the matter must be remanded for a hearing on her request for contribution to her attorney fees and costs and that GAL fees should be reallocated. Nicholas responds that each of Victoria’s claims has been waived or forfeited, or alternatively, that there is no reversible error.

¶ 47 Our analysis begins with the conclusion that we cannot reach several of Victoria’s arguments because they are not properly before us. Her reply brief improperly raises numerous arguments not set forth in her opening brief, including the assertion that the circuit court erred in failing to hear and consider her motion to suspend Nicholas’s parenting time. She has forfeited these and other contentions not raised in her initial brief. *In re Charles W.*, 2014 IL App (1st) 131281, ¶ 54; Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (“Points not argued are forfeited and shall not be raised in the reply brief.”). That said, the circuit court’s grant of joint decision-making and equal parenting time implicitly denied the motion to suspend parenting time.

¶ 48 A. Allocation of Parental Responsibilities

¶ 49 When the allocation of parental responsibilities is disputed, “the primary consideration is the best interest and welfare of the child.” *Hall v. Hall*, 226 Ill. App. 3d 686, 689 (1991); *In re Parentage of J.W.*, 2013 IL 114817, ¶ 41. Indeed, the Marriage Act requires the circuit court to allocate parental decision-making and parenting time according to the child’s best interests. See 750 ILCS 5/602.5(a), 602.7(a) (West 2024); see also 750 ILCS 5/600(d) (defining parental

responsibilities as “parenting time and significant decision-making responsibilities”). “[A] strong presumption favors the” court’s determination in these matters, and the court “is vested with great discretion because of its superior opportunity to observe and evaluate witnesses when determining the best interests of the child.” *Shinall v. Carter*, 2012 IL App (3d) 110302, ¶ 30. The allocation of decision-making responsibility and a determination on parenting time are matters within the circuit court’s sound discretion. *Sadler v. Pulliam*, 2022 IL App (5th) 220213, ¶ 42.

¶ 50

1. Joint Decision-Making

¶ 51

A circuit court’s allocation of parental decision-making responsibilities is reviewed under the manifest weight of the evidence standard. *Jameson v. Williams*, 2020 IL App (3d) 200048, ¶ 47. “ ‘A decision is against the manifest weight of the evidence when an opposite conclusion is apparent or when the court’s findings appear to be unreasonable, arbitrary, or not based on evidence.’ ” *Id.* (quoting *In re Marriage of Verhines & Hickey*, 2018 IL App (2d) 171034, ¶ 51).

¶ 52

The Marriage Act requires the court to allocate decision-making responsibilities in the best interests of the child. 750 ILCS 5/602.5(a) (West 2024). To meet this end, a court must consider all relevant factors including the 14 non-exhaustive factors and 1 catchall factor delineated in section 602.5(c). *Id.* § 602.5(c)(1)-(15). Explicit findings as to each factor are not required, “nor is it required to refer to every factor.” *Jameson*, 2020 IL App (3d) 200048, ¶ 47. Here, the circuit court stated it considered all the relevant 602.5(c) factors, evidence, and testimony in making its determination to grant joint decision-making. *In re Marriage of Whitehead & Newcomb-Whitehead*, 2018 IL App (5th) 170380, ¶ 18. We presume the court properly considered all statutory factors in coming to this conclusion. *Id.*

¶ 53

It is apparent from the evidence adduced at trial that the parties have a troubled relationship including allegations of prior abuse and their current inability to communicate in-person. However,

the parties have been able to set aside these differences to act in the best interest of G.L. As was highlighted in the testimony of each witness, the parties have worked together to secure a diagnosis and facilitate medical care for G.L. While there was initial dissention over whether to give G.L. medication for her ADHD diagnosis, both parents eventually administered the medication pursuant to G.L.'s pediatrician's recommendation. Furthermore, the parties were able to agree on accommodations for G.L. in the education setting to address that condition. Nicholas initially advocated for the 504 plan before the parties mutually agreed on Victoria's recommendation that G.L.'s education be guided via an IEP. While the court did not discuss specific section 602.5(c) factors in finding joint decision-making was in the best interests of G.L., it noted that it reviewed the factors, evidence, and "all relevant testimony," which included that of the GAL who itemized each factor before recommending joint decision-making. As such, the conclusion reached by the circuit court is not without evidentiary support.

¶ 54 Victoria argues that the court erred by omitting any reference to her allegations of abuse against Nicholas in its allocation order. We do not wish to minimize the importance of Victoria's allegations of abuse alleged against Nicholas. *Jameson*, 2020 IL App (3d) 200048, ¶ 49. We note, however, that the parties presented conflicting testimony on the issue. We presume that the court considered their testimony underlying these allegations in fashioning its joint decision-making award.

¶ 55 Furthermore, to the extent Victoria seeks to undermine the GAL's recommendations, characterizing her investigation as "deficient" and "incomplete," she essentially asks us to reweigh witness credibility. "It is well settled that a reviewing court's function is not to reweigh the evidence or assess witness credibility and set aside the circuit court's decision simply because a different conclusion may have been drawn from the evidence." *Id.* ¶ 51. Accordingly, we hold that

the circuit court’s decision to award joint decision-making under these circumstances was not against the manifest weight of the evidence.

¶ 56

2. Parenting Time

¶ 57

Victoria next argues that the court erroneously allocated equal parenting time in adopting the parties’ temporary schedule as the permanent schedule. She states that a proper weighing of the best interest factors in section 602.7(b) weigh in her favor for an award of primary parenting time. A court’s parenting time decision will not be overturned unless it “abused its considerable discretion or its decision is against the manifest weight of the evidence.” *Whitehead*, 2018 IL App (5th) 170380, ¶ 15. There are 16 relevant factors and 1 catchall factor a court must consider in allocating parenting time under the Marriage Act. See 750 ILCS 5/602.7(b)(1)-(17) (West 2024).

¶ 58

The evidence in this matter suggests that the parties are both fit to parent, that they both have a reciprocated loving relationship with G.L., and that G.L. has a strong relationship with both parties’ families. Similar to its decision-making award, the court stated it reviewed the relevant factors under section 602.7(b), the trial evidence, and “all relevant testimony” in concluding G.L.’s best interests were served by equal parenting time. The GAL testified concerning her view of each of the 602.7(b) factors in recommending equal parenting time, which provided support in the record for the circuit court’s conclusion. Again, Victoria’s request that we conduct an independent analysis of the statutory factors is tantamount to a request that this court reweigh the evidence and witness credibility, which we decline to do. See *Jameson*, 2020 IL App (3d) 200048, ¶ 55. The court’s award of equal parenting time and adopting the agreed upon schedule that the parties had been exercising since April 25, 2024, was not against the manifest weight of the evidence.

¶ 59

B. Child Support

¶ 60 Victoria presents two arguments challenging the court’s child support determination. First, she asserts that the court erred by denying her request for retroactive support, contending that retroactive support should have been awarded from the date of the parties’ separation in December 2021. Second, she argues the court erred by failing to use the parties’ current earnings to calculate Nicholas’s present support obligation. Nicholas states that the evidence established at trial does not support a retroactive support award. Regarding his present support obligation, Nicholas posits that the court permissibly followed the guidelines “within a reasonable degree of certainty,” although he recognizes that the figures adopted to calculate his obligation differ from those introduced at trial.

¶ 61 1. Retroactive Child Support

¶ 62 The circuit court denied Victoria’s motion for retroactive child support. The court asserted it was guided by section 505(a) of the Marriage Act, noted the discrepancy between the parties’ incomes, and considered the length of time the parties resided together and the statutory guidelines.

¶ 63 Section 802(a) of the Illinois Parentage Act of 2015 (Parentage Act) requires that a parentage judgment contain or explicitly reserve provisions concerning any duty and amount of child support. 750 ILCS 46/802(a) (West 2024). Courts are directed to use sections 505(a) and 505.2 of the Marriage Act to determine the amount of the support award, and a court “shall order all child support payments *** to commence with the date summons is served.” *Id.* We hold that the circuit court erred in failing to do so. Section 802(e) affords the court discretion to award additional retroactive child support for a period prior to the commencement of the parentage case based on several factors, one of which is the willingness or refusal to help raise or support the child. *Id.* § 802(e)(3). It is within the sound discretion of the court to award support prior to the service of summons under section 802(e). *Janssen by Janssen v. Turner*, 292 Ill. App. 3d 219, 223

(1997) (explaining that under section 14(b) of the Parentage Act of 1984, a predecessor to section 802 of the Parentage Act of 2015, the court may award retroactive support to the birth of the child). A circuit court’s decision with respect to a request for retroactive support is reviewed for an abuse of discretion. See *id.* A circuit court abuses its discretion when no reasonable person would adopt its view. *In re Marriage of Pratt*, 2014 IL App (1st) 130465, ¶ 22; *In re Marriage of Samardzija*, 365 Ill. App. 3d 702, 708 (2006).

¶ 64 We hold that the court abused its discretion in its outright denial of Victoria’s request for retroactive child support. Nicholas’s petition to establish parentage was served upon Victoria on August 24, 2022. The temporary child support order was entered on February 26, 2024. The Parentage Act provides that courts “shall order all child support payments *** to commence with the date summons is served.” 750 ILCS 46/802(a) (West 2024). This provision mandates that circuit courts must make a child support award retroactive “to the date of service of summons” for the parentage petition. *Janssen*, 292 Ill. App. 3d at 223. At the very least, Victoria is entitled to retroactive child support calculated to the date Nicholas served her with the parentage petition to the date the temporary support order was entered.

¶ 65 The circuit court’s blanket denial of retroactive support to the date of service mandated by statute leads us to the conclusion that it did not properly consider retroactive support in its entirety and therefore abused its discretion. On remand, the court has the discretion to award retroactive support predating the date of service. 750 ILCS 46/802(e) (West 2024). Victoria asserts she should receive retroactive support from the date of the parties’ separation in December 2021. The circuit court may consider the parties’ circumstances that existed from the date of separation to the date of service to determine whether additional retroactive support is warranted.

¶ 66 2. Computation of Child Support

¶ 67 Victoria asserts that the circuit court’s failure to set child support based on the parties’ most recent incomes established during the trial was erroneous. We agree.

¶ 68 We review the circuit court’s determination of income in setting child support for an abuse of discretion. *In re Marriage of Sinha*, 2021 IL App (2d) 191129, ¶ 43. The computation of basic child support under the Marriage Act begins with the determination of the parents’ incomes. 750 ILCS 5/505(a)(1.5) (West 2024). Our supreme court has stated that the “relevant focus” in setting support under section 505 of the Marriage Act “is the parent’s economic situation at the time the child support calculations are made by the court.” *In re Marriage of Rogers*, 213 Ill. 2d 129, 138 (2004). The Marriage Act is geared towards a party’s present ability to pay support. *Coons v. Wilder*, 93 Ill. App. 3d 127, 134 (1981).

¶ 69 The parties introduced documentation and testified to their 2024 incomes during the allocation trial. The court, however, adopted its prior income withholding order to establish Nicholas’s permanent support obligation. This obligation figure was premised on the February 26, 2024, temporary support order, in which the court calculated Nicholas’s obligation based on the parties’ reported 2023 incomes.

¶ 70 The evidence at trial demonstrated that the parties’ gross monthly incomes increased after the entry of the temporary support order, with Nicholas earning \$14,334.16 and Victoria earning \$4,133. The court abused its discretion by disregarding the trial evidence concerning the parties’ updated incomes. By adopting Nicholas’s obligation from a prior temporary order, the court improperly focused on the parties’ prior incomes in its support calculation. See *Pratt*, 2014 IL App (1st) 130465, ¶¶ 9-10, 24 (holding the circuit court properly focused on respondent’s income from the year it held a hearing to set guideline child support for determining his income for child support purposes). Accordingly, we remand the cause for recalculation of child support.

¶ 71

C. Petition for Contribution and GAL Fees

¶ 72

Victoria argues the circuit court’s summary denial of her petition for contribution deprived her of due process. She asserts that the matter must be remanded for a full evidentiary hearing. Nicholas contends that the court’s prior order awarding Victoria \$5,000 in attorney fees fully resolved her contribution petition and that she was required to file a new pleading to request additional fees and costs incurred at trial. Alternatively, Nicholas maintains that the court did not err in denying Victoria’s petition because she failed to establish an inability to pay her fees.

¶ 73

Whether to award attorney fees and costs is a matter within the sound discretion of the circuit court, and its decision will not be disturbed absent an abuse of discretion. *In re Custody of C.C.*, 2013 IL App (3d) 120342, ¶ 40. A circuit court abuses its discretion when its decision is arbitrary, when it acts without conscientious judgment, or when, considering the circumstances, its decision “exceeds the bounds of reason and ignores recognized principles of law.” *Id.* Victoria’s claimed right to an evidentiary hearing presents an issue of statutory construction. *In re Marriage of Suriano & LaFeber*, 324 Ill. App. 3d 839, 846 (2001). The primary objective of statutory construction is to ascertain and give effect to legislative intent. *Id.* The best indication of legislative intent is the plain and ordinary meaning of statutory language. *Fisher v. Waldrop*, 221 Ill. 2d 102, 112 (2006). Statutory construction presents a question of law, and our review with respect to that issue is *de novo*. *J.S.A. v. M.H.*, 224 Ill. 2d 182, 196 (2007).

¶ 74

Section 809 of the Parentage Act allows a court to order reasonable attorney fees and other costs in accordance with the “relevant factors specified in section 508” of the Marriage Act. 750 ILCS 46/809(a) (West 2024). Similarly, section 506(b) of the Marriage Act provides that section 508 applies to the allocation of fees and costs related to a GAL. 750 ILCS 5/506(b) (West 2024). While section 508 generally directs the circuit court to consider the “financial resources of the

parties,” it cross-references other statutory provisions for this determination and authorizes the court, after due notice and hearing, to order any party to pay a reasonable amount of costs and attorney fees. 750 ILCS 5/508(a) (West 2024). Notably for our purposes, section 508(a) provides that an award for contribution to fees and costs at the conclusion of a pre-judgment proceeding must be made in accordance with section 503(j). *Id.* Read together with section 508, section 503(j) provides in relevant part that,

“[a]fter proofs have closed in the final hearing on all other issues between the parties (or in conjunction with the final hearing, if all parties so stipulate) and before judgment is entered, a party’s petition for contribution to fees and costs incurred in the proceeding *shall be heard and decided.*” (Emphasis added.) 750 ILCS 5/503(j) (West 2024).

¶ 75 Section 503(j)’s utilization of the term “shall” places an affirmative duty on the circuit court to hear and decide a contribution petition. *In re Marriage of Selinger*, 351 Ill. App. 3d 611, 622-23 (2004). A separate hearing is not strictly necessary for this decision; rather, the circuit court possesses the discretion to hold a distinct hearing if it so chooses. *Suriano*, 324 Ill. App. 3d at 849 (holding that a contribution hearing where parties argued concerning their finances sufficed under section 503(j) without the need for an additional evidentiary hearing). Alternatively, a court may hear a contribution petition under section 503(j) by considering additional proofs, through testimony or otherwise, within the context of preexisting proceedings. *In re Marriage of Brackett*, 309 Ill. App. 3d 329, 345 (1999).

¶ 76 We briefly address and reject Nicholas’s contention that Victoria’s contribution petition was resolved by the attorney fees awarded in the court’s prior order. Her September 27, 2023, petition included multiple counts seeking both interim and final contribution under the Marriage

Act. Her petition was therefore timely pursuant to section 503(j) of the Act. See 750 ILCS 5/503(j)(1) (West 2024). After a hearing, the court awarded Victoria \$5,000 in “temporary” attorney fees “without prejudice” in its April 25, 2024, order. The order therefore preserved her petition for final contribution pursuant to section 503(j).

¶ 77 While the circuit court was not statutorily bound to hold an additional evidentiary hearing on Victoria’s petition for contribution (see *Brackett*, 309 Ill. App. 3d at 345), we hold that its representation that a separate hearing would be held, followed by its summary denial without one, amounted to an abuse of discretion. The circuit court clearly indicated that the fee petition would be heard “on a separate date.” *Supra* ¶ 37. It then acted contrary to its express statements by summarily denying Victoria’s petition. Therefore, we conclude that her petition for final contribution was not subject to the required “hearing” pursuant to section 508 nor was her petition “heard” pursuant to section 503(j). 750 ILCS 5/503(j), 508(a) (West 2024).

¶ 78 We recognize that the parties presented financial information through testimony and admitted documentation during the allocation trial. Both parties testified to their respective incomes and submitted financial affidavits outlining their assets and liabilities. Beyond the evidence regarding income, Victoria testified that she resided with her parents but paid a variable monthly rent and did not have a lease agreement. The amount of Victoria’s outstanding attorney fees, however, was never established at trial. See *Selinger*, 351 Ill. App. 3d at 623 (holding that admitted evidence of the parties’ finances *and* the amount of petitioner’s attorney fees provided the court with a sufficient basis to deny a contribution request without a hearing). She testified that her parents “help[ed] me pay my legal fees,” but noted that she was in the process of repaying them. Victoria included in her trial binder five promissory notes and a loan agreement that she and

her father entered into. These documents were admitted as trial exhibits and briefly discussed during testimony; each was executed on December 30, 2023, and none contained a repayment date.

¶ 79 Victoria further represented that she entered into additional promissory notes with her father since the trial began. She testified that she borrowed more than \$50,000 from her father to pay legal fees and was unsure whether that amount exceeded \$75,000. Current financial information provides the “appropriate means” for a court to reach an “informed decision” regarding a party’s ability or inability to contribute to the other party’s attorney fees. *In re Marriage of Anderson*, 2015 IL App (3d) 140257, ¶ 23. We reject Nicholas’s alternative contention that Victoria was required to demonstrate an inability to pay her attorney fees and failed to do so. We expressly rejected the notion that a party must prove an inability to pay as a prerequisite to a contribution award. *Id.* ¶ 20. More importantly, however, the court deprived Victoria of the opportunity to develop and argue positions relevant to her petition for contribution by summarily denying it after indicating it would hear the petition on a separate date.

¶ 80 We reach the same conclusion regarding the court’s directive resetting the parties’ obligations to an equal share of the GAL fees. In its allocation order, the court found the GAL fees to be “fair and responsible and that no re-allocation of the fees should occur,” ordering each party “responsible for 50% of the GAL fees.” Based on that language, the trial judge does not appear to have been cognizant of the April 25, 2024, order entered by the pretrial judge, which directed Nicholas to be responsible for 75% and Victoria for 25% of the GAL fees. While the court did not explicitly indicate that this issue would be heard “on a separate date,” section 506(b) of the Marriage Act directs that GAL fees shall be subject to section 508 contribution standards. As such, Victoria was also deprived of a hearing to develop the evidence necessary to allow the court to make a reasoned decision on GAL fees. A new hearing on attorney fees, costs, and GAL fees will

afford the circuit court the opportunity to make an informed decision based on evidence of Victoria's fees and costs evaluated in light of the parties' finances. Accordingly, the cause is remanded to the circuit court for an evidentiary hearing on allocation of GAL fees and Victoria's petition for contribution to attorney fees and costs pursuant to sections 503(j), 506(b), and 508(a) of the Marriage Act.

¶ 81

III. CONCLUSION

¶ 82

The judgment of the circuit court of Du Page County is affirmed in part and reversed in part. We affirm the court's allocation of parental responsibilities, awarding the parties joint decision-making and equal parenting time. We reverse the circuit court's judgment regarding (1) the denial of Victoria's request for retroactive child support, (2) the calculation of child support, and (3) the denial of Victoria's contribution petition and request for GAL fees. The cause is remanded to the circuit court with directions to enter an award of retroactive child support to Victoria to the date the parentage petition was served and determine whether additional discretionary support is warranted, recalculate child support based on the financial evidence admitted at trial, and hold an evidentiary hearing on Victoria's petition for contribution and request for GAL fees.

¶ 83

Affirmed in part and reversed in part.

¶ 84

Cause remanded.