



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0186

Introduced 1/18/2011, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-5

from Ch. 37, par. 801-5

Amends the Juvenile Court Act of 1987. Provides that a person not appointed guardian or legal custodian or otherwise made a party to a proceeding under the Act, any current or previously appointed foster parent or relative caregiver, or representative of an agency or association interested in the minor has the right to a full evidentiary hearing. Provides that if after an adjudication that a minor is abused or neglected and a notice of a proposed change of placement of the minor is given, a foster parent may file a motion to intervene in the proceeding for the sole purpose of requesting that the placement of the minor be continued with the foster parent. Provides that if placement of a minor has or is being terminated from a foster parent's home when the foster parent had the minor in his or her home for more than 6 months (rather than one year), that foster parent shall have standing and full intervenor status, except where the Department of Children and Family Services or anyone else authorized under the Abused and Neglected Child Reporting Act has removed the minor from the foster parent because of a documented reasonable belief that the circumstances or conditions of the minor are such that continuing in the residence or care of the foster parent will jeopardize the child's health or safety or presents an imminent risk of harm to the minor's life. Effective immediately.

LRB097 05701 RLC 45764 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 Section 1-5 as follows:

6 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

7 Sec. 1-5. Rights of parties to proceedings.

8 (1) Except as provided in this Section and paragraph (2) of
9 Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who is the
10 subject of the proceeding and his parents, guardian, legal
11 custodian or responsible relative who are parties respondent
12 have the right to be present, to be heard, to present evidence
13 material to the proceedings, to cross-examine witnesses, to
14 examine pertinent court files and records and also, although
15 proceedings under this Act are not intended to be adversary in
16 character, the right to be represented by counsel. At the
17 request of any party financially unable to employ counsel, with
18 the exception of a foster parent permitted to intervene under
19 this Section, the court shall appoint the Public Defender or
20 such other counsel as the case may require. Counsel appointed
21 for the minor and any indigent party shall appear at all stages
22 of the trial court proceeding, and such appointment shall
23 continue through the permanency hearings and termination of

1 parental rights proceedings subject to withdrawal or
2 substitution pursuant to Supreme Court Rules or the Code of
3 Civil Procedure. Following the dispositional hearing, the
4 court may require appointed counsel, other than counsel for the
5 minor or counsel for the guardian ad litem, to withdraw his or
6 her appearance upon failure of the party for whom counsel was
7 appointed under this Section to attend any subsequent
8 proceedings.

9 No hearing on any petition or motion filed under this Act
10 may be commenced unless the minor who is the subject of the
11 proceeding is represented by counsel. Notwithstanding the
12 preceding sentence, if a guardian ad litem has been appointed
13 for the minor under Section 2-17 of this Act and the guardian
14 ad litem is a licensed attorney at law of this State, or in the
15 event that a court appointed special advocate has been
16 appointed as guardian ad litem and counsel has been appointed
17 to represent the court appointed special advocate, the court
18 may not require the appointment of counsel to represent the
19 minor unless the court finds that the minor's interests are in
20 conflict with what the guardian ad litem determines to be in
21 the best interest of the minor. Each adult respondent shall be
22 furnished a written "Notice of Rights" at or before the first
23 hearing at which he or she appears.

24 (1.5) The Department shall maintain a system of response to
25 inquiry made by parents or putative parents as to whether their
26 child is under the custody or guardianship of the Department;

1 and if so, the Department shall direct the parents or putative
2 parents to the appropriate court of jurisdiction, including
3 where inquiry may be made of the clerk of the court regarding
4 the case number and the next scheduled court date of the
5 minor's case. Effective notice and the means of accessing
6 information shall be given to the public on a continuing basis
7 by the Department.

8 (2) (a) Though not appointed guardian or legal custodian or
9 otherwise made a party to the proceeding, any current or
10 previously appointed foster parent or relative caregiver, or
11 representative of an agency or association interested in the
12 minor has the right to be heard by the court, including the
13 right to a full evidentiary hearing, but does not thereby
14 become a party to the proceeding.

15 In addition to the foregoing right to be heard by the
16 court, any current foster parent or relative caregiver of a
17 minor and the agency designated by the court or the Department
18 of Children and Family Services as custodian of the minor who
19 is alleged to be or has been adjudicated an abused or neglected
20 minor under Section 2-3 or a dependent minor under Section 2-4
21 of this Act has the right to and shall be given adequate notice
22 at all stages of any hearing or proceeding under this Act.

23 Any foster parent or relative caregiver who is denied his
24 or her right to be heard under this Section may bring a
25 mandamus action under Article XIV of the Code of Civil
26 Procedure against the court or any public agency to enforce

1 that right. The mandamus action may be brought immediately upon
2 the denial of those rights but in no event later than 30 days
3 after the foster parent has been denied the right to be heard.

4 (b) If after an adjudication that a minor is abused or
5 neglected as provided under Section 2-21 of this Act and a
6 motion has been made to restore the minor to any parent,
7 guardian, or legal custodian found by the court to have caused
8 the neglect or to have inflicted the abuse on the minor or a
9 notice of a proposed change of placement of the minor is given,

10 a foster parent may file a motion to intervene in the
11 proceeding for the sole purpose of requesting that the
12 placement of the minor be continued ~~placed~~ with the foster
13 parent, provided that the foster parent (i) is the current
14 foster parent of the minor or (ii) has previously been a foster
15 parent for the minor for 6 months ~~one year~~ or more, has a
16 foster care license or is eligible for a license, and is not
17 the subject of any findings of abuse or neglect of any child.
18 The juvenile court may only enter orders placing a minor with a
19 specific foster parent under this subsection (2) (b) and nothing
20 in this Section shall be construed to confer any jurisdiction
21 or authority on the juvenile court to issue any other orders
22 requiring the appointed guardian or custodian of a minor to
23 place the minor in a designated foster home or facility. This
24 Section is not intended to encompass any matters that are
25 within the scope or determinable under the administrative and
26 appeal process established by rules of the Department of

1 Children and Family Services under Section 5(o) of the Children
2 and Family Services Act. Nothing in this Section shall relieve
3 the court of its responsibility, under Section 2-14(a) of this
4 Act to act in a just and speedy manner to reunify families
5 where it is the best interests of the minor and the child can
6 be cared for at home without endangering the child's health or
7 safety and, if reunification is not in the best interests of
8 the minor, to find another permanent home for the minor.
9 Nothing in this Section, or in any order issued by the court
10 with respect to the placement of a minor with a foster parent,
11 shall impair the ability of the Department of Children and
12 Family Services, or anyone else authorized under Section 5 of
13 the Abused and Neglected Child Reporting Act, to remove a minor
14 from the home of a foster parent if the Department of Children
15 and Family Services or the person removing the minor has a
16 documented reason to believe that the circumstances or
17 conditions of the minor are such that continuing in the
18 residence or care of the foster parent will jeopardize the
19 child's health and safety or present an imminent risk of harm
20 to that minor's life.

21 (c) If a foster parent has had the minor who is the subject
22 of the proceeding under Article II in his or her home for more
23 than 6 months ~~one year~~ on or after July 3, 1994 and if the
24 minor's placement is being or has been terminated from that
25 foster parent's home, that foster parent shall have standing
26 and full intervenor status except in those circumstances where

1 the Department of Children and Family Services or anyone else
2 authorized under Section 5 of the Abused and Neglected Child
3 Reporting Act has removed the minor from the foster parent
4 because of a documented reasonable belief that the
5 circumstances or conditions of the minor are such that
6 continuing in the residence or care of the foster parent will
7 jeopardize the child's health or safety or presents an imminent
8 risk of harm to the minor's life.

9 (d) The court may grant standing to any foster parent if
10 the court finds that it is in the best interest of the child
11 for the foster parent to have standing and intervenor status.

12 (3) Parties respondent are entitled to notice in compliance
13 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or
14 5-525 and 5-530, as appropriate. At the first appearance before
15 the court by the minor, his parents, guardian, custodian or
16 responsible relative, the court shall explain the nature of the
17 proceedings and inform the parties of their rights under the
18 first 2 paragraphs of this Section.

19 If the child is alleged to be abused, neglected or
20 dependent, the court shall admonish the parents that if the
21 court declares the child to be a ward of the court and awards
22 custody or guardianship to the Department of Children and
23 Family Services, the parents must cooperate with the Department
24 of Children and Family Services, comply with the terms of the
25 service plans, and correct the conditions that require the
26 child to be in care, or risk termination of their parental

1 rights.

2 Upon an adjudication of wardship of the court under
3 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform the
4 parties of their right to appeal therefrom as well as from any
5 other final judgment of the court.

6 When the court finds that a child is an abused, neglected,
7 or dependent minor under Section 2-21, the court shall admonish
8 the parents that the parents must cooperate with the Department
9 of Children and Family Services, comply with the terms of the
10 service plans, and correct the conditions that require the
11 child to be in care, or risk termination of their parental
12 rights.

13 When the court declares a child to be a ward of the court
14 and awards guardianship to the Department of Children and
15 Family Services under Section 2-22, the court shall admonish
16 the parents, guardian, custodian, or responsible relative that
17 the parents must cooperate with the Department of Children and
18 Family Services, comply with the terms of the service plans,
19 and correct the conditions that require the child to be in
20 care, or risk termination of their parental rights.

21 (4) No sanction may be applied against the minor who is the
22 subject of the proceedings by reason of his refusal or failure
23 to testify in the course of any hearing held prior to final
24 adjudication under Section 2-22, 3-23, 4-20 or 5-705.

25 (5) In the discretion of the court, the minor may be
26 excluded from any part or parts of a dispositional hearing and,

1 with the consent of the parent or parents, guardian, counsel or
2 a guardian ad litem, from any part or parts of an adjudicatory
3 hearing.

4 (6) The general public except for the news media and the
5 crime victim, as defined in Section 3 of the Rights of Crime
6 Victims and Witnesses Act, shall be excluded from any hearing
7 and, except for the persons specified in this Section only
8 persons, including representatives of agencies and
9 associations, who in the opinion of the court have a direct
10 interest in the case or in the work of the court shall be
11 admitted to the hearing. However, the court may, for the
12 minor's safety and protection and for good cause shown,
13 prohibit any person or agency present in court from further
14 disclosing the minor's identity. Nothing in this subsection (6)
15 prevents the court from allowing other juveniles to be present
16 or to participate in a court session being held under the
17 Juvenile Drug Court Treatment Act.

18 (7) A party shall not be entitled to exercise the right to
19 a substitution of a judge without cause under subdivision
20 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a
21 proceeding under this Act if the judge is currently assigned to
22 a proceeding involving the alleged abuse, neglect, or
23 dependency of the minor's sibling or half sibling and that
24 judge has made a substantive ruling in the proceeding involving
25 the minor's sibling or half sibling.

26 (Source: P.A. 93-539, eff. 8-18-03; 94-271, eff. 1-1-06.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.