

1 AN ACT concerning courts.

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 2-3 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
17 well-being, or other care necessary for his or her
18 well-being, including adequate food, clothing and shelter,
19 or who is abandoned by his or her parent or parents or
20 other person or persons responsible for the minor's
21 welfare, except that a minor shall not be considered
22 neglected for the sole reason that the minor's parent or
23 parents or other person or persons responsible for the

1 minor's welfare have left the minor in the care of an adult
2 relative for any period of time, who the parent or parents
3 or other person responsible for the minor's welfare know
4 is both a mentally capable adult relative and physically
5 capable adult relative, as defined by this Act; or

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

12 (c) any newborn infant whose blood, urine, or meconium
13 contains any amount of a controlled substance as defined
14 in subsection (f) of Section 102 of the Illinois
15 Controlled Substances Act, as now or hereafter amended, or
16 a metabolite of a controlled substance, with the exception
17 of controlled substances or metabolites of such
18 substances, the presence of which in the newborn infant is
19 the result of medical treatment administered to the mother
20 or the newborn infant; or

21 (d) any minor under the age of 14 years whose parent or
22 other person responsible for the minor's welfare leaves
23 the minor without supervision for an unreasonable period
24 of time without regard for the mental or physical health,
25 safety, or welfare of that minor; or

26 (e) any minor who has been provided with interim

1 crisis intervention services under Section 3-5 of this Act
2 and whose parent, guardian, or custodian refuses to permit
3 the minor to return home unless the minor is an immediate
4 physical danger to himself, herself, or others living in
5 the home.

6 Whether the minor was left without regard for the mental
7 or physical health, safety, or welfare of that minor or the
8 period of time was unreasonable shall be determined by
9 considering the following factors, including but not limited
10 to:

11 (1) the age of the minor;

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

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

17 (4) the duration of time in which the minor was left
18 without supervision;

19 (5) the condition and location of the place where the
20 minor was left without supervision;

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

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

26 (8) the location of the parent or guardian at the time

1 the minor was left without supervision, the physical
2 distance the minor was from the parent or guardian at the
3 time the minor was without supervision;

4 (9) whether the minor's movement was restricted, or
5 the minor was otherwise locked within a room or other
6 structure;

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

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

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

17 (13) the age and physical and mental capabilities of
18 the person or persons who provided supervision for the
19 minor;

20 (14) whether the minor was left under the supervision
21 of another person;

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

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

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

10 (i) inflicts, causes to be inflicted, or allows to be
11 inflicted upon such minor physical injury, by other than
12 accidental means, which causes death, disfigurement,
13 impairment of physical or emotional health, or loss or
14 impairment of any bodily function;

15 (ii) creates a substantial risk of physical injury to
16 such minor by other than accidental means which would be
17 likely to cause death, disfigurement, impairment of
18 emotional health, or loss or impairment of any bodily
19 function;

20 (iii) commits or allows to be committed any sex
21 offense against such minor, as such sex offenses are
22 defined in the Criminal Code of 1961 or the Criminal Code
23 of 2012, or in the Wrongs to Children Act, and extending
24 those definitions of sex offenses to include minors under
25 18 years of age;

26 (iv) commits or allows to be committed an act or acts

1 of torture upon such minor;

2 (v) inflicts excessive corporal punishment;

3 (vi) commits or allows to be committed the offense of
4 involuntary servitude, involuntary sexual servitude of a
5 minor, or trafficking in persons as defined in Section
6 10-9 of the Criminal Code of 1961 or the Criminal Code of
7 2012, upon such minor; or

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

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

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

19 (4) The changes made by this amendatory Act of the 101st
20 General Assembly apply to a case that is pending on or after
21 the effective date of this amendatory Act of the 101st General
22 Assembly.

23 (5) A court shall not make a finding of probable cause that
24 a minor is abused or neglected under this Section based only on
25 a parent, guardian, or custodian disclosing that the parent,
26 guardian, or custodian is (i) the victim of domestic violence,

1 as defined by the Illinois Domestic Violence Act of 1986, (ii)
2 seeking or accessing services for domestic violence, and (iii)
3 not living in the same home as the perpetrator of the domestic
4 violence.

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

6 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

7 Sec. 2-10. Temporary custody hearing. At the appearance of
8 the minor before the court at the temporary custody hearing,
9 all witnesses present shall be examined before the court in
10 relation to any matter connected with the allegations made in
11 the petition.

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

15 (2) If the court finds that there is probable cause to
16 believe that the minor is abused, neglected or dependent, the
17 court shall state in writing the factual basis supporting its
18 finding and the minor, his or her parent, guardian, custodian
19 and other persons able to give relevant testimony shall be
20 examined before the court. The Department of Children and
21 Family Services shall give testimony concerning indicated
22 reports of abuse and neglect, of which they are aware through
23 the central registry, involving the minor's parent, guardian
24 or custodian. After such testimony, the court may, consistent
25 with the health, safety and best interests of the minor, enter

1 an order that the minor shall be released upon the request of
2 parent, guardian or custodian if the parent, guardian or
3 custodian appears to take custody. If it is determined that a
4 parent's, guardian's, or custodian's compliance with critical
5 services mitigates the necessity for removal of the minor from
6 his or her home, the court may enter an Order of Protection
7 setting forth reasonable conditions of behavior that a parent,
8 guardian, or custodian must observe for a specified period of
9 time, not to exceed 12 months, without a violation; provided,
10 however, that the 12-month period shall begin anew after any
11 violation. "Custodian" includes the Department of Children and
12 Family Services, if it has been given custody of the child, or
13 any other agency of the State which has been given custody or
14 wardship of the child. If it is consistent with the health,
15 safety and best interests of the minor, the court may also
16 prescribe shelter care and order that the minor be kept in a
17 suitable place designated by the court or in a shelter care
18 facility designated by the Department of Children and Family
19 Services or a licensed child welfare agency; however, on and
20 after January 1, 2015 (the effective date of Public Act
21 98-803) and before January 1, 2017, a minor charged with a
22 criminal offense under the Criminal Code of 1961 or the
23 Criminal Code of 2012 or adjudicated delinquent shall not be
24 placed in the custody of or committed to the Department of
25 Children and Family Services by any court, except a minor less
26 than 16 years of age and committed to the Department of

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

16 Notwithstanding any other provision of this Section, the
17 court may not enter an order to place the minor in shelter
18 care, commit the minor to the Department of Children and
19 Family Services, or otherwise remove the minor from the
20 minor's home based on only a disclosure by the minor's parent,
21 guardian, or custodian that the minor's parent, guardian, or
22 custodian is (i) a victim of domestic violence, as defined by
23 the Illinois Domestic Violence Act of 1986, (ii) seeking or
24 accessing services for domestic violence, and (iii) not living
25 in the same home as the perpetrator of the domestic violence.

26 In placing the minor, the Department or other agency

1 shall, to the extent compatible with the court's order, comply
2 with Section 7 of the Children and Family Services Act. In
3 determining the health, safety and best interests of the minor
4 to prescribe shelter care, the court must find that it is a
5 matter of immediate and urgent necessity for the safety and
6 protection of the minor or of the person or property of another
7 that the minor be placed in a shelter care facility or that he
8 or she is likely to flee the jurisdiction of the court, and
9 must further find that reasonable efforts have been made or
10 that, consistent with the health, safety and best interests of
11 the minor, no efforts reasonably can be made to prevent or
12 eliminate the necessity of removal of the minor from his or her
13 home. The court shall require documentation from the
14 Department of Children and Family Services as to the
15 reasonable efforts that were made to prevent or eliminate the
16 necessity of removal of the minor from his or her home or the
17 reasons why no efforts reasonably could be made to prevent or
18 eliminate the necessity of removal. When a minor is placed in
19 the home of a relative, the Department of Children and Family
20 Services shall complete a preliminary background review of the
21 members of the minor's custodian's household in accordance
22 with Section 4.3 of the Child Care Act of 1969 within 90 days
23 of that placement. If the minor is ordered placed in a shelter
24 care facility of the Department of Children and Family
25 Services or a licensed child welfare agency, the court shall,
26 upon request of the appropriate Department or other agency,

1 appoint the Department of Children and Family Services
2 Guardianship Administrator or other appropriate agency
3 executive temporary custodian of the minor and the court may
4 enter such other orders related to the temporary custody as it
5 deems fit and proper, including the provision of services to
6 the minor or his family to ameliorate the causes contributing
7 to the finding of probable cause or to the finding of the
8 existence of immediate and urgent necessity.

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

19 Where the Department of Children and Family Services
20 Guardianship Administrator is appointed as the executive
21 temporary custodian, and when the child has siblings in care,
22 the Department of Children and Family Services shall file with
23 the court and serve on the parties a sibling placement and
24 contact plan within 10 days, excluding weekends and holidays,
25 after the appointment. The sibling placement and contact plan
26 shall set forth whether the siblings are placed together, and

1 if they are not placed together, what, if any, efforts are
2 being made to place them together. If the Department has
3 determined that it is not in a child's best interest to be
4 placed with a sibling, the Department shall document in the
5 sibling placement and contact plan the basis for its
6 determination. For siblings placed separately, the sibling
7 placement and contact plan shall set the time and place for
8 visits, the frequency of the visits, the length of visits, who
9 shall be present for the visits, and where appropriate, the
10 child's opportunities to have contact with their siblings in
11 addition to in person contact. If the Department determines it
12 is not in the best interest of a sibling to have contact with a
13 sibling, the Department shall document in the sibling
14 placement and contact plan the basis for its determination.
15 The sibling placement and contact plan shall specify a date
16 for development of the Sibling Contact Support Plan, under
17 subsection (f) of Section 7.4 of the Children and Family
18 Services Act, and shall remain in effect until the Sibling
19 Contact Support Plan is developed.

20 For good cause, the court may waive the requirement to
21 file the parent-child visiting plan or the sibling placement
22 and contact plan, or extend the time for filing either plan.
23 Any party may, by motion, request the court to review the
24 parent-child visiting plan to determine whether it is
25 reasonably calculated to expeditiously facilitate the
26 achievement of the permanency goal. A party may, by motion,

1 request the court to review the parent-child visiting plan or
2 the sibling placement and contact plan to determine whether it
3 is consistent with the minor's best interest. The court may
4 refer the parties to mediation where available. The frequency,
5 duration, and locations of visitation shall be measured by the
6 needs of the child and family, and not by the convenience of
7 Department personnel. Child development principles shall be
8 considered by the court in its analysis of how frequent
9 visitation should be, how long it should last, where it should
10 take place, and who should be present. If upon motion of the
11 party to review either plan and after receiving evidence, the
12 court determines that the parent-child visiting plan is not
13 reasonably calculated to expeditiously facilitate the
14 achievement of the permanency goal or that the restrictions
15 placed on parent-child contact or sibling placement or contact
16 are contrary to the child's best interests, the court shall
17 put in writing the factual basis supporting the determination
18 and enter specific findings based on the evidence. The court
19 shall enter an order for the Department to implement changes
20 to the parent-child visiting plan or sibling placement or
21 contact plan, consistent with the court's findings. At any
22 stage of proceeding, any party may by motion request the court
23 to enter any orders necessary to implement the parent-child
24 visiting plan, sibling placement or contact plan or
25 subsequently developed Sibling Contact Support Plan. Nothing
26 under this subsection (2) shall restrict the court from

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

17 Acceptance of services shall not be considered an
18 admission of any allegation in a petition made pursuant to
19 this Act, nor may a referral of services be considered as
20 evidence in any proceeding pursuant to this Act, except where
21 the issue is whether the Department has made reasonable
22 efforts to reunite the family. In making its findings that it
23 is consistent with the health, safety and best interests of
24 the minor to prescribe shelter care, the court shall state in
25 writing (i) the factual basis supporting its findings
26 concerning the immediate and urgent necessity for the

1 protection of the minor or of the person or property of another
2 and (ii) the factual basis supporting its findings that
3 reasonable efforts were made to prevent or eliminate the
4 removal of the minor from his or her home or that no efforts
5 reasonably could be made to prevent or eliminate the removal
6 of the minor from his or her home. The parents, guardian,
7 custodian, temporary custodian and minor shall each be
8 furnished a copy of such written findings. The temporary
9 custodian shall maintain a copy of the court order and written
10 findings in the case record for the child. The order together
11 with the court's findings of fact in support thereof shall be
12 entered of record in the court.

13 Once the court finds that it is a matter of immediate and
14 urgent necessity for the protection of the minor that the
15 minor be placed in a shelter care facility, the minor shall not
16 be returned to the parent, custodian or guardian until the
17 court finds that such placement is no longer necessary for the
18 protection of the minor.

19 If the child is placed in the temporary custody of the
20 Department of Children and Family Services for his or her
21 protection, the court shall admonish the parents, guardian,
22 custodian or responsible relative that the parents must
23 cooperate with the Department of Children and Family Services,
24 comply with the terms of the service plans, and correct the
25 conditions which require the child to be in care, or risk
26 termination of their parental rights. The court shall ensure,

1 by inquiring in open court of each parent, guardian, custodian
2 or responsible relative, that the parent, guardian, custodian
3 or responsible relative has had the opportunity to provide the
4 Department with all known names, addresses, and telephone
5 numbers of each of the minor's living maternal and paternal
6 adult relatives, including, but not limited to, grandparents,
7 aunts, uncles, and siblings. The court shall advise the
8 parents, guardian, custodian or responsible relative to inform
9 the Department if additional information regarding the minor's
10 adult relatives becomes available.

11 (3) If prior to the shelter care hearing for a minor
12 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
13 unable to serve notice on the party respondent, the shelter
14 care hearing may proceed ex parte. A shelter care order from an
15 ex parte hearing shall be endorsed with the date and hour of
16 issuance and shall be filed with the clerk's office and
17 entered of record. The order shall expire after 10 days from
18 the time it is issued unless before its expiration it is
19 renewed, at a hearing upon appearance of the party respondent,
20 or upon an affidavit of the moving party as to all diligent
21 efforts to notify the party respondent by notice as herein
22 prescribed. The notice prescribed shall be in writing and
23 shall be personally delivered to the minor or the minor's
24 attorney and to the last known address of the other person or
25 persons entitled to notice. The notice shall also state the
26 nature of the allegations, the nature of the order sought by

1 the State, including whether temporary custody is sought, and
 2 the consequences of failure to appear and shall contain a
 3 notice that the parties will not be entitled to further
 4 written notices or publication notices of proceedings in this
 5 case, including the filing of an amended petition or a motion
 6 to terminate parental rights, except as required by Supreme
 7 Court Rule 11; and shall explain the right of the parties and
 8 the procedures to vacate or modify a shelter care order as
 9 provided in this Section. The notice for a shelter care
 10 hearing shall be substantially as follows:

11 NOTICE TO PARENTS AND CHILDREN
 12 OF SHELTER CARE HEARING

13 On at, before the Honorable
 14, (address:), the State
 15 of Illinois will present evidence (1) that (name of child
 16 or children) are abused, neglected
 17 or dependent for the following reasons:
 18 and (2)
 19 whether there is "immediate and urgent necessity" to
 20 remove the child or children from the responsible
 21 relative.

22 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 23 PLACEMENT of the child or children in foster care until a
 24 trial can be held. A trial may not be held for up to 90
 25 days. You will not be entitled to further notices of
 26 proceedings in this case, including the filing of an

1 amended petition or a motion to terminate parental rights.

2 At the shelter care hearing, parents have the
3 following rights:

4 1. To ask the court to appoint a lawyer if they
5 cannot afford one.

6 2. To ask the court to continue the hearing to
7 allow them time to prepare.

8 3. To present evidence concerning:

9 a. Whether or not the child or children were
10 abused, neglected or dependent.

11 b. Whether or not there is "immediate and
12 urgent necessity" to remove the child from home
13 (including: their ability to care for the child,
14 conditions in the home, alternative means of
15 protecting the child other than removal).

16 c. The best interests of the child.

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

18 The Notice for rehearings shall be substantially as
19 follows:

20 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

21 TO REHEARING ON TEMPORARY CUSTODY

22 If you were not present at and did not have adequate
23 notice of the Shelter Care Hearing at which temporary
24 custody of was awarded to
25, you have the right to request a full

1 rehearing on whether the State should have temporary
2 custody of To request this rehearing,
3 you must file with the Clerk of the Juvenile Court
4 (address):, in person or by
5 mailing a statement (affidavit) setting forth the
6 following:

7 1. That you were not present at the shelter care
8 hearing.

9 2. That you did not get adequate notice
10 (explaining how the notice was inadequate).

11 3. Your signature.

12 4. Signature must be notarized.

13 The rehearing should be scheduled within 48 hours of
14 your filing this affidavit.

15 At the rehearing, your rights are the same as at the
16 initial shelter care hearing. The enclosed notice explains
17 those rights.

18 At the Shelter Care Hearing, children have the
19 following rights:

20 1. To have a guardian ad litem appointed.

21 2. To be declared competent as a witness and to
22 present testimony concerning:

23 a. Whether they are abused, neglected or
24 dependent.

25 b. Whether there is "immediate and urgent
26 necessity" to be removed from home.

1 c. Their best interests.

2 3. To cross examine witnesses for other parties.

3 4. To obtain an explanation of any proceedings and
4 orders of the court.

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

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

18 (6) No minor under 16 years of age may be confined in a
19 jail or place ordinarily used for the confinement of prisoners
20 in a police station. Minors under 18 years of age must be kept
21 separate from confined adults and may not at any time be kept
22 in the same cell, room, or yard with adults confined pursuant
23 to the criminal law.

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

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

13 (9) Notwithstanding any other provision of this Section
14 any interested party, including the State, the temporary
15 custodian, an agency providing services to the minor or family
16 under a service plan pursuant to Section 8.2 of the Abused and
17 Neglected Child Reporting Act, foster parent, or any of their
18 representatives, on notice to all parties entitled to notice,
19 may file a motion that it is in the best interests of the minor
20 to modify or vacate a temporary custody order on any of the
21 following grounds:

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

24 (b) There is a material change in the circumstances of
25 the natural family from which the minor was removed and
26 the child can be cared for at home without endangering the

1 child's health or safety; or

2 (c) A person not a party to the alleged abuse, neglect
3 or dependency, including a parent, relative or legal
4 guardian, is capable of assuming temporary custody of the
5 minor; or

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

11 In ruling on the motion, the court shall determine whether
12 it is consistent with the health, safety and best interests of
13 the minor to modify or vacate a temporary custody order. If the
14 minor is being restored to the custody of a parent, legal
15 custodian, or guardian who lives outside of Illinois, and an
16 Interstate Compact has been requested and refused, the court
17 may order the Department of Children and Family Services to
18 arrange for an assessment of the minor's proposed living
19 arrangement and for ongoing monitoring of the health, safety,
20 and best interest of the minor and compliance with any order of
21 protective supervision entered in accordance with Section 2-20
22 or 2-25.

23 The clerk shall set the matter for hearing not later than
24 14 days after such motion is filed. In the event that the court
25 modifies or vacates a temporary custody order but does not
26 vacate its finding of probable cause, the court may order that

1 appropriate services be continued or initiated in behalf of
2 the minor and his or her family.

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

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

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

14 Once the presumption of immediate and urgent necessity has
15 been raised, the burden of demonstrating the lack of immediate
16 and urgent necessity shall be on any party that is opposing
17 shelter care for the other minor.

18 (11) The changes made to this Section by Public Act 98-61
19 apply to a minor who has been arrested or taken into custody on
20 or after January 1, 2014 (the effective date of Public Act
21 98-61).

22 (12) After the court has placed a minor in the care of a
23 temporary custodian pursuant to this Section, any party may
24 file a motion requesting the court to grant the temporary
25 custodian the authority to serve as a surrogate decision maker
26 for the minor under the Health Care Surrogate Act for purposes

1 of making decisions pursuant to paragraph (1) of subsection
2 (b) of Section 20 of the Health Care Surrogate Act. The court
3 may grant the motion if it determines by clear and convincing
4 evidence that it is in the best interests of the minor to grant
5 the temporary custodian such authority. In making its
6 determination, the court shall weigh the following factors in
7 addition to considering the best interests factors listed in
8 subsection (4.05) of Section 1-3 of this Act:

9 (a) the efforts to identify and locate the respondents
10 and adult family members of the minor and the results of
11 those efforts;

12 (b) the efforts to engage the respondents and adult
13 family members of the minor in decision making on behalf
14 of the minor;

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

17 (d) the relationship between the respondents and adult
18 family members and the minor;

19 (e) medical testimony regarding the extent to which
20 the minor is suffering and the impact of a delay in
21 decision-making on the minor; and

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

23 If the Department of Children and Family Services is the
24 temporary custodian of the minor, in addition to the
25 requirements of paragraph (1) of subsection (b) of Section 20
26 of the Health Care Surrogate Act, the Department shall follow

1 its rules and procedures in exercising authority granted under
2 this subsection.

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