

1 AN ACT concerning guardianship.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 2-27 and 2-33 as follows:

6 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

7 Sec. 2-27. Placement; legal custody or guardianship.

8 (1) If the court determines and puts in writing the
9 factual basis supporting the determination of whether the
10 parents, guardian, or legal custodian of a minor adjudged a
11 ward of the court are unfit or are unable, for some reason
12 other than financial circumstances alone, to care for,
13 protect, train or discipline the minor or are unwilling to do
14 so, and that the health, safety, and best interest of the minor
15 will be jeopardized if the minor remains in the custody of the
16 minor's parents, guardian or custodian, the court may at this
17 hearing and at any later point:

18 (a) place the minor in the custody of a suitable
19 relative or other person as legal custodian or guardian;

20 (a-5) with the approval of the Department of Children
21 and Family Services, place the minor in the subsidized
22 guardianship of a suitable relative or other person as
23 legal guardian; "subsidized guardianship" has the meaning

1 ascribed to that term in Section 4d of the Children and
2 Family Services Act;

3 (b) place the minor under the guardianship of a
4 probation officer;

5 (c) commit the minor to an agency for care or
6 placement, except an institution under the authority of
7 the Department of Corrections or of the Department of
8 Children and Family Services;

9 (d) on and after the effective date of this amendatory
10 Act of the 98th General Assembly and before January 1,
11 2017, commit the minor to the Department of Children and
12 Family Services for care and service; however, a minor
13 charged with a criminal offense under the Criminal Code of
14 1961 or the Criminal Code of 2012 or adjudicated
15 delinquent shall not be placed in the custody of or
16 committed to the Department of Children and Family
17 Services by any court, except (i) a minor less than 16
18 years of age and committed to the Department of Children
19 and Family Services under Section 5-710 of this Act, (ii)
20 a minor under the age of 18 for whom an independent basis
21 of abuse, neglect, or dependency exists, or (iii) a minor
22 for whom the court has granted a supplemental petition to
23 reinstate wardship pursuant to subsection (2) of Section
24 2-33 of this Act. On and after January 1, 2017, commit the
25 minor to the Department of Children and Family Services
26 for care and service; however, a minor charged with a

1 criminal offense under the Criminal Code of 1961 or the
2 Criminal Code of 2012 or adjudicated delinquent shall not
3 be placed in the custody of or committed to the Department
4 of Children and Family Services by any court, except (i) a
5 minor less than 15 years of age and committed to the
6 Department of Children and Family Services under Section
7 5-710 of this Act, (ii) a minor under the age of 18 for
8 whom an independent basis of abuse, neglect, or dependency
9 exists, or (iii) a minor for whom the court has granted a
10 supplemental petition to reinstate wardship pursuant to
11 subsection (2) of Section 2-33 of this Act. An independent
12 basis exists when the allegations or adjudication of
13 abuse, neglect, or dependency do not arise from the same
14 facts, incident, or circumstances which give rise to a
15 charge or adjudication of delinquency. The Department
16 shall be given due notice of the pendency of the action and
17 the Guardianship Administrator of the Department of
18 Children and Family Services shall be appointed guardian
19 of the person of the minor. Whenever the Department seeks
20 to discharge a minor from its care and service, the
21 Guardianship Administrator shall petition the court for an
22 order terminating guardianship. The Guardianship
23 Administrator may designate one or more other officers of
24 the Department, appointed as Department officers by
25 administrative order of the Department Director,
26 authorized to affix the signature of the Guardianship

1 Administrator to documents affecting the guardian-ward
2 relationship of children for whom the Guardianship
3 Administrator has been appointed guardian at such times as
4 the Guardianship Administrator is unable to perform the
5 duties of the Guardianship Administrator office. The
6 signature authorization shall include but not be limited
7 to matters of consent of marriage, enlistment in the armed
8 forces, legal proceedings, adoption, major medical and
9 surgical treatment and application for driver's license.
10 Signature authorizations made pursuant to the provisions
11 of this paragraph shall be filed with the Secretary of
12 State and the Secretary of State shall provide upon
13 payment of the customary fee, certified copies of the
14 authorization to any court or individual who requests a
15 copy.

16 (1.5) In making a determination under this Section, the
17 court shall also consider whether, based on health, safety,
18 and the best interests of the minor,

19 (a) appropriate services aimed at family preservation
20 and family reunification have been unsuccessful in
21 rectifying the conditions that have led to a finding of
22 unfitness or inability to care for, protect, train, or
23 discipline the minor, or

24 (b) no family preservation or family reunification
25 services would be appropriate,

26 and if the petition or amended petition contained an

1 allegation that the parent is an unfit person as defined in
2 subdivision (D) of Section 1 of the Adoption Act, and the order
3 of adjudication recites that parental unfitness was
4 established by clear and convincing evidence, the court shall,
5 when appropriate and in the best interest of the minor, enter
6 an order terminating parental rights and appointing a guardian
7 with power to consent to adoption in accordance with Section
8 2-29.

9 When making a placement, the court, wherever possible,
10 shall require the Department of Children and Family Services
11 to select a person holding the same religious belief as that of
12 the minor or a private agency controlled by persons of like
13 religious faith of the minor and shall require the Department
14 to otherwise comply with Section 7 of the Children and Family
15 Services Act in placing the child. In addition, whenever
16 alternative plans for placement are available, the court shall
17 ascertain and consider, to the extent appropriate in the
18 particular case, the views and preferences of the minor.

19 (2) (a) ~~When a minor is placed with a suitable relative or~~
20 ~~other person pursuant to item (a) of subsection (1), the court~~
21 ~~shall appoint the suitable relative or other person the legal~~
22 ~~custodian or guardian of the person of the minor. When a minor~~
23 ~~is committed to any agency, the court shall appoint the proper~~
24 ~~officer or representative thereof as legal custodian or~~
25 ~~guardian of the person of the minor.~~ Legal custodians and
26 guardians of the person of the minor appointed under

1 subsection (1) have the respective rights and duties set forth
2 in subsection (8) or (9) of Section 1-3 except as otherwise
3 provided by order of court; but no guardian of the person may
4 consent to adoption of the minor unless that authority is
5 conferred upon the guardian in accordance with Section 2-29.

6 (b) The following additional provisions apply to legal
7 custodians or guardians appointed under paragraphs (b), (c),
8 and (d) of subsection (1) :

9 (A) When a minor is committed to any agency, the court
10 shall appoint the proper officer or representative thereof
11 as legal custodian or guardian of the person of the minor.

12 (B) An agency whose representative is appointed
13 guardian of the person or legal custodian of the minor may
14 place the minor in any child care facility, but the
15 facility must be licensed under the Child Care Act of 1969
16 or have been approved by the Department of Children and
17 Family Services as meeting the standards established for
18 such licensing.

19 (C) No agency may place a minor adjudicated under
20 Sections 2-3 or 2-4 in a child care facility unless the
21 placement is in compliance with the rules and regulations
22 for placement under this Section promulgated by the
23 Department of Children and Family Services under Section 5
24 of the Children and Family Services Act. ~~Like authority~~
25 ~~and restrictions shall be conferred by the court upon any~~
26 ~~probation officer who has been appointed guardian of the~~

1 ~~person of a minor.~~

2 (3) No placement by any probation officer or agency whose
3 representative is appointed guardian of the person or legal
4 custodian of a minor may be made in any out of State child care
5 facility unless it complies with the Interstate Compact on the
6 Placement of Children. Placement with a parent, however, is
7 not subject to that Interstate Compact.

8 (4) The clerk of the court shall issue to the legal
9 custodian or guardian of the person a certified copy of the
10 order of court, as proof of the legal custodian's or
11 guardian's authority. No other process is necessary as
12 authority for the keeping of the minor.

13 (5) (a) Custody or guardianship granted under (a) or (a-5)
14 of subsection (1) this Section continues until the court
15 otherwise directs, but not after the minor reaches the age of
16 18 years.

17 (b) Custody or guardianship granted under paragraph (b),
18 (c), or (d) of subsection (1) continues until the court
19 otherwise directs, but not after the minor reaches the age of
20 21 years. but not after the minor reaches the age of 19 years
21 except as set forth in Section 2-31, or if the minor was
22 previously committed to the Department of Children and Family
23 Services for care and service and the court has granted a
24 supplemental petition to reinstate wardship pursuant to
25 subsection (2) of Section 2-33.

26 (6) (Blank).

(Source: P.A. 103-22, eff. 8-8-23; 103-1061, eff. 7-1-25.)

(705 ILCS 405/2-33)

(Text of Section before amendment by P.A. 104-107)

Sec. 2-33. Supplemental petition to reinstate wardship.

(1) Any time prior to a minor's 18th birthday, a supplemental petition may be filed to address issues related to the guardianship, including to seek enforcement of visitation or to terminate the guardianship or discharge the guardian pursuant to a supplemental petition filed under this Section, the court may reinstate wardship and open a previously closed case when:

(a) wardship and guardianship under the Juvenile Court Act of 1987 was vacated in conjunction with the appointment of a private guardian under the Probate Act of 1975 or under the Juvenile Court Act of 1987; and

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor. ~~and~~

~~(c) it is in the minor's best interest that wardship be reinstated.~~

Upon the filing of a supplemental petition, the court shall reinstate wardship and open a previously closed case for purposes of addressing the petition.

(2) Any time prior to a minor's 21st birthday, pursuant to

1 a supplemental petition filed under this Section, the court
2 may reinstate wardship and open a previously closed case when:

3 (a) wardship and guardianship under this Act was
4 vacated pursuant to:

5 (i) an order entered under subsection (2) of
6 Section 2-31 in the case of a minor over the age of 18;

7 (ii) closure of a case under subsection (2) of
8 Section 2-31 in the case of a minor under the age of 18
9 who has been partially or completely emancipated in
10 accordance with the Emancipation of Minors Act; or

11 (iii) an order entered under subsection (3) of
12 Section 2-31 based on the minor's attaining the age of
13 19 years before the effective date of this amendatory
14 Act of the 101st General Assembly;

15 (b) the minor is not presently a ward of the court
16 under Article II of this Act nor is there a petition for
17 adjudication of wardship pending on behalf of the minor;
18 and

19 (c) it is in the minor's best interest that wardship
20 be reinstated.

21 (3) The supplemental petition must be filed in the same
22 proceeding in which the original adjudication order was
23 entered. Unless excused by court for good cause shown, the
24 petitioner shall give notice of the time and place of the
25 hearing on the supplemental petition, in person or by mail, to
26 the minor, if the minor is 14 years of age or older, and to the

1 parties to the juvenile court proceeding. Notice shall be
2 provided at least 3 court days in advance of the hearing date.
3 Any hearing on a supplemental petition filed under subsection
4 (1) for custody to be restored to a parent, guardian, or legal
5 custodian shall be conducted consistent with paragraph (4) of
6 Section 2-28 of this Act.

7 (3.5) Whenever a petition is filed ~~to reinstate wardship~~
8 pursuant to subsection (1), prior to granting the petition,
9 the court may order the Department of Children and Family
10 Services to assess the minor's current and proposed living
11 arrangements and to provide ongoing monitoring of the health,
12 safety, and best interest of the minor during the pendency of
13 the petition to assist the court in making that determination.

14 (4) A minor who is the subject of a petition to reinstate
15 wardship under this Section shall be provided with
16 representation in accordance with Sections 1-5 and 2-17 of
17 this Act.

18 (5) Whenever a minor is committed to the Department of
19 Children and Family Services for care and services following
20 the reinstatement of wardship under this Section, the
21 Department shall:

22 (a) Within 30 days of such commitment, prepare and
23 file with the court a case plan which complies with the
24 federal Adoption Assistance and Child Welfare Act of 1980
25 and is consistent with the health, safety and best
26 interests of the minor; and

(b) Promptly refer the minor for such services as are necessary and consistent with the minor's health, safety and best interests.

(Source: P.A. 101-78, eff. 7-12-19; 102-489, eff. 8-20-21.)

(Text of Section after amendment by P.A. 104-107)

Sec. 2-33. Supplemental petition to reinstate wardship.

(1) Any time prior to a minor's 18th birthday, a supplemental petition may be filed to address issues related to the guardianship, including to seek enforcement of visitation or to terminate the guardianship or discharge the guardian pursuant to a supplemental petition filed under this ~~Section, the court may reinstate wardship and open a previously closed case~~ when:

(a) wardship and guardianship under the Juvenile Court Act of 1987 was vacated in conjunction with the appointment of a private guardian under the Probate Act of 1975 or under the Juvenile Court Act of 1987; and

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor. ~~and~~

~~(c) it is in the minor's best interest that wardship be reinstated.~~

Upon the filing of a supplemental petition, the court shall reinstate wardship and open a previously closed case for

1 purposes of addressing the petition.

2 (2) Any time prior to a minor's 21st birthday, pursuant to
3 a supplemental petition filed under this Section, the court
4 may reinstate wardship and open a previously closed case when:

5 (a) wardship and guardianship under this Act was
6 vacated pursuant to:

7 (i) an order entered under subsection (2) of
8 Section 2-31 in the case of a minor over the age of 18;

9 (ii) closure of a case under subsection (2) of
10 Section 2-31 in the case of a minor under the age of 18
11 who has been partially or completely emancipated in
12 accordance with the Emancipation of Minors Act; or

13 (iii) an order entered under subsection (3) of
14 Section 2-31 based on the minor's attaining the age of
15 19 years before the effective date of this amendatory
16 Act of the 101st General Assembly;

17 (b) the minor is not presently a ward of the court
18 under Article II of this Act nor is there a petition for
19 adjudication of wardship pending on behalf of the minor;
20 and

21 (c) it is in the minor's best interest that wardship
22 be reinstated.

23 (3) The supplemental petition must be filed in the same
24 proceeding in which the original adjudication order was
25 entered. Unless excused by court for good cause shown, the
26 petitioner shall give notice of the time and place of the

1 hearing on the supplemental petition, in person or by mail, to
2 the minor, if the minor is 14 years of age or older, and to the
3 parties to the juvenile court proceeding. Notice shall be
4 provided at least 3 court days in advance of the hearing date.
5 Any hearing on a supplemental petition filed under subsection
6 (1) for custody to be restored to a parent, guardian, or legal
7 custodian shall be conducted consistent with paragraph (4) of
8 Section 2-28 of this Act.

9 (3.5) Whenever a petition is filed ~~to reinstate wardship~~
10 pursuant to subsection (1), prior to granting the petition,
11 the court may order the Department of Children and Family
12 Services to assess the minor's current and proposed living
13 arrangements and to provide ongoing monitoring of the health,
14 safety, and best interest of the minor during the pendency of
15 the petition to assist the court in making that determination.

16 (4) A minor who is the subject of a petition to reinstate
17 wardship under this Section shall be provided with
18 representation in accordance with Sections 1-5 and 2-17 of
19 this Act.

20 (5) Whenever a minor is committed to the Department of
21 Children and Family Services for care and services following
22 the reinstatement of wardship under this Section, the
23 Department shall:

24 (a) Within 30 days of such commitment, prepare and
25 file with the court a case plan which complies with the
26 federal Adoption Assistance and Child Welfare Act of 1980

1 and is consistent with the health, safety and best
2 interests of the minor; and

3 (b) Promptly refer the minor for such services as are
4 necessary and consistent with the minor's health, safety
5 and best interests.

6 (6) Whenever the court grants a petition to reinstate
7 wardship under this Section, the court shall schedule the case
8 for a permanency hearing in accordance with Section 2-28 and a
9 Successful Transition to Adulthood Review hearing in
10 accordance with Section 2-28.2, if applicable.

11 (Source: P.A. 104-107, eff. 7-1-26.)

12 Section 10. The Probate Act of 1975 is amended by changing
13 Section 11-5 as follows:

14 (755 ILCS 5/11-5) (from Ch. 110 1/2, par. 11-5)

15 Sec. 11-5. Appointment of guardian.

16 (a) Upon the filing of a petition for the appointment of a
17 guardian or on its own motion, the court may appoint a guardian
18 of the estate or of both the person and estate, of a minor, or
19 may appoint a guardian of the person only of a minor or minors,
20 as the court finds to be in the best interest of the minor or
21 minors.

22 (a-1) A parent, adoptive parent or adjudicated parent,
23 whose parental rights have not been terminated, may designate
24 in any writing, including a will, a person qualified to act

1 under Section 11-3 to be appointed as guardian of the person or
2 estate, or both, of an unmarried minor or of a child likely to
3 be born. A parent, adoptive parent or adjudicated parent,
4 whose parental rights have not been terminated, or a guardian
5 or a standby guardian of an unmarried minor or of a child
6 likely to be born may designate in any writing, including a
7 will, a person qualified to act under Section 11-3 to be
8 appointed as successor guardian of the minor's person or
9 estate, or both. The designation must be witnessed by 2 or more
10 credible witnesses at least 18 years of age, neither of whom is
11 the person designated as the guardian. The designation may be
12 proved by any competent evidence. If the designation is
13 executed and attested in the same manner as a will, it shall
14 have prima facie validity. The designation of a guardian or
15 successor guardian does not affect the rights of the other
16 parent in the minor.

17 (b) The court lacks jurisdiction to proceed on a petition
18 for the appointment of a guardian of a minor if it finds that
19 (i) the minor has a living parent, adoptive parent or
20 adjudicated parent, whose parental rights have not been
21 terminated, whose whereabouts are known, and who is willing
22 and able to make and carry out day-to-day child care decisions
23 concerning the minor, unless: (1) the parent or parents
24 voluntarily relinquished physical custody of the minor; (2)
25 after receiving notice of the hearing under Section 11-10.1,
26 the parent or parents fail to object to the appointment at the

1 hearing on the petition; (3) the parent or parents consent to
2 the appointment as evidenced by a written document that has
3 been notarized and dated, or by a personal appearance and
4 consent in open court; or (4) the parent or parents, due to an
5 administrative separation, are unable to give consent to the
6 appointment in person or by a notarized, written document as
7 evidenced by a sworn affidavit submitted by the petitioner
8 describing the parent's or parents' inability to receive
9 notice or give consent; or (ii) there is a guardian for the
10 minor appointed by a court of competent jurisdiction. There
11 shall be a rebuttable presumption that a parent of a minor is
12 willing and able to make and carry out day-to-day child care
13 decisions concerning the minor, but the presumption may be
14 rebutted by a preponderance of the evidence. If a short-term
15 guardian has been appointed for the minor prior to the filing
16 of the petition and the petitioner for guardianship is not the
17 short-term guardian, there shall be a rebuttable presumption
18 that it is in the best interest of the minor to remain in the
19 care of the short-term guardian. The petitioner shall have the
20 burden of proving by a preponderance of the evidence that it is
21 not in the child's best interest to remain with the short-term
22 guardian.

23 (b-1) If the court finds the appointment of a guardian of
24 the minor to be in the best interest of the minor, and if a
25 standby guardian has previously been appointed for the minor
26 under Section 11-5.3, the court shall appoint the standby

1 guardian as the guardian of the person or estate, or both, of
2 the minor unless the court finds, upon good cause shown, that
3 the appointment would no longer be in the best interest of the
4 minor.

5 (b-2) No petition for the appointment of a guardian of a
6 minor shall be filed if the primary purpose of the filing is to
7 reduce the financial resources available to the minor in order
8 to cause the minor to qualify for public or private financial
9 assistance from an educational institution. The court may deny
10 the petition if it finds by a preponderance of the evidence
11 that the primary purpose of the filing is to enable the minor
12 to declare financial independence so that the minor may obtain
13 public or private financial assistance from an educational
14 institution or a State or federal student financial aid
15 program.

16 (b-3) If the minor is a youth in care under the
17 guardianship of the Department of Children and Family Services
18 pursuant to the Juvenile Court Act of 1987 when the petition
19 for the appointment of a guardian of a minor is filed, the
20 court's determinations and findings shall be made consistent
21 with subsection (4) of Section 2-28 of the Juvenile Court Act
22 of 1987. Any motion to modify or vacate the appointment of a
23 guardian of a minor who was a youth in care immediately
24 preceding the filing of a petition for the appointment of a
25 minor guardian shall be filed and reviewed pursuant to Section
26 2-33 of the Juvenile Court Act of 1987. If custody and

1 guardianship is to be restored to a parent or guardian who was
2 a respondent in the Juvenile Court Act of 1987 case, the
3 court's determinations and findings shall be made consistent
4 with subsection (4) of Section 2-28 of the Juvenile Court Act
5 of 1987. For purposes of this subsection, "youth in care" has
6 the meaning provided in Section 4d of the Children and Family
7 Services Act.

8 (c) If the minor is 14 years of age or more, the minor may
9 nominate the guardian of the minor's person and estate,
10 subject to approval of the court. If the minor's nominee is not
11 approved by the court or if, after notice to the minor, the
12 minor fails to nominate a guardian of the minor's person or
13 estate, the court may appoint the guardian without nomination.

14 (d) The court shall not appoint as guardian of the person
15 of the minor any person whom the court has determined had
16 caused or substantially contributed to the minor becoming a
17 neglected or abused minor as defined in the Juvenile Court Act
18 of 1987, unless 2 years have elapsed since the last proven
19 incident of abuse or neglect and the court determines that
20 appointment of such person as guardian is in the best
21 interests of the minor.

22 (e) Previous statements made by the minor relating to any
23 allegations that the minor is an abused or neglected child
24 within the meaning of the Abused and Neglected Child Reporting
25 Act, or an abused or neglected minor within the meaning of the
26 Juvenile Court Act of 1987, shall be admissible in evidence in

1 a hearing concerning appointment of a guardian of the person
2 or estate of the minor. No such statement, however, if
3 uncorroborated and not subject to cross-examination, shall be
4 sufficient in itself to support a finding of abuse or neglect.
5 (Source: P.A. 103-475, eff. 1-1-24.)

6 Section 95. No acceleration or delay. Where this Act makes
7 changes in a statute that is represented in this Act by text
8 that is not yet or no longer in effect (for example, a Section
9 represented by multiple versions), the use of that text does
10 not accelerate or delay the taking effect of (i) the changes
11 made by this Act or (ii) provisions derived from any other
12 Public Act.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.