



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3973

Introduced 2/17/2023, by Rep. Lakesia Collins

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-3	from Ch. 37, par. 801-3
705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/2-10	from Ch. 37, par. 802-10
705 ILCS 405/2-18	from Ch. 37, par. 802-18
705 ILCS 405/2-21	from Ch. 37, par. 802-21
705 ILCS 405/2-27	from Ch. 37, par. 802-27

Amends the Juvenile Court Act of 1987. In the Abused, Neglected, or Dependent Minors Article of the Act, provides that an environment is injurious if conditions in the child's environment create a real, significant and imminent likelihood of moderate to severe harm to the child's health, well-being, or welfare and the parent or caretaker blatantly disregarded his or her parental responsibility to prevent or mitigate such harm. Provides that in making a custody determination, the court shall presume that it is consistent with the health, safety, and best interests of the minor to remain in the custody of a parent, guardian, or custodian who experienced domestic violence, unless the court has determined that the parent, guardian, or custodian who experienced domestic violence has committed acts or omissions unrelated to domestic violence against that parent, guardian, or custodian that is sufficient to independently support a determination of abuse or neglect under the Act. Defines "domestic violence".

LRB103 30999 RLC 57605 b

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 1-3, 2-3, 2-10, 2-18, 2-21, and 2-27 as
6 follows:

7 (705 ILCS 405/1-3) (from Ch. 37, par. 801-3)

8 Sec. 1-3. Definitions. Terms used in this Act, unless the
9 context otherwise requires, have the following meanings
10 ascribed to them:

11 (1) "Adjudicatory hearing" means a hearing to determine
12 whether the allegations of a petition under Section 2-13, 3-15
13 or 4-12 that a minor under 18 years of age is abused, neglected
14 or dependent, or requires authoritative intervention, or
15 addicted, respectively, are supported by a preponderance of
16 the evidence or whether the allegations of a petition under
17 Section 5-520 that a minor is delinquent are proved beyond a
18 reasonable doubt.

19 (2) "Adult" means a person 21 years of age or older.

20 (3) "Agency" means a public or private child care facility
21 legally authorized or licensed by this State for placement or
22 institutional care or for both placement and institutional
23 care.

1 (4) "Association" means any organization, public or
2 private, engaged in welfare functions which include services
3 to or on behalf of children but does not include "agency" as
4 herein defined.

5 (4.05) Whenever a "best interest" determination is
6 required, the following factors shall be considered in the
7 context of the child's age and developmental needs:

8 (a) the physical safety and welfare of the child,
9 including food, shelter, health, and clothing;

10 (b) the development of the child's identity;

11 (c) the child's background and ties, including
12 familial, cultural, and religious;

13 (d) the child's sense of attachments, including:

14 (i) where the child actually feels love,
15 attachment, and a sense of being valued (as opposed to
16 where adults believe the child should feel such love,
17 attachment, and a sense of being valued);

18 (ii) the child's sense of security;

19 (iii) the child's sense of familiarity;

20 (iv) continuity of affection for the child;

21 (v) the least disruptive placement alternative for
22 the child;

23 (e) the child's wishes and long-term goals;

24 (f) the child's community ties, including church,
25 school, and friends;

26 (g) the child's need for permanence which includes the

1 child's need for stability and continuity of relationships
2 with parent figures and with siblings and other relatives;

3 (h) the uniqueness of every family and child;

4 (i) the risks attendant to entering and being in
5 substitute care; and

6 (j) the preferences of the persons available to care
7 for the child.

8 (4.1) "Chronic truant" shall have the definition ascribed
9 to it in Section 26-2a of the School Code.

10 (5) "Court" means the circuit court in a session or
11 division assigned to hear proceedings under this Act.

12 (6) "Dispositional hearing" means a hearing to determine
13 whether a minor should be adjudged to be a ward of the court,
14 and to determine what order of disposition should be made in
15 respect to a minor adjudged to be a ward of the court.

16 (6.5) "Dissemination" or "disseminate" means to publish,
17 produce, print, manufacture, distribute, sell, lease, exhibit,
18 broadcast, display, transmit, or otherwise share information
19 in any format so as to make the information accessible to
20 others.

21 (6.6) "Domestic violence" has the meaning ascribed to it
22 in paragraphs (1) and (3) of Section 103 of the Illinois
23 Domestic Violence Act of 1986 and includes a violation of
24 Section 12-4.4a of the Criminal Code of 2012.

25 (7) "Emancipated minor" means any minor 16 years of age or
26 over who has been completely or partially emancipated under

1 the Emancipation of Minors Act or under this Act.

2 (7.03) "Expunge" means to physically destroy the records
3 and to obliterate the minor's name from any official index,
4 public record, or electronic database.

5 (7.05) "Foster parent" includes a relative caregiver
6 selected by the Department of Children and Family Services to
7 provide care for the minor.

8 (8) "Guardianship of the person" of a minor means the duty
9 and authority to act in the best interests of the minor,
10 subject to residual parental rights and responsibilities, to
11 make important decisions in matters having a permanent effect
12 on the life and development of the minor and to be concerned
13 with his or her general welfare. It includes but is not
14 necessarily limited to:

15 (a) the authority to consent to marriage, to
16 enlistment in the armed forces of the United States, or to
17 a major medical, psychiatric, and surgical treatment; to
18 represent the minor in legal actions; and to make other
19 decisions of substantial legal significance concerning the
20 minor;

21 (b) the authority and duty of reasonable visitation,
22 except to the extent that these have been limited in the
23 best interests of the minor by court order;

24 (c) the rights and responsibilities of legal custody
25 except where legal custody has been vested in another
26 person or agency; and

1 (d) the power to consent to the adoption of the minor,
2 but only if expressly conferred on the guardian in
3 accordance with Section 2-29, 3-30, or 4-27.

4 (8.1) "Juvenile court record" includes, but is not limited
5 to:

6 (a) all documents filed in or maintained by the
7 juvenile court pertaining to a specific incident,
8 proceeding, or individual;

9 (b) all documents relating to a specific incident,
10 proceeding, or individual made available to or maintained
11 by probation officers;

12 (c) all documents, video or audio tapes, photographs,
13 and exhibits admitted into evidence at juvenile court
14 hearings; or

15 (d) all documents, transcripts, records, reports, or
16 other evidence prepared by, maintained by, or released by
17 any municipal, county, or State agency or department, in
18 any format, if indicating involvement with the juvenile
19 court relating to a specific incident, proceeding, or
20 individual.

21 (8.2) "Juvenile law enforcement record" includes records
22 of arrest, station adjustments, fingerprints, probation
23 adjustments, the issuance of a notice to appear, or any other
24 records or documents maintained by any law enforcement agency
25 relating to a minor suspected of committing an offense, and
26 records maintained by a law enforcement agency that identifies

1 a juvenile as a suspect in committing an offense, but does not
2 include records identifying a juvenile as a victim, witness,
3 or missing juvenile and any records created, maintained, or
4 used for purposes of referral to programs relating to
5 diversion as defined in subsection (6) of Section 5-105.

6 (9) "Legal custody" means the relationship created by an
7 order of court in the best interests of the minor which imposes
8 on the custodian the responsibility of physical possession of
9 a minor and the duty to protect, train and discipline him and
10 to provide him with food, shelter, education and ordinary
11 medical care, except as these are limited by residual parental
12 rights and responsibilities and the rights and
13 responsibilities of the guardian of the person, if any.

14 (9.1) "Mentally capable adult relative" means a person 21
15 years of age or older who is not suffering from a mental
16 illness that prevents him or her from providing the care
17 necessary to safeguard the physical safety and welfare of a
18 minor who is left in that person's care by the parent or
19 parents or other person responsible for the minor's welfare.

20 (10) "Minor" means a person under the age of 21 years
21 subject to this Act.

22 (11) "Parent" means a father or mother of a child and
23 includes any adoptive parent. It also includes a person (i)
24 whose parentage is presumed or has been established under the
25 law of this or another jurisdiction or (ii) who has registered
26 with the Putative Father Registry in accordance with Section

1 12.1 of the Adoption Act and whose paternity has not been ruled
2 out under the law of this or another jurisdiction. It does not
3 include a parent whose rights in respect to the minor have been
4 terminated in any manner provided by law. It does not include a
5 person who has been or could be determined to be a parent under
6 the Illinois Parentage Act of 1984 or the Illinois Parentage
7 Act of 2015, or similar parentage law in any other state, if
8 that person has been convicted of or pled nolo contendere to a
9 crime that resulted in the conception of the child under
10 Section 11-1.20, 11-1.30, 11-1.40, 11-11, 12-13, 12-14,
11 12-14.1, subsection (a) or (b) (but not subsection (c)) of
12 Section 11-1.50 or 12-15, or subsection (a), (b), (c), (e), or
13 (f) (but not subsection (d)) of Section 11-1.60 or 12-16 of the
14 Criminal Code of 1961 or the Criminal Code of 2012, or similar
15 statute in another jurisdiction unless upon motion of any
16 party, other than the offender, to the juvenile court
17 proceedings the court finds it is in the child's best interest
18 to deem the offender a parent for purposes of the juvenile
19 court proceedings.

20 (11.1) "Permanency goal" means a goal set by the court as
21 defined in subdivision (2) of Section 2-28.

22 (11.2) "Permanency hearing" means a hearing to set the
23 permanency goal and to review and determine (i) the
24 appropriateness of the services contained in the plan and
25 whether those services have been provided, (ii) whether
26 reasonable efforts have been made by all the parties to the

1 service plan to achieve the goal, and (iii) whether the plan
2 and goal have been achieved.

3 (12) "Petition" means the petition provided for in Section
4 2-13, 3-15, 4-12 or 5-520, including any supplemental
5 petitions thereunder in Section 3-15, 4-12 or 5-520.

6 (12.1) "Physically capable adult relative" means a person
7 21 years of age or older who does not have a severe physical
8 disability or medical condition, or is not suffering from
9 alcoholism or drug addiction, that prevents him or her from
10 providing the care necessary to safeguard the physical safety
11 and welfare of a minor who is left in that person's care by the
12 parent or parents or other person responsible for the minor's
13 welfare.

14 (12.2) "Post Permanency Sibling Contact Agreement" has the
15 meaning ascribed to the term in Section 7.4 of the Children and
16 Family Services Act.

17 (12.3) "Residential treatment center" means a licensed
18 setting that provides 24-hour care to children in a group home
19 or institution, including a facility licensed as a child care
20 institution under Section 2.06 of the Child Care Act of 1969, a
21 licensed group home under Section 2.16 of the Child Care Act of
22 1969, a secure child care facility as defined in paragraph
23 (18) of this Section, or any similar facility in another
24 state. "Residential treatment center" does not include a
25 relative foster home or a licensed foster family home.

26 (13) "Residual parental rights and responsibilities" means

1 those rights and responsibilities remaining with the parent
2 after the transfer of legal custody or guardianship of the
3 person, including, but not necessarily limited to, the right
4 to reasonable visitation (which may be limited by the court in
5 the best interests of the minor as provided in subsection
6 (8) (b) of this Section), the right to consent to adoption, the
7 right to determine the minor's religious affiliation, and the
8 responsibility for his support.

9 (14) "Shelter" means the temporary care of a minor in
10 physically unrestricting facilities pending court disposition
11 or execution of court order for placement.

12 (14.05) "Shelter placement" means a temporary or emergency
13 placement for a minor, including an emergency foster home
14 placement.

15 (14.1) "Sibling Contact Support Plan" has the meaning
16 ascribed to the term in Section 7.4 of the Children and Family
17 Services Act.

18 (14.2) "Significant event report" means a written document
19 describing an occurrence or event beyond the customary
20 operations, routines, or relationships in the Department of
21 Children of Family Services, a child care facility, or other
22 entity that is licensed or regulated by the Department of
23 Children of Family Services or that provides services for the
24 Department of Children of Family Services under a grant,
25 contract, or purchase of service agreement; involving children
26 or youth, employees, foster parents, or relative caregivers;

1 allegations of abuse or neglect or any other incident raising
2 a concern about the well-being of a minor under the
3 jurisdiction of the court under Article II of the Juvenile
4 Court Act; incidents involving damage to property, allegations
5 of criminal activity, misconduct, or other occurrences
6 affecting the operations of the Department of Children of
7 Family Services or a child care facility; any incident that
8 could have media impact; and unusual incidents as defined by
9 Department of Children and Family Services rule.

10 (15) "Station adjustment" means the informal handling of
11 an alleged offender by a juvenile police officer.

12 (16) "Ward of the court" means a minor who is so adjudged
13 under Section 2-22, 3-23, 4-20 or 5-705, after a finding of the
14 requisite jurisdictional facts, and thus is subject to the
15 dispositional powers of the court under this Act.

16 (17) "Juvenile police officer" means a sworn police
17 officer who has completed a Basic Recruit Training Course, has
18 been assigned to the position of juvenile police officer by
19 his or her chief law enforcement officer and has completed the
20 necessary juvenile officers training as prescribed by the
21 Illinois Law Enforcement Training Standards Board, or in the
22 case of a State police officer, juvenile officer training
23 approved by the Director of the Illinois State Police.

24 (18) "Secure child care facility" means any child care
25 facility licensed by the Department of Children and Family
26 Services to provide secure living arrangements for children

1 under 18 years of age who are subject to placement in
2 facilities under the Children and Family Services Act and who
3 are not subject to placement in facilities for whom standards
4 are established by the Department of Corrections under Section
5 3-15-2 of the Unified Code of Corrections. "Secure child care
6 facility" also means a facility that is designed and operated
7 to ensure that all entrances and exits from the facility, a
8 building, or a distinct part of the building are under the
9 exclusive control of the staff of the facility, whether or not
10 the child has the freedom of movement within the perimeter of
11 the facility, building, or distinct part of the building.

12 (Source: P.A. 102-538, eff. 8-20-21.)

13 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

15 (1) Those who are neglected include:

16 (a) any minor under 18 years of age or a minor 18 years
17 of age or older for whom the court has made a finding of
18 probable cause to believe that the minor is abused,
19 neglected, or dependent under subsection (1) of Section
20 2-10 prior to the minor's 18th birthday who is not
21 receiving the proper or necessary support, education as
22 required by law, or medical or other remedial care
23 recognized under State law as necessary for a minor's
24 well-being, or other care necessary for his or her
25 well-being, including adequate food, clothing and shelter,

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

11 (b) any minor under 18 years of age or a minor 18 years
12 of age or older for whom the court has made a finding of
13 probable cause to believe that the minor is abused,
14 neglected, or dependent under subsection (1) of Section
15 2-10 prior to the minor's 18th birthday whose environment
16 is injurious to his or her welfare. An environment is
17 injurious if conditions in the child's environment create
18 a real, significant and imminent likelihood of moderate to
19 severe harm to the child's health, well-being, or welfare
20 and the parent or caretaker blatantly disregarded his or
21 her parental responsibility to prevent or mitigate such
22 harm; or

23 (c) any newborn infant whose blood, urine, or meconium
24 contains any amount of a controlled substance as defined
25 in subsection (f) of Section 102 of the Illinois
26 Controlled Substances Act, as now or hereafter amended, or

1 a metabolite of a controlled substance, with the exception
2 of controlled substances or metabolites of such
3 substances, the presence of which in the newborn infant is
4 the result of medical treatment administered to the mother
5 or the newborn infant; or

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

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

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

22 (1) the age of the minor;

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

24 (3) special needs of the minor, including whether the
25 minor is a person with a physical or mental disability, or
26 otherwise in need of ongoing prescribed medical treatment

1 such as periodic doses of insulin or other medications;

2 (4) the duration of time in which the minor was left
3 without supervision;

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

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

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

11 (8) the location of the parent or guardian at the time
12 the minor was left without supervision, the physical
13 distance the minor was from the parent or guardian at the
14 time the minor was without supervision;

15 (9) whether the minor's movement was restricted, or
16 the minor was otherwise locked within a room or other
17 structure;

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

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

23 (12) whether any of the conduct is attributable to
24 economic hardship or illness and the parent, guardian or
25 other person having physical custody or control of the
26 child made a good faith effort to provide for the health

1 and safety of the minor;

2 (13) the age and physical and mental capabilities of
3 the person or persons who provided supervision for the
4 minor;

5 (14) whether the minor was left under the supervision
6 of another person;

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

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

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

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

26 (ii) creates a substantial risk of physical injury to

1 such minor by other than accidental means which would be
2 likely to cause death, disfigurement, impairment of
3 emotional health, or loss or impairment of any bodily
4 function;

5 (iii) commits or allows to be committed any sex
6 offense against such minor, as such sex offenses are
7 defined in the Criminal Code of 1961 or the Criminal Code
8 of 2012, or in the Wrongs to Children Act, and extending
9 those definitions of sex offenses to include minors under
10 18 years of age;

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

13 (v) inflicts excessive corporal punishment;

14 (vi) commits or allows to be committed the offense of
15 involuntary servitude, involuntary sexual servitude of a
16 minor, or trafficking in persons as defined in Section
17 10-9 of the Criminal Code of 1961 or the Criminal Code of
18 2012, upon such minor; or

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

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

26 (3) This Section does not apply to a minor who would be

1 included herein solely for the purpose of qualifying for
2 financial assistance for himself, his parents, guardian or
3 custodian.

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

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

9 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

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

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

18 (2) If the court finds that there is probable cause to
19 believe that the minor is abused, neglected or dependent, the
20 court shall state in writing the factual basis supporting its
21 finding and the minor, his or her parent, guardian, custodian
22 and other persons able to give relevant testimony shall be
23 examined before the court. The Department of Children and
24 Family Services shall give testimony concerning indicated
25 reports of abuse and neglect, of which they are aware through

1 the central registry, involving the minor's parent, guardian
2 or custodian. After such testimony, the court may, consistent
3 with the health, safety and best interests of the minor, enter
4 an order that the minor shall be released upon the request of
5 parent, guardian or custodian if the parent, guardian or
6 custodian appears to take custody. It shall be presumed to be
7 consistent with the health, safety, and best interest of the
8 minor to be released to a parent, guardian, or custodian who
9 experienced domestic violence unless the court has determined
10 that this parent, guardian, or custodian who experienced
11 domestic violence has committed acts or omissions unrelated to
12 incidents of domestic violence against the parent, guardian,
13 or custodian that is sufficient to independently support a
14 determination of abuse or neglect under this Act. If it is
15 determined that a parent's, guardian's, or custodian's
16 compliance with critical services mitigates the necessity for
17 removal of the minor from his or her home, the court may enter
18 an Order of Protection setting forth reasonable conditions of
19 behavior that a parent, guardian, or custodian must observe
20 for a specified period of time, not to exceed 12 months,
21 without a violation; provided, however, that the 12-month
22 period shall begin anew after any violation. "Custodian"
23 includes the Department of Children and Family Services, if it
24 has been given custody of the child, or any other agency of the
25 State which has been given custody or wardship of the child. If
26 it is consistent with the health, safety and best interests of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 NOTICE TO PARENTS AND CHILDREN
 13 OF SHELTER CARE HEARING

14 On at, before the Honorable
 15, (address:), the State
 16 of Illinois will present evidence (1) that (name of child
 17 or children) are abused, neglected
 18 or dependent for the following reasons:

19 and (2)
 20 whether there is "immediate and urgent necessity" to
 21 remove the child or children from the responsible
 22 relative.

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

1 proceedings in this case, including the filing of an
2 amended petition or a motion to terminate parental rights.

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

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

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

9 3. To present evidence concerning:

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

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

17 c. The best interests of the child.

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

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

21 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS

22 TO REHEARING ON TEMPORARY CUSTODY

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

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

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

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

12 3. Your signature.

13 4. Signature must be notarized.

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

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

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

21 1. To have a guardian ad litem appointed.

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

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

26 b. Whether there is "immediate and urgent

1 necessity" to be removed from home.

2 c. Their best interests.

3 3. To cross examine witnesses for other parties.

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

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

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

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

25 (7) If the minor is not brought before a judicial officer
26 within the time period as specified in Section 2-9, the minor

1 must immediately be released from custody.

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

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

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

25 (b) There is a material change in the circumstances of
26 the natural family from which the minor was removed and

1 the child can be cared for at home without endangering the
2 child's health or safety; or

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

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

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

24 The clerk shall set the matter for hearing not later than
25 14 days after such motion is filed. In the event that the court
26 modifies or vacates a temporary custody order but does not

1 vacate its finding of probable cause, the court may order that
2 appropriate services be continued or initiated in behalf of
3 the minor and his or her family.

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

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

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

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

19 (11) The changes made to this Section by Public Act 98-61
20 apply to a minor who has been arrested or taken into custody on
21 or after January 1, 2014 (the effective date of Public Act
22 98-61).

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

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

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

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

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

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

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

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

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

1 of the Health Care Surrogate Act, the Department shall follow
2 its rules and procedures in exercising authority granted under
3 this subsection.

4 (Source: P.A. 102-489, eff. 8-20-21; 102-502, eff. 1-1-22;
5 102-813, eff. 5-13-22.)

6 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)
7 Sec. 2-18. Evidence.

8 (1) At the adjudicatory hearing, the court shall first
9 consider only the question whether the minor is abused,
10 neglected or dependent. The standard of proof and the rules of
11 evidence in the nature of civil proceedings in this State are
12 applicable to proceedings under this Article. If the petition
13 also seeks the appointment of a guardian of the person with
14 power to consent to adoption of the minor under Section 2-29,
15 the court may also consider legally admissible evidence at the
16 adjudicatory hearing that one or more grounds of unfitness
17 exists under subdivision D of Section 1 of the Adoption Act.

18 (2) In any hearing under this Act, the following shall
19 constitute prima facie evidence of abuse or neglect, as the
20 case may be:

21 (a) proof that a minor has a medical diagnosis of
22 battered child syndrome is prima facie evidence of abuse;

23 (b) proof that a minor has a medical diagnosis of
24 failure to thrive syndrome is prima facie evidence of
25 neglect;

1 (c) proof that a minor has a medical diagnosis of
2 fetal alcohol syndrome is prima facie evidence of neglect;

3 (d) proof that a minor has a medical diagnosis at
4 birth of withdrawal symptoms from narcotics or
5 barbiturates is prima facie evidence of neglect;

6 (e) proof of injuries sustained by a minor or of the
7 condition of a minor of such a nature as would ordinarily
8 not be sustained or exist except by reason of the acts or
9 omissions of the parent, custodian or guardian of such
10 minor shall be prima facie evidence of abuse or neglect,
11 as the case may be;

12 (f) proof that a parent, custodian or guardian of a
13 minor repeatedly used a drug, to the extent that it has or
14 would ordinarily have the effect of producing in the user
15 a substantial state of stupor, unconsciousness,
16 intoxication, hallucination, disorientation or
17 incompetence, or a substantial impairment of judgment, or
18 a substantial manifestation of irrationality, shall be
19 prima facie evidence of neglect;

20 (g) proof that a parent, custodian, or guardian of a
21 minor repeatedly used a controlled substance, as defined
22 in subsection (f) of Section 102 of the Illinois
23 Controlled Substances Act, in the presence of the minor or
24 a sibling of the minor is prima facie evidence of neglect.
25 "Repeated use", for the purpose of this subsection, means
26 more than one use of a controlled substance as defined in

1 subsection (f) of Section 102 of the Illinois Controlled
2 Substances Act;

3 (h) proof that a newborn infant's blood, urine, or
4 meconium contains any amount of a controlled substance as
5 defined in subsection (f) of Section 102 of the Illinois
6 Controlled Substances Act, or a metabolite of a controlled
7 substance, with the exception of controlled substances or
8 metabolites of those substances, the presence of which is
9 the result of medical treatment administered to the mother
10 or the newborn, is prime facie evidence of neglect;

11 (i) proof that a minor was present in a structure or
12 vehicle in which the minor's parent, custodian, or
13 guardian was involved in the manufacture of
14 methamphetamine constitutes prima facie evidence of abuse
15 and neglect;

16 (j) proof that a parent, custodian, or guardian of a
17 minor allows, encourages, or requires a minor to perform,
18 offer, or agree to perform any act of sexual penetration
19 as defined in Section 11-0.1 of the Criminal Code of 2012
20 for any money, property, token, object, or article or
21 anything of value, or any touching or fondling of the sex
22 organs of one person by another person, for any money,
23 property, token, object, or article or anything of value,
24 for the purpose of sexual arousal or gratification,
25 constitutes prima facie evidence of abuse and neglect;

26 (k) proof that a parent, custodian, or guardian of a

1 minor commits or allows to be committed the offense of
2 involuntary servitude, involuntary sexual servitude of a
3 minor, or trafficking in persons as defined in Section
4 10-9 of the Criminal Code of 1961 or the Criminal Code of
5 2012, upon such minor, constitutes prima facie evidence of
6 abuse and neglect.

7 (3) In any hearing under this Act, proof of the abuse,
8 neglect or dependency of one minor shall be admissible
9 evidence on the issue of the abuse, neglect or dependency of
10 any other minor for whom the respondent is responsible.

11 (4) (a) Any writing, record, photograph or x-ray of any
12 hospital or public or private agency, whether in the form of an
13 entry in a book or otherwise, made as a memorandum or record of
14 any condition, act, transaction, occurrence or event relating
15 to a minor in an abuse, neglect or dependency proceeding,
16 shall be admissible in evidence as proof of that condition,
17 act, transaction, occurrence or event, if the court finds that
18 the document was made in the regular course of the business of
19 the hospital or agency and that it was in the regular course of
20 such business to make it, at the time of the act, transaction,
21 occurrence or event, or within a reasonable time thereafter. A
22 certification by the head or responsible employee of the
23 hospital or agency that the writing, record, photograph or
24 x-ray is the full and complete record of the condition, act,
25 transaction, occurrence or event and that it satisfies the
26 conditions of this paragraph shall be prima facie evidence of

1 the facts contained in such certification. A certification by
2 someone other than the head of the hospital or agency shall be
3 accompanied by a photocopy of a delegation of authority signed
4 by both the head of the hospital or agency and by such other
5 employee. All other circumstances of the making of the
6 memorandum, record, photograph or x-ray, including lack of
7 personal knowledge of the maker, may be proved to affect the
8 weight to be accorded such evidence, but shall not affect its
9 admissibility.

10 (b) Any indicated report filed pursuant to the Abused and
11 Neglected Child Reporting Act shall be admissible in evidence.

12 (c) Previous statements made by the minor relating to any
13 allegations of abuse or neglect shall be admissible in
14 evidence. However, no such statement, if uncorroborated and
15 not subject to cross-examination, shall be sufficient in
16 itself to support a finding of abuse or neglect.

17 (d) There shall be a rebuttable presumption that a minor
18 is competent to testify in abuse or neglect proceedings. The
19 court shall determine how much weight to give to the minor's
20 testimony, and may allow the minor to testify in chambers with
21 only the court, the court reporter and attorneys for the
22 parties present.

23 (e) The privileged character of communication between any
24 professional person and patient or client, except privilege
25 between attorney and client or the privilege between a
26 domestic violence advocate or counselor and victim under

1 Section 227 of the Illinois Domestic Violence Act, and
2 privilege between a rape counselor and victim under the
3 Section 8-802.1 of the Code of Civil Procedure, shall not
4 apply to proceedings subject to this Article.

5 (f) Proof of the impairment of emotional health or
6 impairment of mental or emotional condition as a result of the
7 failure of the respondent to exercise a minimum degree of care
8 toward a minor may include competent opinion or expert
9 testimony, and may include proof that such impairment lessened
10 during a period when the minor was in the care, custody or
11 supervision of a person or agency other than the respondent.

12 (5) In any hearing under this Act alleging neglect for
13 failure to provide education as required by law under
14 subsection (1) of Section 2-3, proof that a minor under 13
15 years of age who is subject to compulsory school attendance
16 under the School Code is a chronic truant as defined under the
17 School Code shall be prima facie evidence of neglect by the
18 parent or guardian in any hearing under this Act and proof that
19 a minor who is 13 years of age or older who is subject to
20 compulsory school attendance under the School Code is a
21 chronic truant shall raise a rebuttable presumption of neglect
22 by the parent or guardian. This subsection (5) shall not apply
23 in counties with 2,000,000 or more inhabitants.

24 (6) In any hearing under this Act, the court may take
25 judicial notice of prior sworn testimony or evidence admitted
26 in prior proceedings involving the same minor if (a) the

1 parties were either represented by counsel at such prior
2 proceedings or the right to counsel was knowingly waived and
3 (b) the taking of judicial notice would not result in
4 admitting hearsay evidence at a hearing where it would
5 otherwise be prohibited.

6 (Source: P.A. 96-1464, eff. 8-20-10; 97-897, eff. 1-1-13;
7 97-1150, eff. 1-25-13.)

8 (705 ILCS 405/2-21) (from Ch. 37, par. 802-21)

9 Sec. 2-21. Findings and adjudication.

10 (1) The court shall state for the record the manner in
11 which the parties received service of process and shall note
12 whether the return or returns of service, postal return
13 receipt or receipts for notice by certified mail, or
14 certificate or certificates of publication have been filed in
15 the court record. The court shall enter any appropriate orders
16 of default against any parent who has been properly served in
17 any manner and fails to appear.

18 No further service of process as defined in Sections 2-15
19 and 2-16 is required in any subsequent proceeding for a parent
20 who was properly served in any manner, except as required by
21 Supreme Court Rule 11.

22 The caseworker shall testify about the diligent search
23 conducted for the parent.

24 After hearing the evidence the court shall determine
25 whether or not the minor is abused, neglected, or dependent.

1 If it finds that the minor is not such a person, the court
2 shall order the petition dismissed and the minor discharged.
3 The court's determination of whether the minor is abused,
4 neglected, or dependent shall be stated in writing with the
5 factual basis supporting that determination.

6 If the court finds that the minor is abused, neglected, or
7 dependent, the court shall then determine and put in writing
8 the factual basis supporting that determination, and specify,
9 to the extent possible, the acts or omissions or both of each
10 parent, guardian, or legal custodian that form the basis of
11 the court's findings. In making such findings, domestic
12 violence against a parent, guardian, or custodian even in the
13 presence of the minor shall not be construed as the acts or
14 omissions of the parent, guardian, or custodian who
15 experienced domestic violence and any findings must be based
16 upon acts or omissions of that parent, guardian, or custodian
17 unrelated to incidents of domestic violence against the
18 parent, guardian, or custodian that are sufficient to
19 independently support a determination of abuse or neglect
20 under this Act. That finding shall appear in the order of the
21 court.

22 If the court finds that the child has been abused,
23 neglected or dependent, the court shall admonish the parents
24 that they must cooperate with the Department of Children and
25 Family Services, comply with the terms of the service plan,
26 and correct the conditions that require the child to be in

1 care, or risk termination of parental rights.

2 If the court determines that a person has inflicted
3 physical or sexual abuse upon a minor, the court shall report
4 that determination to the Illinois State Police, which shall
5 include that information in its report to the President of the
6 school board for a school district that requests a criminal
7 history records check of that person, or the regional
8 superintendent of schools who requests a check of that person,
9 as required under Section 10-21.9 or 34-18.5 of the School
10 Code.

11 (2) If, pursuant to subsection (1) of this Section, the
12 court determines and puts in writing the factual basis
13 supporting the determination that the minor is either abused
14 or neglected or dependent, the court shall then set a time not
15 later than 30 days after the entry of the finding for a
16 dispositional hearing (unless an earlier date is required
17 pursuant to Section 2-13.1) to be conducted under Section 2-22
18 at which hearing the court shall determine whether it is
19 consistent with the health, safety and best interests of the
20 minor and the public that he be made a ward of the court. To
21 assist the court in making this and other determinations at
22 the dispositional hearing, the court may order that an
23 investigation be conducted and a dispositional report be
24 prepared concerning the minor's physical and mental history
25 and condition, family situation and background, economic
26 status, education, occupation, history of delinquency or

1 criminality, personal habits, and any other information that
2 may be helpful to the court. The dispositional hearing may be
3 continued once for a period not to exceed 30 days if the court
4 finds that such continuance is necessary to complete the
5 dispositional report.

6 (3) The time limits of this Section may be waived only by
7 consent of all parties and approval by the court, as
8 determined to be consistent with the health, safety and best
9 interests of the minor.

10 (4) For all cases adjudicated prior to July 1, 1991, for
11 which no dispositional hearing has been held prior to that
12 date, a dispositional hearing under Section 2-22 shall be held
13 within 90 days of July 1, 1991.

14 (5) The court may terminate the parental rights of a
15 parent at the initial dispositional hearing if all of the
16 following conditions are met:

17 (i) the original or amended petition contains a
18 request for termination of parental rights and appointment
19 of a guardian with power to consent to adoption; and

20 (ii) the court has found by a preponderance of
21 evidence, introduced or stipulated to at an adjudicatory
22 hearing, that the child comes under the jurisdiction of
23 the court as an abused, neglected, or dependent minor
24 under Section 2-18; and

25 (iii) the court finds, on the basis of clear and
26 convincing evidence admitted at the adjudicatory hearing

1 that the parent is an unfit person under subdivision D of
2 Section 1 of the Adoption Act; and

3 (iv) the court determines in accordance with the rules
4 of evidence for dispositional proceedings, that:

5 (A) it is in the best interest of the minor and
6 public that the child be made a ward of the court;

7 (A-5) reasonable efforts under subsection (1-1) of
8 Section 5 of the Children and Family Services Act are
9 inappropriate or such efforts were made and were
10 unsuccessful; and

11 (B) termination of parental rights and appointment
12 of a guardian with power to consent to adoption is in
13 the best interest of the child pursuant to Section
14 2-29.

15 (Source: P.A. 102-538, eff. 8-20-21.)

16 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

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

18 (1) If the court determines and puts in writing the
19 factual basis supporting the determination of whether a parent
20 ~~the parents~~, guardian, or legal custodian of a minor adjudged
21 a ward of the court is are unfit or is are unable, for a reason
22 sufficient and independent from financial circumstances or
23 domestic violence against a parent, guardian, or custodian who
24 experienced domestic violence, ~~for some reason other than~~
25 ~~financial circumstances alone,~~ to care for, protect, train or

1 discipline the minor or are unwilling to do so, and that the
2 health, safety, and best interest of the minor will be
3 jeopardized if the minor remains in the custody of his or her
4 parents, guardian or custodian, the court may at this hearing
5 and at any later point:

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

8 (a-5) with the approval of the Department of Children
9 and Family Services, place the minor in the subsidized
10 guardianship of a suitable relative or other person as
11 legal guardian; "subsidized guardianship" means a private
12 guardianship arrangement for children for whom the
13 permanency goals of return home and adoption have been
14 ruled out and who meet the qualifications for subsidized
15 guardianship as defined by the Department of Children and
16 Family Services in administrative rules;

17 (b) place the minor under the guardianship of a
18 probation officer;

19 (c) commit the minor to an agency for care or
20 placement, except an institution under the authority of
21 the Department of Corrections or of the Department of
22 Children and Family Services;

23 (d) on and after the effective date of this amendatory
24 Act of the 98th General Assembly and before January 1,
25 2017, commit the minor to the Department of Children and
26 Family Services for care and service; however, a minor

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

1 abuse, neglect, or dependency do not arise from the same
2 facts, incident, or circumstances which give rise to a
3 charge or adjudication of delinquency. The Department
4 shall be given due notice of the pendency of the action and
5 the Guardianship Administrator of the Department of
6 Children and Family Services shall be appointed guardian
7 of the person of the minor. Whenever the Department seeks
8 to discharge a minor from its care and service, the
9 Guardianship Administrator shall petition the court for an
10 order terminating guardianship. The Guardianship
11 Administrator may designate one or more other officers of
12 the Department, appointed as Department officers by
13 administrative order of the Department Director,
14 authorized to affix the signature of the Guardianship
15 Administrator to documents affecting the guardian-ward
16 relationship of children for whom he or she has been
17 appointed guardian at such times as he or she is unable to
18 perform the duties of his or her office. The signature
19 authorization shall include but not be limited to matters
20 of consent of marriage, enlistment in the armed forces,
21 legal proceedings, adoption, major medical and surgical
22 treatment and application for driver's license. Signature
23 authorizations made pursuant to the provisions of this
24 paragraph shall be filed with the Secretary of State and
25 the Secretary of State shall provide upon payment of the
26 customary fee, certified copies of the authorization to

1 any court or individual who requests a copy.

2 (1.5) In making a determination under this Section, the
3 court shall also consider whether, based on health, safety,
4 and the best interests of the minor,

5 (a) appropriate services aimed at family preservation
6 and family reunification have been unsuccessful in
7 rectifying the conditions that have led to a finding of
8 unfitness or inability to care for, protect, train, or
9 discipline the minor, or

10 (b) no family preservation or family reunification
11 services would be appropriate,

12 and if the petition or amended petition contained an
13 allegation that the parent is an unfit person as defined in
14 subdivision (D) of Section 1 of the Adoption Act, and the order
15 of adjudication recites that parental unfitness was
16 established by clear and convincing evidence, the court shall,
17 when appropriate and in the best interest of the minor, enter
18 an order terminating parental rights and appointing a guardian
19 with power to consent to adoption in accordance with Section
20 2-29.

21 (1.7) In making a determination under this Section, the
22 court shall presume that it is consistent with the health,
23 safety, and best interests of the minor to remain in the
24 custody of a parent, guardian, or custodian who experienced
25 domestic violence, unless the court has determined that the
26 parent, guardian, or custodian who experienced domestic

1 violence has committed acts or omissions unrelated to domestic
2 violence against that parent, guardian, or custodian that is
3 sufficient to independently support a determination of abuse
4 or neglect under this Act.

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

15 (2) When a minor is placed with a suitable relative or
16 other person pursuant to item (a) of subsection (1), the court
17 shall appoint him or her the legal custodian or guardian of the
18 person of the minor. When a minor is committed to any agency,
19 the court shall appoint the proper officer or representative
20 thereof as legal custodian or guardian of the person of the
21 minor. Legal custodians and guardians of the person of the
22 minor have the respective rights and duties set forth in
23 subsection (9) of Section 1-3 except as otherwise provided by
24 order of court; but no guardian of the person may consent to
25 adoption of the minor unless that authority is conferred upon
26 him or her in accordance with Section 2-29. An agency whose

1 representative is appointed guardian of the person or legal
2 custodian of the minor may place the minor in any child care
3 facility, but the facility must be licensed under the Child
4 Care Act of 1969 or have been approved by the Department of
5 Children and Family Services as meeting the standards
6 established for such licensing. No agency may place a minor
7 adjudicated under Sections 2-3 or 2-4 in a child care facility
8 unless the placement is in compliance with the rules and
9 regulations for placement under this Section promulgated by
10 the Department of Children and Family Services under Section 5
11 of the Children and Family Services Act. Like authority and
12 restrictions shall be conferred by the court upon any
13 probation officer who has been appointed guardian of the
14 person of a minor.

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

21 (4) The clerk of the court shall issue to the legal
22 custodian or guardian of the person a certified copy of the
23 order of court, as proof of his authority. No other process is
24 necessary as authority for the keeping of the minor.

25 (5) Custody or guardianship granted under this Section
26 continues until the court otherwise directs, but not after the

1 minor reaches the age of 19 years except as set forth in
2 Section 2-31, or if the minor was previously committed to the
3 Department of Children and Family Services for care and
4 service and the court has granted a supplemental petition to
5 reinstate wardship pursuant to subsection (2) of Section 2-33.

6 (6) (Blank).

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