



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5257

by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

20 ILCS 505/35.1
705 ILCS 405/2-17

from Ch. 23, par. 5035.1
from Ch. 37, par. 802-17

Amends the Children and Family Services Act. Provides that the Department of Children and Family Services shall provide a minor's guardian ad litem or a minor's attorney appointed under the Juvenile Court Act of 1987, with a copy of each significant event report, as defined by Department rule, involving the minor no later than 3 days after the Department learns of an event requiring a significant event report to be written, or earlier as required by Department rule. Amends the Juvenile Court Act of 1987. Provides that a guardian ad litem appointed or attorney appointed under the Act, shall receive a copy of each significant event report, as defined by Department of Children and Family Services rule, that involves the minor no later than 3 days after the Department learns of an event requiring a significant event report to be written, or earlier as required by Department rule.

LRB100 18028 SLF 33216 b

1 AN ACT concerning juveniles.

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

4 Section 5. The Children and Family Services Act is amended
5 by changing Section 35.1 as follows:

6 (20 ILCS 505/35.1) (from Ch. 23, par. 5035.1)

7 Sec. 35.1. The case and clinical records of patients in
8 Department supervised facilities, youth in care, children
9 receiving or applying for child welfare services, persons
10 receiving or applying for other services of the Department, and
11 Department reports of injury or abuse to children shall not be
12 open to the general public. Such case and clinical records and
13 reports or the information contained therein shall be disclosed
14 by the Director of the Department to juvenile authorities when
15 necessary for the discharge of their official duties who
16 request information concerning the minor and who certify in
17 writing that the information will not be disclosed to any other
18 party except as provided under law or order of court. For
19 purposes of this Section, "juvenile authorities" means: (i) a
20 judge of the circuit court and members of the staff of the
21 court designated by the judge; (ii) parties to the proceedings
22 under the Juvenile Court Act of 1987 and their attorneys; (iii)
23 probation officers and court appointed advocates for the

1 juvenile authorized by the judge hearing the case; (iv) any
2 individual, public or private agency having custody of the
3 child pursuant to court order or pursuant to placement of the
4 child by the Department; (v) any individual, public or private
5 agency providing education, medical or mental health service to
6 the child when the requested information is needed to determine
7 the appropriate service or treatment for the minor; (vi) any
8 potential placement provider when such release is authorized by
9 the court for the limited purpose of determining the
10 appropriateness of the potential placement; (vii) law
11 enforcement officers and prosecutors; (viii) adult and
12 juvenile prisoner review boards; (ix) authorized military
13 personnel; (x) individuals authorized by court; (xi) the
14 Illinois General Assembly or any committee or commission
15 thereof. This Section does not apply to the Department's fiscal
16 records, other records of a purely administrative nature, or
17 any forms, documents or other records required of facilities
18 subject to licensure by the Department except as may otherwise
19 be provided under the Child Care Act of 1969. Notwithstanding
20 any other provision of this Section, upon request, a guardian
21 ad litem or attorney appointed to represent a child who is the
22 subject of an action pursuant to Article II of the Juvenile
23 Court Act of 1987 may obtain a copy of foster home licensing
24 records, including all information related to licensing
25 complaints and investigations, regarding a home in which the
26 child is placed or regarding a home in which the Department

1 plans to place the child. Any information contained in foster
2 home licensing records that is protected from disclosure by
3 federal or State law may be obtained only in compliance with
4 that law. Nothing in this Section restricts the authority of a
5 court to order release of licensing records for purposes of
6 discovery or as otherwise authorized by law.

7 Nothing contained in this Act prevents the sharing or
8 disclosure of information or records relating or pertaining to
9 juveniles subject to the provisions of the Serious Habitual
10 Offender Comprehensive Action Program when that information is
11 used to assist in the early identification and treatment of
12 habitual juvenile offenders.

13 Nothing contained in this Act prevents the sharing or
14 disclosure of information or records relating or pertaining to
15 the death of a minor under the care of or receiving services
16 from the Department and under the jurisdiction of the juvenile
17 court with the juvenile court, the State's Attorney, and the
18 minor's attorney.

19 The Department shall provide a minor's guardian ad litem,
20 appointed under Section 2-17 of the Juvenile Court Act of 1987
21 or a minor's attorney appointed under the Juvenile Court Act of
22 1987, with a copy of each significant event report, as defined
23 by Department rule, involving the minor no later than 3 days
24 after the Department learns of an event requiring a significant
25 event report to be written, or earlier as required by
26 Department rule.

1 Nothing contained in this Section prohibits or prevents any
2 individual dealing with or providing services to a minor from
3 sharing information with another individual dealing with or
4 providing services to a minor for the purpose of coordinating
5 efforts on behalf of the minor. The sharing of such information
6 is only for the purpose stated herein and is to be consistent
7 with the intent and purpose of the confidentiality provisions
8 of the Juvenile Court Act of 1987. This provision does not
9 abrogate any recognized privilege. Sharing information does
10 not include copying of records, reports or case files unless
11 authorized herein.

12 Nothing in this Section prohibits or prevents the
13 re-disclosure of records, reports, or other information that
14 reveals malfeasance or nonfeasance on the part of the
15 Department, its employees, or its agents. Nothing in this
16 Section prohibits or prevents the Department or a party in a
17 proceeding under the Juvenile Court Act of 1987 from copying
18 records, reports, or case files for the purpose of sharing
19 those documents with other parties to the litigation.

20 (Source: P.A. 99-779, eff. 1-1-17; 100-159, eff. 8-18-17.)

21 Section 10. The Juvenile Court Act of 1987 is amended by
22 changing Section 2-17 as follows:

23 (705 ILCS 405/2-17) (from Ch. 37, par. 802-17)

24 Sec. 2-17. Guardian ad litem.

1 (1) Immediately upon the filing of a petition alleging that
2 the minor is a person described in Sections 2-3 or 2-4 of this
3 Article, the court shall appoint a guardian ad litem for the
4 minor if:

5 (a) such petition alleges that the minor is an abused
6 or neglected child; or

7 (b) such petition alleges that charges alleging the
8 commission of any of the sex offenses defined in Article 11
9 or in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50,
10 11-1.60, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the
11 Criminal Code of 1961 or the Criminal Code of 2012, have
12 been filed against a defendant in any court and that such
13 minor is the alleged victim of the acts of defendant in the
14 commission of such offense.

15 Unless the guardian ad litem appointed pursuant to this
16 paragraph (1) is an attorney at law he shall be represented in
17 the performance of his duties by counsel. The guardian ad litem
18 shall represent the best interests of the minor and shall
19 present recommendations to the court consistent with that duty.

20 (2) Before proceeding with the hearing, the court shall
21 appoint a guardian ad litem for the minor if

22 (a) no parent, guardian, custodian or relative of the
23 minor appears at the first or any subsequent hearing of the
24 case;

25 (b) the petition prays for the appointment of a
26 guardian with power to consent to adoption; or

1 (c) the petition for which the minor is before the
2 court resulted from a report made pursuant to the Abused
3 and Neglected Child Reporting Act.

4 (3) The court may appoint a guardian ad litem for the minor
5 whenever it finds that there may be a conflict of interest
6 between the minor and his parents or other custodian or that it
7 is otherwise in the minor's best interest to do so.

8 (4) Unless the guardian ad litem is an attorney, he shall
9 be represented by counsel.

10 (5) The reasonable fees of a guardian ad litem appointed
11 under this Section shall be fixed by the court and charged to
12 the parents of the minor, to the extent they are able to pay.
13 If the parents are unable to pay those fees, they shall be paid
14 from the general fund of the county.

15 (6) A guardian ad litem appointed under this Section, shall
16 receive copies of any and all classified reports of child abuse
17 and neglect made under the Abused and Neglected Child Reporting
18 Act in which the minor who is the subject of a report under the
19 Abused and Neglected Child Reporting Act, is also the minor for
20 whom the guardian ad litem is appointed under this Section.

21 (6.5) A guardian ad litem appointed under this Section or
22 attorney appointed under this Act, shall receive a copy of each
23 significant event report, as defined by Department of Children
24 and Family Services rule, that involves the minor no later than
25 3 days after the Department learns of an event requiring a
26 significant event report to be written, or earlier as required

1 by Department rule.

2 (7) The appointed guardian ad litem shall remain the
3 child's guardian ad litem throughout the entire juvenile trial
4 court proceedings, including permanency hearings and
5 termination of parental rights proceedings, unless there is a
6 substitution entered by order of the court.

7 (8) The guardian ad litem or an agent of the guardian ad
8 litem shall have a minimum of one in-person contact with the
9 minor and one contact with one of the current foster parents or
10 caregivers prior to the adjudicatory hearing, and at least one
11 additional in-person contact with the child and one contact
12 with one of the current foster parents or caregivers after the
13 adjudicatory hearing but prior to the first permanency hearing
14 and one additional in-person contact with the child and one
15 contact with one of the current foster parents or caregivers
16 each subsequent year. For good cause shown, the judge may
17 excuse face-to-face interviews required in this subsection.

18 (9) In counties with a population of 100,000 or more but
19 less than 3,000,000, each guardian ad litem must successfully
20 complete a training program approved by the Department of
21 Children and Family Services. The Department of Children and
22 Family Services shall provide training materials and documents
23 to guardians ad litem who are not mandated to attend the
24 training program. The Department of Children and Family
25 Services shall develop and distribute to all guardians ad litem
26 a bibliography containing information including but not

1 limited to the juvenile court process, termination of parental
2 rights, child development, medical aspects of child abuse, and
3 the child's need for safety and permanence.

4 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)