



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0256

Introduced 1/14/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-27

from Ch. 37, par. 802-27

Amends the Juvenile Court Act of 1987. Provides that in cases relating to allegations of parental or custodial unfitness based upon neglect, dependency, or abuse of the minor, the Department of Children and Family Services, or the agency responsible, must submit a report to the court documenting the services offered and provided to preserve or reunify the family, and substantiating any determination of the success or failure of such services, and the court shall determine if such evidence is clear and convincing that such services will fail.

LRB094 04963 RLC 34993 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to minors.

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 Section 2-27 as follows:

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

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

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

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

20 (a-5) with the approval of the Department of Children
21 and Family Services, place the minor in the subsidized
22 guardianship of a suitable relative or other person as
23 legal guardian; "subsidized guardianship" means a private
24 guardianship arrangement for children for whom the
25 permanency goals of return home and adoption have been
26 ruled out and who meet the qualifications for subsidized
27 guardianship as defined by the Department of Children and
28 Family Services in administrative rules;

29 (b) place the minor under the guardianship of a
30 probation officer;

31 (c) commit the minor to an agency for care or
32 placement, except an institution under the authority of the

1 Department of Corrections or of the Department of Children
2 and Family Services;

3 (d) commit the minor to the Department of Children and
4 Family Services for care and service; however, a minor
5 charged with a criminal offense under the Criminal Code of
6 1961 or adjudicated delinquent shall not be placed in the
7 custody of or committed to the Department of Children and
8 Family Services by any court, except a minor less than 13
9 years of age and committed to the Department of Children
10 and Family Services under Section 5-710 of this Act. The
11 Department shall be given due notice of the pendency of the
12 action and the Guardianship Administrator of the
13 Department of Children and Family Services shall be
14 appointed guardian of the person of the minor. Whenever the
15 Department seeks to discharge a minor from its care and
16 service, the Guardianship Administrator shall petition the
17 court for an order terminating guardianship. The
18 Guardianship Administrator may designate one or more other
19 officers of the Department, appointed as Department
20 officers by administrative order of the Department
21 Director, authorized to affix the signature of the
22 Guardianship Administrator to documents affecting the
23 guardian-ward relationship of children for whom he or she
24 has been appointed guardian at such times as he or she is
25 unable to perform the duties of his or her office. The
26 signature authorization shall include but not be limited to
27 matters of consent of marriage, enlistment in the armed
28 forces, legal proceedings, adoption, major medical and
29 surgical treatment and application for driver's license.
30 Signature authorizations made pursuant to the provisions
31 of this paragraph shall be filed with the Secretary of
32 State and the Secretary of State shall provide upon payment
33 of the customary fee, certified copies of the authorization
34 to any court or individual who requests a copy.

35 (1.5) In making a determination under this Section, the
36 court shall also consider whether, based on health, safety, and

1 the best interests of the minor,

2 (a) appropriate services aimed at family preservation
3 and family reunification services have been provided to the
4 extent and in a manner that has not succeeded ~~unsuccessful~~
5 in rectifying the conditions that have led to a finding of
6 unfitness or inability to care for, protect, train, or
7 discipline the minor, or

8 (b) no family preservation or family reunification
9 services would be appropriate,

10 and if the petition or amended petition contained an allegation
11 that the parent is an unfit person as defined in subdivision
12 (D) of Section 1 of the Adoption Act, and the order of
13 adjudication recites that parental unfitness was established
14 by clear and convincing evidence, the court shall, when
15 appropriate and in the best interest of the minor, enter an
16 order terminating parental rights and appointing a guardian
17 with power to consent to adoption in accordance with Section
18 2-29. The Department of Children and Family Services, or the
19 agency responsible, must submit a report to the court
20 documenting the services offered and provided to preserve or
21 reunify the family, and substantiating any determination of the
22 success or failure of such services, and the court shall
23 determine if such evidence is clear and convincing that such
24 services will fail.

25 When making a placement, the court, wherever possible,
26 shall require the Department of Children and Family Services to
27 select a person holding the same religious belief as that of
28 the minor or a private agency controlled by persons of like
29 religious faith of the minor and shall require the Department
30 to otherwise comply with Section 7 of the Children and Family
31 Services Act in placing the child. In addition, whenever
32 alternative plans for placement are available, the court shall
33 ascertain and consider, to the extent appropriate in the
34 particular case, the views and preferences of the minor.

35 (2) When a minor is placed with a suitable relative or
36 other person pursuant to item (a) of subsection (1), the court

1 shall appoint him or her the legal custodian or guardian of the
2 person of the minor. When a minor is committed to any agency,
3 the court shall appoint the proper officer or representative
4 thereof as legal custodian or guardian of the person of the
5 minor. Legal custodians and guardians of the person of the
6 minor have the respective rights and duties set forth in
7 subsection (9) of Section 1-3 except as otherwise provided by
8 order of court; but no guardian of the person may consent to
9 adoption of the minor unless that authority is conferred upon
10 him or her in accordance with Section 2-29. An agency whose
11 representative is appointed guardian of the person or legal
12 custodian of the minor may place the minor in any child care
13 facility, but the facility must be licensed under the Child
14 Care Act of 1969 or have been approved by the Department of
15 Children and Family Services as meeting the standards
16 established for such licensing. No agency may place a minor
17 adjudicated under Sections 2-3 or 2-4 in a child care facility
18 unless the placement is in compliance with the rules and
19 regulations for placement under this Section promulgated by the
20 Department of Children and Family Services under Section 5 of
21 the Children and Family Services Act. Like authority and
22 restrictions shall be conferred by the court upon any probation
23 officer who has been appointed guardian of the person of a
24 minor.

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

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

35 (5) Custody or guardianship granted under this Section
36 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.

3 (6) (Blank).

4 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-512,
5 eff. 8-22-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
6 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)