



Rep. Dave Vella

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LRB102 25433 LNS 37229 a

1 AMENDMENT TO HOUSE BILL 4964

2 AMENDMENT NO. _____. Amend House Bill 4964 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 2-3 and 2-10 as follows:

6 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

7 Sec. 2-3. Neglected or abused minor.

8 (1) Those who are neglected include:

9 (a) any minor under 18 years of age or a minor 18 years
10 of age or older for whom the court has made a finding of
11 probable cause to believe that the minor is abused,
12 neglected, or dependent under subsection (1) of Section
13 2-10 prior to the minor's 18th birthday who is not
14 receiving the proper or necessary support, education as
15 required by law, or medical or other remedial care
16 recognized under State law as necessary for a minor's

1 well-being, or other care necessary for his or her
2 well-being, including adequate food, clothing and shelter,
3 or who is abandoned by his or her parent or parents or
4 other person or persons responsible for the minor's
5 welfare, except that a minor shall not be considered
6 neglected for the sole reason that the minor's parent or
7 parents or other person or persons responsible for the
8 minor's welfare have left the minor in the care of an adult
9 relative for any period of time, who the parent or parents
10 or other person responsible for the minor's welfare know
11 is both a mentally capable adult relative and physically
12 capable adult relative, as defined by this Act; or

13 (b) any minor under 18 years of age or a minor 18 years
14 of age or older for whom the court has made a finding of
15 probable cause to believe that the minor is abused,
16 neglected, or dependent under subsection (1) of Section
17 2-10 prior to the minor's 18th birthday whose environment
18 is injurious to his or her welfare; or

19 (c) any newborn infant whose blood, urine, or meconium
20 contains any amount of a controlled substance as defined
21 in subsection (f) of Section 102 of the Illinois
22 Controlled Substances Act, as now or hereafter amended, or
23 a metabolite of a controlled substance, with the exception
24 of controlled substances or metabolites of such
25 substances, the presence of which in the newborn infant is
26 the result of medical treatment administered to the mother

1 or the newborn infant; or

2 (d) any minor under the age of 14 years whose parent or
3 other person responsible for the minor's welfare leaves
4 the minor without supervision for an unreasonable period
5 of time without regard for the mental or physical health,
6 safety, or welfare of that minor; or

7 (e) any minor who has been provided with interim
8 crisis intervention services under Section 3-5 of this Act
9 and whose parent, guardian, or custodian refuses to permit
10 the minor to return home unless the minor is an immediate
11 physical danger to himself, herself, or others living in
12 the home.

13 Whether the minor was left without regard for the mental
14 or physical health, safety, or welfare of that minor or the
15 period of time was unreasonable shall be determined by
16 considering the following factors, including but not limited
17 to:

18 (1) the age of the minor;

19 (2) the number of minors left at the location;

20 (3) special needs of the minor, including whether the
21 minor is a person with a physical or mental disability, or
22 otherwise in need of ongoing prescribed medical treatment
23 such as periodic doses of insulin or other medications;

24 (4) the duration of time in which the minor was left
25 without supervision;

26 (5) the condition and location of the place where the

1 minor was left without supervision;

2 (6) the time of day or night when the minor was left
3 without supervision;

4 (7) the weather conditions, including whether the
5 minor was left in a location with adequate protection from
6 the natural elements such as adequate heat or light;

7 (8) the location of the parent or guardian at the time
8 the minor was left without supervision, the physical
9 distance the minor was from the parent or guardian at the
10 time the minor was without supervision;

11 (9) whether the minor's movement was restricted, or
12 the minor was otherwise locked within a room or other
13 structure;

14 (10) whether the minor was given a phone number of a
15 person or location to call in the event of an emergency and
16 whether the minor was capable of making an emergency call;

17 (11) whether there was food and other provision left
18 for the minor;

19 (12) whether any of the conduct is attributable to
20 economic hardship or illness and the parent, guardian or
21 other person having physical custody or control of the
22 child made a good faith effort to provide for the health
23 and safety of the minor;

24 (13) the age and physical and mental capabilities of
25 the person or persons who provided supervision for the
26 minor;

1 (14) whether the minor was left under the supervision
2 of another person;

3 (15) any other factor that would endanger the health
4 and safety of that particular minor.

5 A minor shall not be considered neglected for the sole
6 reason that the minor has been relinquished in accordance with
7 the Abandoned Newborn Infant Protection Act.

8 (2) Those who are abused include any minor under 18 years
9 of age or a minor 18 years of age or older for whom the court
10 has made a finding of probable cause to believe that the minor
11 is abused, neglected, or dependent under subsection (1) of
12 Section 2-10 prior to the minor's 18th birthday whose parent
13 or immediate family member, or any person responsible for the
14 minor's welfare, or any person who is in the same family or
15 household as the minor, or any individual residing in the same
16 home as the minor, or a paramour of the minor's parent:

17 (i) inflicts, causes to be inflicted, or allows to be
18 inflicted upon such minor physical injury, by other than
19 accidental means, which causes death, disfigurement,
20 impairment of physical or emotional health, or loss or
21 impairment of any bodily function;

22 (ii) creates a substantial risk of physical injury to
23 such minor by other than accidental means which would be
24 likely to cause death, disfigurement, impairment of
25 emotional health, or loss or impairment of any bodily
26 function;

1 (iii) commits or allows to be committed any sex
2 offense against such minor, as such sex offenses are
3 defined in the Criminal Code of 1961 or the Criminal Code
4 of 2012, or in the Wrongs to Children Act, and extending
5 those definitions of sex offenses to include minors under
6 18 years of age;

7 (iv) commits or allows to be committed an act or acts
8 of torture upon such minor;

9 (v) inflicts excessive corporal punishment;

10 (vi) commits or allows to be committed the offense of
11 involuntary servitude, involuntary sexual servitude of a
12 minor, or trafficking in persons as defined in Section
13 10-9 of the Criminal Code of 1961 or the Criminal Code of
14 2012, upon such minor; or

15 (vii) allows, encourages or requires a minor to commit
16 any act of prostitution, as defined in the Criminal Code
17 of 1961 or the Criminal Code of 2012, and extending those
18 definitions to include minors under 18 years of age.

19 A minor shall not be considered abused for the sole reason
20 that the minor has been relinquished in accordance with the
21 Abandoned Newborn Infant Protection Act.

22 (3) This Section does not apply to a minor who would be
23 included herein solely for the purpose of qualifying for
24 financial assistance for himself, his parents, guardian or
25 custodian.

26 (4) The changes made by this amendatory Act of the 101st

1 General Assembly apply to a case that is pending on or after
2 the effective date of this amendatory Act of the 101st General
3 Assembly.

4 (5) A court shall not make a finding of probable cause that
5 a minor is abused or neglected under this Section based only on
6 a parent, guardian, or custodian disclosing that the parent,
7 guardian, or custodian is (i) the victim of domestic violence,
8 as defined by the Illinois Domestic Violence Act of 1986, (ii)
9 seeking or accessing services for domestic violence, and (iii)
10 not living in the same home as the perpetrator of the domestic
11 violence.

12 (Source: P.A. 101-79, eff. 7-12-19.)

13 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

14 Sec. 2-10. Temporary custody hearing. At the appearance of
15 the minor before the court at the temporary custody hearing,
16 all witnesses present shall be examined before the court in
17 relation to any matter connected with the allegations made in
18 the petition.

19 (1) If the court finds that there is not probable cause to
20 believe that the minor is abused, neglected or dependent it
21 shall release the minor and dismiss the petition.

22 (2) If the court finds that there is probable cause to
23 believe that the minor is abused, neglected or dependent, the
24 court shall state in writing the factual basis supporting its
25 finding and the minor, his or her parent, guardian, custodian

1 and other persons able to give relevant testimony shall be
2 examined before the court. The Department of Children and
3 Family Services shall give testimony concerning indicated
4 reports of abuse and neglect, of which they are aware through
5 the central registry, involving the minor's parent, guardian
6 or custodian. After such testimony, the court may, consistent
7 with the health, safety and best interests of the minor, enter
8 an order that the minor shall be released upon the request of
9 parent, guardian or custodian if the parent, guardian or
10 custodian appears to take custody. If it is determined that a
11 parent's, guardian's, or custodian's compliance with critical
12 services mitigates the necessity for removal of the minor from
13 his or her home, the court may enter an Order of Protection
14 setting forth reasonable conditions of behavior that a parent,
15 guardian, or custodian must observe for a specified period of
16 time, not to exceed 12 months, without a violation; provided,
17 however, that the 12-month period shall begin anew after any
18 violation. "Custodian" includes the Department of Children and
19 Family Services, if it has been given custody of the child, or
20 any other agency of the State which has been given custody or
21 wardship of the child. If it is consistent with the health,
22 safety and best interests of the minor, the court may also
23 prescribe shelter care and order that the minor be kept in a
24 suitable place designated by the court or in a shelter care
25 facility designated by the Department of Children and Family
26 Services or a licensed child welfare agency; however, on and

1 after January 1, 2015 (the effective date of Public Act
2 98-803) and before January 1, 2017, a minor charged with a
3 criminal offense under the Criminal Code of 1961 or the
4 Criminal Code of 2012 or adjudicated delinquent shall not be
5 placed in the custody of or committed to the Department of
6 Children and Family Services by any court, except a minor less
7 than 16 years of age and committed to the Department of
8 Children and Family Services under Section 5-710 of this Act
9 or a minor for whom an independent basis of abuse, neglect, or
10 dependency exists; and on and after January 1, 2017, a minor
11 charged with a criminal offense under the Criminal Code of
12 1961 or the Criminal Code of 2012 or adjudicated delinquent
13 shall not be placed in the custody of or committed to the
14 Department of Children and Family Services by any court,
15 except a minor less than 15 years of age and committed to the
16 Department of Children and Family Services under Section 5-710
17 of this Act or a minor for whom an independent basis of abuse,
18 neglect, or dependency exists. An independent basis exists
19 when the allegations or adjudication of abuse, neglect, or
20 dependency do not arise from the same facts, incident, or
21 circumstances which give rise to a charge or adjudication of
22 delinquency.

23 Notwithstanding any other provision of this Section, the
24 court may not enter an order to place the minor in shelter
25 care, commit the minor to the Department of Children and
26 Family Services, or otherwise remove the minor from the

1 minor's home based on only a disclosure by the minor's parent,
2 guardian, or custodian that the minor's parent, guardian, or
3 custodian is (i) a victim of domestic violence, as defined by
4 the Illinois Domestic Violence Act of 1986, (ii) seeking or
5 accessing services for domestic violence, and (iii) not living
6 in the same home as the perpetrator of the domestic violence.

7 In placing the minor, the Department or other agency
8 shall, to the extent compatible with the court's order, comply
9 with Section 7 of the Children and Family Services Act. In
10 determining the health, safety and best interests of the minor
11 to prescribe shelter care, the court must find that it is a
12 matter of immediate and urgent necessity for the safety and
13 protection of the minor or of the person or property of another
14 that the minor be placed in a shelter care facility or that he
15 or she is likely to flee the jurisdiction of the court, and
16 must further find that reasonable efforts have been made or
17 that, consistent with the health, safety and best interests of
18 the minor, no efforts reasonably can be made to prevent or
19 eliminate the necessity of removal of the minor from his or her
20 home. The court shall require documentation from the
21 Department of Children and Family Services as to the
22 reasonable efforts that were made to prevent or eliminate the
23 necessity of removal of the minor from his or her home or the
24 reasons why no efforts reasonably could be made to prevent or
25 eliminate the necessity of removal. When a minor is placed in
26 the home of a relative, the Department of Children and Family

1 Services shall complete a preliminary background review of the
2 members of the minor's custodian's household in accordance
3 with Section 4.3 of the Child Care Act of 1969 within 90 days
4 of that placement. If the minor is ordered placed in a shelter
5 care facility of the Department of Children and Family
6 Services or a licensed child welfare agency, the court shall,
7 upon request of the appropriate Department or other agency,
8 appoint the Department of Children and Family Services
9 Guardianship Administrator or other appropriate agency
10 executive temporary custodian of the minor and the court may
11 enter such other orders related to the temporary custody as it
12 deems fit and proper, including the provision of services to
13 the minor or his family to ameliorate the causes contributing
14 to the finding of probable cause or to the finding of the
15 existence of immediate and urgent necessity.

16 Where the Department of Children and Family Services
17 Guardianship Administrator is appointed as the executive
18 temporary custodian, the Department of Children and Family
19 Services shall file with the court and serve on the parties a
20 parent-child visiting plan, within 10 days, excluding weekends
21 and holidays, after the appointment. The parent-child visiting
22 plan shall set out the time and place of visits, the frequency
23 of visits, the length of visits, who shall be present at the
24 visits, and where appropriate, the minor's opportunities to
25 have telephone and mail communication with the parents.

26 Where the Department of Children and Family Services

1 Guardianship Administrator is appointed as the executive
2 temporary custodian, and when the child has siblings in care,
3 the Department of Children and Family Services shall file with
4 the court and serve on the parties a sibling placement and
5 contact plan within 10 days, excluding weekends and holidays,
6 after the appointment. The sibling placement and contact plan
7 shall set forth whether the siblings are placed together, and
8 if they are not placed together, what, if any, efforts are
9 being made to place them together. If the Department has
10 determined that it is not in a child's best interest to be
11 placed with a sibling, the Department shall document in the
12 sibling placement and contact plan the basis for its
13 determination. For siblings placed separately, the sibling
14 placement and contact plan shall set the time and place for
15 visits, the frequency of the visits, the length of visits, who
16 shall be present for the visits, and where appropriate, the
17 child's opportunities to have contact with their siblings in
18 addition to in person contact. If the Department determines it
19 is not in the best interest of a sibling to have contact with a
20 sibling, the Department shall document in the sibling
21 placement and contact plan the basis for its determination.
22 The sibling placement and contact plan shall specify a date
23 for development of the Sibling Contact Support Plan, under
24 subsection (f) of Section 7.4 of the Children and Family
25 Services Act, and shall remain in effect until the Sibling
26 Contact Support Plan is developed.

1 For good cause, the court may waive the requirement to
2 file the parent-child visiting plan or the sibling placement
3 and contact plan, or extend the time for filing either plan.
4 Any party may, by motion, request the court to review the
5 parent-child visiting plan to determine whether it is
6 reasonably calculated to expeditiously facilitate the
7 achievement of the permanency goal. A party may, by motion,
8 request the court to review the parent-child visiting plan or
9 the sibling placement and contact plan to determine whether it
10 is consistent with the minor's best interest. The court may
11 refer the parties to mediation where available. The frequency,
12 duration, and locations of visitation shall be measured by the
13 needs of the child and family, and not by the convenience of
14 Department personnel. Child development principles shall be
15 considered by the court in its analysis of how frequent
16 visitation should be, how long it should last, where it should
17 take place, and who should be present. If upon motion of the
18 party to review either plan and after receiving evidence, the
19 court determines that the parent-child visiting plan is not
20 reasonably calculated to expeditiously facilitate the
21 achievement of the permanency goal or that the restrictions
22 placed on parent-child contact or sibling placement or contact
23 are contrary to the child's best interests, the court shall
24 put in writing the factual basis supporting the determination
25 and enter specific findings based on the evidence. The court
26 shall enter an order for the Department to implement changes

1 to the parent-child visiting plan or sibling placement or
2 contact plan, consistent with the court's findings. At any
3 stage of proceeding, any party may by motion request the court
4 to enter any orders necessary to implement the parent-child
5 visiting plan, sibling placement or contact plan or
6 subsequently developed Sibling Contact Support Plan. Nothing
7 under this subsection (2) shall restrict the court from
8 granting discretionary authority to the Department to increase
9 opportunities for additional parent-child contacts or sibling
10 contacts, without further court orders. Nothing in this
11 subsection (2) shall restrict the Department from immediately
12 restricting or terminating parent-child contact or sibling
13 contacts, without either amending the parent-child visiting
14 plan or the sibling contact plan or obtaining a court order,
15 where the Department or its assigns reasonably believe there
16 is an immediate need to protect the child's health, safety,
17 and welfare. Such restrictions or terminations must be based
18 on available facts to the Department and its assigns when
19 viewed in light of the surrounding circumstances and shall
20 only occur on an individual case-by-case basis. The Department
21 shall file with the court and serve on the parties any
22 amendments to the plan within 10 days, excluding weekends and
23 holidays, of the change of the visitation.

24 Acceptance of services shall not be considered an
25 admission of any allegation in a petition made pursuant to
26 this Act, nor may a referral of services be considered as

1 evidence in any proceeding pursuant to this Act, except where
2 the issue is whether the Department has made reasonable
3 efforts to reunite the family. In making its findings that it
4 is consistent with the health, safety and best interests of
5 the minor to prescribe shelter care, the court shall state in
6 writing (i) the factual basis supporting its findings
7 concerning the immediate and urgent necessity for the
8 protection of the minor or of the person or property of another
9 and (ii) the factual basis supporting its findings that
10 reasonable efforts were made to prevent or eliminate the
11 removal of the minor from his or her home or that no efforts
12 reasonably could be made to prevent or eliminate the removal
13 of the minor from his or her home. The parents, guardian,
14 custodian, temporary custodian and minor shall each be
15 furnished a copy of such written findings. The temporary
16 custodian shall maintain a copy of the court order and written
17 findings in the case record for the child. The order together
18 with the court's findings of fact in support thereof shall be
19 entered of record in the court.

20 Once the court finds that it is a matter of immediate and
21 urgent necessity for the protection of the minor that the
22 minor be placed in a shelter care facility, the minor shall not
23 be returned to the parent, custodian or guardian until the
24 court finds that such placement is no longer necessary for the
25 protection of the minor.

26 If the child is placed in the temporary custody of the

1 Department of Children and Family Services for his or her
2 protection, the court shall admonish the parents, guardian,
3 custodian or responsible relative that the parents must
4 cooperate with the Department of Children and Family Services,
5 comply with the terms of the service plans, and correct the
6 conditions which require the child to be in care, or risk
7 termination of their parental rights. The court shall ensure,
8 by inquiring in open court of each parent, guardian, custodian
9 or responsible relative, that the parent, guardian, custodian
10 or responsible relative has had the opportunity to provide the
11 Department with all known names, addresses, and telephone
12 numbers of each of the minor's living maternal and paternal
13 adult relatives, including, but not limited to, grandparents,
14 aunts, uncles, and siblings. The court shall advise the
15 parents, guardian, custodian or responsible relative to inform
16 the Department if additional information regarding the minor's
17 adult relatives becomes available.

18 (3) If prior to the shelter care hearing for a minor
19 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
20 unable to serve notice on the party respondent, the shelter
21 care hearing may proceed ex parte. A shelter care order from an
22 ex parte hearing shall be endorsed with the date and hour of
23 issuance and shall be filed with the clerk's office and
24 entered of record. The order shall expire after 10 days from
25 the time it is issued unless before its expiration it is
26 renewed, at a hearing upon appearance of the party respondent,

1 or upon an affidavit of the moving party as to all diligent
 2 efforts to notify the party respondent by notice as herein
 3 prescribed. The notice prescribed shall be in writing and
 4 shall be personally delivered to the minor or the minor's
 5 attorney and to the last known address of the other person or
 6 persons entitled to notice. The notice shall also state the
 7 nature of the allegations, the nature of the order sought by
 8 the State, including whether temporary custody is sought, and
 9 the consequences of failure to appear and shall contain a
 10 notice that the parties will not be entitled to further
 11 written notices or publication notices of proceedings in this
 12 case, including the filing of an amended petition or a motion
 13 to terminate parental rights, except as required by Supreme
 14 Court Rule 11; and shall explain the right of the parties and
 15 the procedures to vacate or modify a shelter care order as
 16 provided in this Section. The notice for a shelter care
 17 hearing shall be substantially as follows:

18 NOTICE TO PARENTS AND CHILDREN
 19 OF SHELTER CARE HEARING

20 On at, before the Honorable
 21, (address:), the State
 22 of Illinois will present evidence (1) that (name of child
 23 or children) are abused, neglected
 24 or dependent for the following reasons:
 25 and (2)
 26 whether there is "immediate and urgent necessity" to

1 remove the child or children from the responsible
2 relative.

3 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
4 PLACEMENT of the child or children in foster care until a
5 trial can be held. A trial may not be held for up to 90
6 days. You will not be entitled to further notices of
7 proceedings in this case, including the filing of an
8 amended petition or a motion to terminate parental rights.

9 At the shelter care hearing, parents have the
10 following rights:

11 1. To ask the court to appoint a lawyer if they
12 cannot afford one.

13 2. To ask the court to continue the hearing to
14 allow them time to prepare.

15 3. To present evidence concerning:

16 a. Whether or not the child or children were
17 abused, neglected or dependent.

18 b. Whether or not there is "immediate and
19 urgent necessity" to remove the child from home
20 (including: their ability to care for the child,
21 conditions in the home, alternative means of
22 protecting the child other than removal).

23 c. The best interests of the child.

24 4. To cross examine the State's witnesses.

25 The Notice for rehearings shall be substantially as

1 follows:

2 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
3 TO REHEARING ON TEMPORARY CUSTODY

4 If you were not present at and did not have adequate
5 notice of the Shelter Care Hearing at which temporary
6 custody of was awarded to
7, you have the right to request a full
8 rehearing on whether the State should have temporary
9 custody of To request this rehearing,
10 you must file with the Clerk of the Juvenile Court
11 (address):, in person or by
12 mailing a statement (affidavit) setting forth the
13 following:

- 14 1. That you were not present at the shelter care
- 15 hearing.
- 16 2. That you did not get adequate notice
- 17 (explaining how the notice was inadequate).
- 18 3. Your signature.
- 19 4. Signature must be notarized.

20 The rehearing should be scheduled within 48 hours of
21 your filing this affidavit.

22 At the rehearing, your rights are the same as at the
23 initial shelter care hearing. The enclosed notice explains
24 those rights.

25 At the Shelter Care Hearing, children have the
26 following rights:

- 1 1. To have a guardian ad litem appointed.
- 2 2. To be declared competent as a witness and to
- 3 present testimony concerning:
 - 4 a. Whether they are abused, neglected or
 - 5 dependent.
 - 6 b. Whether there is "immediate and urgent
 - 7 necessity" to be removed from home.
 - 8 c. Their best interests.
- 9 3. To cross examine witnesses for other parties.
- 10 4. To obtain an explanation of any proceedings and
- 11 orders of the court.

12 (4) If the parent, guardian, legal custodian, responsible
13 relative, minor age 8 or over, or counsel of the minor did not
14 have actual notice of or was not present at the shelter care
15 hearing, he or she may file an affidavit setting forth these
16 facts, and the clerk shall set the matter for rehearing not
17 later than 48 hours, excluding Sundays and legal holidays,
18 after the filing of the affidavit. At the rehearing, the court
19 shall proceed in the same manner as upon the original hearing.

20 (5) Only when there is reasonable cause to believe that
21 the minor taken into custody is a person described in
22 subsection (3) of Section 5-105 may the minor be kept or
23 detained in a detention home or county or municipal jail. This
24 Section shall in no way be construed to limit subsection (6).

25 (6) No minor under 16 years of age may be confined in a
26 jail or place ordinarily used for the confinement of prisoners

1 in a police station. Minors under 18 years of age must be kept
2 separate from confined adults and may not at any time be kept
3 in the same cell, room, or yard with adults confined pursuant
4 to the criminal law.

5 (7) If the minor is not brought before a judicial officer
6 within the time period as specified in Section 2-9, the minor
7 must immediately be released from custody.

8 (8) If neither the parent, guardian or custodian appears
9 within 24 hours to take custody of a minor released upon
10 request pursuant to subsection (2) of this Section, then the
11 clerk of the court shall set the matter for rehearing not later
12 than 7 days after the original order and shall issue a summons
13 directed to the parent, guardian or custodian to appear. At
14 the same time the probation department shall prepare a report
15 on the minor. If a parent, guardian or custodian does not
16 appear at such rehearing, the judge may enter an order
17 prescribing that the minor be kept in a suitable place
18 designated by the Department of Children and Family Services
19 or a licensed child welfare agency.

20 (9) Notwithstanding any other provision of this Section
21 any interested party, including the State, the temporary
22 custodian, an agency providing services to the minor or family
23 under a service plan pursuant to Section 8.2 of the Abused and
24 Neglected Child Reporting Act, foster parent, or any of their
25 representatives, on notice to all parties entitled to notice,
26 may file a motion that it is in the best interests of the minor

1 to modify or vacate a temporary custody order on any of the
2 following grounds:

3 (a) It is no longer a matter of immediate and urgent
4 necessity that the minor remain in shelter care; or

5 (b) There is a material change in the circumstances of
6 the natural family from which the minor was removed and
7 the child can be cared for at home without endangering the
8 child's health or safety; or

9 (c) A person not a party to the alleged abuse, neglect
10 or dependency, including a parent, relative or legal
11 guardian, is capable of assuming temporary custody of the
12 minor; or

13 (d) Services provided by the Department of Children
14 and Family Services or a child welfare agency or other
15 service provider have been successful in eliminating the
16 need for temporary custody and the child can be cared for
17 at home without endangering the child's health or safety.

18 In ruling on the motion, the court shall determine whether
19 it is consistent with the health, safety and best interests of
20 the minor to modify or vacate a temporary custody order. If the
21 minor is being restored to the custody of a parent, legal
22 custodian, or guardian who lives outside of Illinois, and an
23 Interstate Compact has been requested and refused, the court
24 may order the Department of Children and Family Services to
25 arrange for an assessment of the minor's proposed living
26 arrangement and for ongoing monitoring of the health, safety,

1 and best interest of the minor and compliance with any order of
2 protective supervision entered in accordance with Section 2-20
3 or 2-25.

4 The clerk shall set the matter for hearing not later than
5 14 days after such motion is filed. In the event that the court
6 modifies or vacates a temporary custody order but does not
7 vacate its finding of probable cause, the court may order that
8 appropriate services be continued or initiated in behalf of
9 the minor and his or her family.

10 (10) When the court finds or has found that there is
11 probable cause to believe a minor is an abused minor as
12 described in subsection (2) of Section 2-3 and that there is an
13 immediate and urgent necessity for the abused minor to be
14 placed in shelter care, immediate and urgent necessity shall
15 be presumed for any other minor residing in the same household
16 as the abused minor provided:

17 (a) Such other minor is the subject of an abuse or
18 neglect petition pending before the court; and

19 (b) A party to the petition is seeking shelter care
20 for such other minor.

21 Once the presumption of immediate and urgent necessity has
22 been raised, the burden of demonstrating the lack of immediate
23 and urgent necessity shall be on any party that is opposing
24 shelter care for the other minor.

25 (11) The changes made to this Section by Public Act 98-61
26 apply to a minor who has been arrested or taken into custody on

1 or after January 1, 2014 (the effective date of Public Act
2 98-61).

3 (12) After the court has placed a minor in the care of a
4 temporary custodian pursuant to this Section, any party may
5 file a motion requesting the court to grant the temporary
6 custodian the authority to serve as a surrogate decision maker
7 for the minor under the Health Care Surrogate Act for purposes
8 of making decisions pursuant to paragraph (1) of subsection
9 (b) of Section 20 of the Health Care Surrogate Act. The court
10 may grant the motion if it determines by clear and convincing
11 evidence that it is in the best interests of the minor to grant
12 the temporary custodian such authority. In making its
13 determination, the court shall weigh the following factors in
14 addition to considering the best interests factors listed in
15 subsection (4.05) of Section 1-3 of this Act:

16 (a) the efforts to identify and locate the respondents
17 and adult family members of the minor and the results of
18 those efforts;

19 (b) the efforts to engage the respondents and adult
20 family members of the minor in decision making on behalf
21 of the minor;

22 (c) the length of time the efforts in paragraphs (a)
23 and (b) have been ongoing;

24 (d) the relationship between the respondents and adult
25 family members and the minor;

26 (e) medical testimony regarding the extent to which

1 the minor is suffering and the impact of a delay in
2 decision-making on the minor; and

3 (f) any other factor the court deems relevant.

4 If the Department of Children and Family Services is the
5 temporary custodian of the minor, in addition to the
6 requirements of paragraph (1) of subsection (b) of Section 20
7 of the Health Care Surrogate Act, the Department shall follow
8 its rules and procedures in exercising authority granted under
9 this subsection.

10 (Source: P.A. 102-489, eff. 8-20-21; 102-502, eff. 1-1-22;
11 revised 10-14-21.)".