



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB2659

Introduced 2/21/2013, by Rep. William Davis

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-4	from Ch. 37, par. 801-4
705 ILCS 405/1-5	from Ch. 37, par. 801-5
705 ILCS 405/2-23	from Ch. 37, par. 802-23
705 ILCS 405/2-28	from Ch. 37, par. 802-28

Amends the Juvenile Court Act of 1987. Provides that the Act is not intended to encompass any matters that are within the scope of or determinable under the administrative and appeal process established by rules of the Department of Children and Family Services, nor is it intended to preclude, preempt or restrict the authority of the Department of Children and Family Services with regard to placement of minors for whom Department of Children and Family Services has legal responsibilities. Provides that any previously appointed foster parent or relative caregiver who has a pending administrative appeal concerning a removal of the minor from his or her care, or who has prevailed in the appeal, has the right to be heard and shall be given adequate notice at all stages of any hearing or proceeding under the Act that involves either removal of a minor from his or her care or return of a minor to his or her care. Effective immediately.

LRB098 08534 RLC 38646 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 1-4, 1-5, 2-23, and 2-28 as follows:

6 (705 ILCS 405/1-4) (from Ch. 37, par. 801-4)

7 Sec. 1-4. Limitations of scope of Act. Nothing in this Act  
8 shall be construed to give: (a) any guardian appointed  
9 hereunder the guardianship of the estate of the minor or to  
10 change the age of minority for any purpose other than those  
11 expressly stated in this Act; or (b) any court jurisdiction,  
12 except as provided in Sections 2-7, 3-6, 3-9, 4-6 and 5-410,  
13 over any minor solely on the basis of the minor's (i)  
14 misbehavior which does not violate any federal or state law or  
15 municipal ordinance, (ii) refusal to obey the orders or  
16 directions of a parent, guardian or custodian, (iii) absence  
17 from home without the consent of his or her parent, guardian or  
18 custodian, or (iv) truancy, until efforts and procedures to  
19 address and resolve such actions by a law enforcement officer  
20 during a period of limited custody, by crisis intervention  
21 services under Section 3-5, and by alternative voluntary  
22 residential placement or other disposition as provided by  
23 Section 3-6 have been exhausted without correcting such

1 actions.

2 This Act is not intended to encompass any matters that are  
3 within the scope of or determinable under the administrative  
4 and appeal process established by rules of the Department of  
5 Children and Family Services under subsection (o) of Section 5  
6 of the Children and Family Services Act, nor is it intended to  
7 preclude, preempt or restrict the authority of the Department  
8 of Children and Family Services with regard to placement of  
9 minors for whom the Department of Children and Family Services  
10 has legal responsibilities. The court shall give preclusive  
11 effect to any final administrative decision of the Director of  
12 the Department of Children and Family Services as to the  
13 placement of a minor and shall not assume jurisdiction of any  
14 placement issue within the discretion of the Department of  
15 Children and Family Services or that is subject to review under  
16 the Administrative Review Act, unless it is shown by the  
17 preponderance of the evidence that there has been a material  
18 change in circumstances since the time that the final  
19 administrative decision was rendered and the material change in  
20 circumstances is one that presents an imminent risk of serious  
21 harm to the minor's health or safety.

22 (Source: P.A. 91-357, eff. 7-29-99.)

23 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

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

25 (1) Except as provided in this Section and paragraph (2) of

1 Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who is the  
2 subject of the proceeding and his parents, guardian, legal  
3 custodian or responsible relative who are parties respondent  
4 have the right to be present, to be heard, to present evidence  
5 material to the proceedings, to cross-examine witnesses, to  
6 examine pertinent court files and records and also, although  
7 proceedings under this Act are not intended to be adversary in  
8 character, the right to be represented by counsel. At the  
9 request of any party financially unable to employ counsel, with  
10 the exception of a foster parent permitted to intervene under  
11 this Section, the court shall appoint the Public Defender or  
12 such other counsel as the case may require. Counsel appointed  
13 for the minor and any indigent party shall appear at all stages  
14 of the trial court proceeding, and such appointment shall  
15 continue through the permanency hearings and termination of  
16 parental rights proceedings subject to withdrawal or  
17 substitution pursuant to Supreme Court Rules or the Code of  
18 Civil Procedure. Following the dispositional hearing, the  
19 court may require appointed counsel, other than counsel for the  
20 minor or counsel for the guardian ad litem, to withdraw his or  
21 her appearance upon failure of the party for whom counsel was  
22 appointed under this Section to attend any subsequent  
23 proceedings.

24 No hearing on any petition or motion filed under this Act  
25 may be commenced unless the minor who is the subject of the  
26 proceeding is represented by counsel. Notwithstanding the

1 preceding sentence, if a guardian ad litem has been appointed  
2 for the minor under Section 2-17 of this Act and the guardian  
3 ad litem is a licensed attorney at law of this State, or in the  
4 event that a court appointed special advocate has been  
5 appointed as guardian ad litem and counsel has been appointed  
6 to represent the court appointed special advocate, the court  
7 may not require the appointment of counsel to represent the  
8 minor unless the court finds that the minor's interests are in  
9 conflict with what the guardian ad litem determines to be in  
10 the best interest of the minor. Each adult respondent shall be  
11 furnished a written "Notice of Rights" at or before the first  
12 hearing at which he or she appears.

13 (1.5) The Department shall maintain a system of response to  
14 inquiry made by parents or putative parents as to whether their  
15 child is under the custody or guardianship of the Department;  
16 and if so, the Department shall direct the parents or putative  
17 parents to the appropriate court of jurisdiction, including  
18 where inquiry may be made of the clerk of the court regarding  
19 the case number and the next scheduled court date of the  
20 minor's case. Effective notice and the means of accessing  
21 information shall be given to the public on a continuing basis  
22 by the Department.

23 (2) (a) Though not appointed guardian or legal custodian or  
24 otherwise made a party to the proceeding, any current or  
25 previously appointed foster parent or relative caregiver, or  
26 representative of an agency or association interested in the

1 minor has the right to be heard by the court, but does not  
2 thereby become a party to the proceeding.

3 Notwithstanding ~~In addition to~~ the foregoing right to be  
4 heard by the court, any current foster parent or relative  
5 caregiver of a minor and the agency designated by the court or  
6 the Department of Children and Family Services as custodian of  
7 the minor who is alleged to be or has been adjudicated an  
8 abused or neglected minor under Section 2-3 or a dependent  
9 minor under Section 2-4 of this Act has the right to and shall  
10 be given adequate notice at all stages of any hearing or  
11 proceeding under this Act. In addition, any previously  
12 appointed foster parent or relative caregiver who has a pending  
13 administrative appeal concerning a removal of the minor from  
14 his or her care, or who has prevailed in the appeal, has the  
15 right to be heard and shall be given adequate notice at all  
16 stages of any hearing or proceeding under this Act that  
17 involves either removal of a minor from his or her care or  
18 return of a minor to his or her care.

19 Any current or previously appointed foster parent or  
20 relative caregiver who is denied his or her right to be heard  
21 under this Section may bring a mandamus action under Article  
22 XIV of the Code of Civil Procedure against the court or any  
23 public agency to enforce that right. The mandamus action may be  
24 brought immediately upon the denial of those rights but in no  
25 event later than 30 days after the foster parent or relative  
26 caregiver has been denied the right to be heard.

1 (b) If after an adjudication that a minor is abused or  
2 neglected as provided under Section 2-21 of this Act and a  
3 motion has been made to restore the minor to any parent,  
4 guardian, or legal custodian found by the court to have caused  
5 the neglect or to have inflicted the abuse on the minor, a  
6 foster parent or relative caregiver may file a motion to  
7 intervene in the proceeding for the sole purpose of requesting  
8 that the minor be placed with the foster parent or relative  
9 caregiver, provided that the foster parent or relative  
10 caregiver (i) is the current foster parent or relative  
11 caregiver of the minor or (ii) has previously been a foster  
12 parent or relative caregiver for the minor for one year or  
13 more, has a foster care license or is eligible for a license or  
14 is not required to have a license, and is not the subject of  
15 any findings of abuse or neglect of any child. The juvenile  
16 court may only enter orders placing a minor with a specific  
17 foster parent or relative caregiver under this subsection  
18 (2)(b) and nothing in this Section shall be construed to confer  
19 any jurisdiction or authority on the juvenile court to issue  
20 any other orders requiring the appointed guardian or custodian  
21 of a minor to place the minor in a designated foster home,  
22 relative caregiver home, or facility, or prevent the placement.  
23 This Section is not intended to encompass any matters that are  
24 within the scope or determinable under the administrative and  
25 appeal process established by rules of the Department of  
26 Children and Family Services under Section 5(o) of the Children

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

21 (c) If a current or previously appointed foster parent or  
22 relative caregiver has had the minor who is the subject of the  
23 proceeding under Article II in his or her home for more than  
24 one year on or after July 3, 1994 and if the minor's placement  
25 is being terminated from that foster parent's or relative  
26 caregiver's home, that foster parent or relative caregiver



1 shall have standing and intervenor status in the proceeding  
2 regarding the minor if any party or the court is seeking to  
3 terminate the minor's placement or to prevent the return of the  
4 minor to that current or previously appointed foster parent's  
5 or relative caregiver's home except in those circumstances  
6 where the Department of Children and Family Services or anyone  
7 else authorized under Section 5 of the Abused and Neglected  
8 Child Reporting Act has removed the minor from the foster  
9 parent or relative caregiver because of a reasonable belief  
10 that the circumstances or conditions of the minor are such that  
11 continuing in the residence or care of the foster parent or  
12 relative caregiver will jeopardize the child's health or safety  
13 or presents an imminent risk of harm to the minor's life. The  
14 court may grant or deny intervenor status after providing the  
15 current or previous foster parent or relative caregiver an  
16 opportunity to be heard as to their interest in the proceeding.

17 (d) The court may grant standing to any current or  
18 previously appointed foster parent or relative caregiver if the  
19 court finds that it is in the best interest of the child for  
20 the foster parent or relative caregiver to have standing and  
21 intervenor status.

22 (3) Parties respondent are entitled to notice in compliance  
23 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or  
24 5-525 and 5-530, as appropriate. At the first appearance before  
25 the court by the minor, his parents, guardian, custodian or  
26 responsible relative, the court shall explain the nature of the

1 proceedings and inform the parties of their rights under the  
2 first 2 paragraphs of this Section.

3 If the child is alleged to be abused, neglected or  
4 dependent, the court shall admonish the parents that if the  
5 court declares the child to be a ward of the court and awards  
6 custody or guardianship to the Department of Children and  
7 Family Services, the parents must cooperate with the Department  
8 of Children and Family Services, comply with the terms of the  
9 service plans, and correct the conditions that require the  
10 child to be in care, or risk termination of their parental  
11 rights.

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

16 When the court finds that a child is an abused, neglected,  
17 or dependent minor under Section 2-21, the court shall admonish  
18 the parents that the parents must cooperate with the Department  
19 of Children and Family Services, comply with the terms of the  
20 service plans, and correct the conditions that require the  
21 child to be in care, or risk termination of their parental  
22 rights.

23 When the court declares a child to be a ward of the court  
24 and awards guardianship to the Department of Children and  
25 Family Services under Section 2-22, the court shall admonish  
26 the parents, guardian, custodian, or responsible relative that

1 the parents must cooperate with the Department of Children and  
2 Family Services, comply with the terms of the service plans,  
3 and correct the conditions that require the child to be in  
4 care, or risk termination of their parental rights.

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

9 (5) In the discretion of the court, the minor may be  
10 excluded from any part or parts of a dispositional hearing and,  
11 with the consent of the parent or parents, guardian, counsel or  
12 a guardian ad litem, from any part or parts of an adjudicatory  
13 hearing.

14 (6) The general public except for the news media and the  
15 crime victim, as defined in Section 3 of the Rights of Crime  
16 Victims and Witnesses Act, shall be excluded from any hearing  
17 and, except for the persons specified in this Section only  
18 persons, including representatives of agencies and  
19 associations, who in the opinion of the court have a direct  
20 interest in the case or in the work of the court shall be  
21 admitted to the hearing. However, the court may, for the  
22 minor's safety and protection and for good cause shown,  
23 prohibit any person or agency present in court from further  
24 disclosing the minor's identity. Nothing in this subsection (6)  
25 prevents the court from allowing other juveniles to be present  
26 or to participate in a court session being held under the

1 Juvenile Drug Court Treatment Act.

2 (7) A party shall not be entitled to exercise the right to  
3 a substitution of a judge without cause under subdivision  
4 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a  
5 proceeding under this Act if the judge is currently assigned to  
6 a proceeding involving the alleged abuse, neglect, or  
7 dependency of the minor's sibling or half sibling and that  
8 judge has made a substantive ruling in the proceeding involving  
9 the minor's sibling or half sibling.

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

11 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

12 Sec. 2-23. Kinds of dispositional orders.

13 (1) The following kinds of orders of disposition may be  
14 made in respect of wards of the court:

15 (a) A minor under 18 years of age found to be neglected  
16 or abused under Section 2-3 or dependent under Section 2-4  
17 may be (1) continued in the custody of his or her parents,  
18 guardian or legal custodian; (2) placed in accordance with  
19 Section 2-27; (3) restored to the custody of the parent,  
20 parents, guardian, or legal custodian, provided the court  
21 shall order the parent, parents, guardian, or legal  
22 custodian to cooperate with the Department of Children and  
23 Family Services and comply with the terms of an after-care  
24 plan or risk the loss of custody of the child and the  
25 possible termination of their parental rights; or (4)

1 ordered partially or completely emancipated in accordance  
2 with the provisions of the Emancipation of Minors Act.

3 However, in any case in which a minor is found by the  
4 court to be neglected or abused under Section 2-3 of this  
5 Act, custody of the minor shall not be restored to any  
6 parent, guardian or legal custodian whose acts or omissions  
7 or both have been identified, pursuant to subsection (1) of  
8 Section 2-21, as forming the basis for the court's finding  
9 of abuse or neglect, until such time as a hearing is held  
10 on the issue of the best interests of the minor and the  
11 fitness of such parent, guardian or legal custodian to care  
12 for the minor without endangering the minor's health or  
13 safety, and the court enters an order that such parent,  
14 guardian or legal custodian is fit to care for the minor.

15 (b) A minor under 18 years of age found to be dependent  
16 under Section 2-4 may be (1) placed in accordance with  
17 Section 2-27 or (2) ordered partially or completely  
18 emancipated in accordance with the provisions of the  
19 Emancipation of Minors Act.

20 However, in any case in which a minor is found by the  
21 court to be dependent under Section 2-4 of this Act,  
22 custody of the minor shall not be restored to any parent,  
23 guardian or legal custodian whose acts or omissions or both  
24 have been identified, pursuant to subsection (1) of Section  
25 2-21, as forming the basis for the court's finding of  
26 dependency, until such time as a hearing is held on the

1 issue of the fitness of such parent, guardian or legal  
2 custodian to care for the minor without endangering the  
3 minor's health or safety, and the court enters an order  
4 that such parent, guardian or legal custodian is fit to  
5 care for the minor.

6 (b-1) A minor between the ages of 18 and 21 may be  
7 placed pursuant to Section 2-27 of this Act if (1) the  
8 court has granted a supplemental petition to reinstate  
9 wardship of the minor pursuant to subsection (2) of Section  
10 2-33, or (2) the court has adjudicated the minor a ward of  
11 the court, permitted the minor to return home under an  
12 order of protection, and subsequently made a finding that  
13 it is in the minor's best interest to vacate the order of  
14 protection and commit the minor to the Department of  
15 Children and Family Services for care and service.

16 (c) When the court awards guardianship to the  
17 Department of Children and Family Services, the court shall  
18 order the parents to cooperate with the Department of  
19 Children and Family Services, comply with the terms of the  
20 service plans, and correct the conditions that require the  
21 child to be in care, or risk termination of their parental  
22 rights.

23 (2) Any order of disposition may provide for protective  
24 supervision under Section 2-24 and may include an order of  
25 protection under Section 2-25.

26 Unless the order of disposition expressly so provides, it

1 does not operate to close proceedings on the pending petition,  
2 but is subject to modification, not inconsistent with Section  
3 2-28, until final closing and discharge of the proceedings  
4 under Section 2-31.

5 (3) The court also shall enter any other orders necessary  
6 to fulfill the service plan, including, but not limited to, (i)  
7 orders requiring parties to cooperate with services, (ii)  
8 restraining orders controlling the conduct of any party likely  
9 to frustrate the achievement of the goal, and (iii) visiting  
10 orders. When the child is placed separately from a sibling, the  
11 court shall review the Sibling Contact Support Plan developed  
12 under subsection (f) of Section 7.4 of the Children and Family  
13 Services Act, if applicable. If the Department has not convened  
14 a meeting to develop a Sibling Contact Support Plan, or if the  
15 court finds that the existing Plan is not in the child's best  
16 interest, the court may enter an order requiring the Department  
17 to develop and implement a Sibling Contact Support Plan under  
18 subsection (f) of Section 7.4 of the Children and Family  
19 Services Act or order mediation. Unless otherwise specifically  
20 authorized by law, the court is not empowered under this  
21 subsection (3) to order or to prohibit specific placements,  
22 specific services, or specific service providers to be included  
23 in the plan. If, after receiving evidence, the court determines  
24 that the services contained in the plan are not reasonably  
25 calculated to facilitate achievement of the permanency goal,  
26 the court shall put in writing the factual basis supporting the

1 determination and enter specific findings based on the  
2 evidence. The court also shall enter an order for the  
3 Department to develop and implement a new service plan or to  
4 implement changes to the current service plan consistent with  
5 the court's findings. The new service plan shall be filed with  
6 the court and served on all parties within 45 days after the  
7 date of the order. The court shall continue the matter until  
8 the new service plan is filed. Unless otherwise specifically  
9 authorized by law, the court is not empowered under this  
10 subsection (3) or under subsection (2) to order or to prohibit  
11 specific placements, specific services, or specific service  
12 providers to be included in the plan.

13 (4) In addition to any other order of disposition, the  
14 court may order any minor adjudicated neglected with respect to  
15 his or her own injurious behavior to make restitution, in  
16 monetary or non-monetary form, under the terms and conditions  
17 of Section 5-5-6 of the Unified Code of Corrections, except  
18 that the "presentence hearing" referred to therein shall be the  
19 dispositional hearing for purposes of this Section. The parent,  
20 guardian or legal custodian of the minor may pay some or all of  
21 such restitution on the minor's behalf.

22 (5) Any order for disposition where the minor is committed  
23 or placed in accordance with Section 2-27 shall provide for the  
24 parents or guardian of the estate of such minor to pay to the  
25 legal custodian or guardian of the person of the minor such  
26 sums as are determined by the custodian or guardian of the



1 person of the minor as necessary for the minor's needs. Such  
2 payments may not exceed the maximum amounts provided for by  
3 Section 9.1 of the Children and Family Services Act.

4 (6) Whenever the order of disposition requires the minor to  
5 attend school or participate in a program of training, the  
6 truant officer or designated school official shall regularly  
7 report to the court if the minor is a chronic or habitual  
8 truant under Section 26-2a of the School Code.

9 (7) The court may terminate the parental rights of a parent  
10 at the initial dispositional hearing if all of the conditions  
11 in subsection (5) of Section 2-21 are met.

12 (Source: P.A. 96-581, eff. 1-1-10; 96-600, eff. 8-21-09;  
13 96-1000, eff. 7-2-10; 97-1076, eff. 8-24-12.)

14 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

15 Sec. 2-28. Court review.

16 (1) The court may require any legal custodian or guardian  
17 of the person appointed under this Act to report periodically  
18 to the court or may cite him into court and require him or his  
19 agency, to make a full and accurate report of his or its doings  
20 in behalf of the minor. The custodian or guardian, within 10  
21 days after such citation, shall make the report, either in  
22 writing verified by affidavit or orally under oath in open  
23 court, or otherwise as the court directs. Upon the hearing of  
24 the report the court may remove the custodian or guardian and  
25 appoint another in his stead or restore the minor to the

1 custody of his parents or former guardian or custodian.  
2 However, custody of the minor shall not be restored to any  
3 parent, guardian or legal custodian in any case in which the  
4 minor is found to be neglected or abused under Section 2-3 or  
5 dependent under Section 2-4 of this Act, unless the minor can  
6 be cared for at home without endangering the minor's health or  
7 safety and it is in the best interests of the minor, and if  
8 such neglect, abuse, or dependency is found by the court under  
9 paragraph (1) of Section 2-21 of this Act to have come about  
10 due to the acts or omissions or both of such parent, guardian  
11 or legal custodian, until such time as an investigation is made  
12 as provided in paragraph (5) and a hearing is held on the issue  
13 of the fitness of such parent, guardian or legal custodian to  
14 care for the minor and the court enters an order that such  
15 parent, guardian or legal custodian is fit to care for the  
16 minor.

17 (2) The first permanency hearing shall be conducted by the  
18 judge. Subsequent permanency hearings may be heard by a judge  
19 or by hearing officers appointed or approved by the court in  
20 the manner set forth in Section 2-28.1 of this Act. The initial  
21 hearing shall be held (a) within 12 months from the date  
22 temporary custody was taken, regardless of whether an  
23 adjudication or dispositional hearing has been completed  
24 within that time frame, (b) if the parental rights of both  
25 parents have been terminated in accordance with the procedure  
26 described in subsection (5) of Section 2-21, within 30 days of

1 the order for termination of parental rights and appointment of  
2 a guardian with power to consent to adoption, or (c) in  
3 accordance with subsection (2) of Section 2-13.1. Subsequent  
4 permanency hearings shall be held every 6 months or more  
5 frequently if necessary in the court's determination following  
6 the initial permanency hearing, in accordance with the  
7 standards set forth in this Section, until the court determines  
8 that the plan and goal have been achieved. Once the plan and  
9 goal have been achieved, if the minor remains in substitute  
10 care, the case shall be reviewed at least every 6 months  
11 thereafter, subject to the provisions of this Section, unless  
12 the minor is placed in the guardianship of a suitable relative  
13 or other person and the court determines that further  
14 monitoring by the court does not further the health, safety or  
15 best interest of the child and that this is a stable permanent  
16 placement. The permanency hearings must occur within the time  
17 frames set forth in this subsection and may not be delayed in  
18 anticipation of a report from any source or due to the agency's  
19 failure to timely file its written report (this written report  
20 means the one required under the next paragraph and does not  
21 mean the service plan also referred to in that paragraph).

22 The public agency that is the custodian or guardian of the  
23 minor, or another agency responsible for the minor's care,  
24 shall ensure that all parties to the permanency hearings are  
25 provided a copy of the most recent service plan prepared within  
26 the prior 6 months at least 14 days in advance of the hearing.

1 If not contained in the plan, the agency shall also include a  
2 report setting forth (i) any special physical, psychological,  
3 educational, medical, emotional, or other needs of the minor or  
4 his or her family that are relevant to a permanency or  
5 placement determination and (ii) for any minor age 16 or over,  
6 a written description of the programs and services that will  
7 enable the minor to prepare for independent living. The  
8 agency's written report must detail what progress or lack of  
9 progress the parent has made in correcting the conditions  
10 requiring the child to be in care; whether the child can be  
11 returned home without jeopardizing the child's health, safety,  
12 and welfare, and if not, what permanency goal is recommended to  
13 be in the best interests of the child, and why the other  
14 permanency goals are not appropriate. The caseworker must  
15 appear and testify at the permanency hearing. If a permanency  
16 hearing has not previously been scheduled by the court, the  
17 moving party shall move for the setting of a permanency hearing  
18 and the entry of an order within the time frames set forth in  
19 this subsection.

20 At the permanency hearing, the court shall determine the  
21 future status of the child. The court shall set one of the  
22 following permanency goals:

23 (A) The minor will be returned home by a specific date  
24 within 5 months.

25 (B) The minor will be in short-term care with a  
26 continued goal to return home within a period not to exceed

1           one year, where the progress of the parent or parents is  
2           substantial giving particular consideration to the age and  
3           individual needs of the minor.

4           (B-1) The minor will be in short-term care with a  
5           continued goal to return home pending a status hearing.  
6           When the court finds that a parent has not made reasonable  
7           efforts or reasonable progress to date, the court shall  
8           identify what actions the parent and the Department must  
9           take in order to justify a finding of reasonable efforts or  
10          reasonable progress and shall set a status hearing to be  
11          held not earlier than 9 months from the date of  
12          adjudication nor later than 11 months from the date of  
13          adjudication during which the parent's progress will again  
14          be reviewed.

15          (C) The minor will be in substitute care pending court  
16          determination on termination of parental rights.

17          (D) Adoption, provided that parental rights have been  
18          terminated or relinquished.

19          (E) The guardianship of the minor will be transferred  
20          to an individual or couple on a permanent basis provided  
21          that goals (A) through (D) have been ruled out.

22          (F) The minor over age 15 will be in substitute care  
23          pending independence.

24          (G) The minor will be in substitute care because he or  
25          she cannot be provided for in a home environment due to  
26          developmental disabilities or mental illness or because he

1 or she is a danger to self or others, provided that goals  
2 (A) through (D) have been ruled out.

3 In selecting any permanency goal, the court shall indicate  
4 in writing the reasons the goal was selected and why the  
5 preceding goals were ruled out. Where the court has selected a  
6 permanency goal other than (A), (B), or (B-1), the Department  
7 of Children and Family Services shall not provide further  
8 reunification services, but shall provide services consistent  
9 with the goal selected.

10 (H) Notwithstanding any other provision in this  
11 Section, the court may select the goal of continuing foster  
12 care as a permanency goal if:

13 (1) The Department of Children and Family Services  
14 has custody and guardianship of the minor;

15 (2) The court has ruled out all other permanency  
16 goals based on the child's best interest;

17 (3) The court has found compelling reasons, based  
18 on written documentation reviewed by the court, to  
19 place the minor in continuing foster care. Compelling  
20 reasons include:

21 (a) the child does not wish to be adopted or to  
22 be placed in the guardianship of his or her  
23 relative or foster care placement;

24 (b) the child exhibits an extreme level of need  
25 such that the removal of the child from his or her  
26 placement would be detrimental to the child; or

1 (c) the child who is the subject of the  
2 permanency hearing has existing close and strong  
3 bonds with a sibling, and achievement of another  
4 permanency goal would substantially interfere with  
5 the subject child's sibling relationship, taking  
6 into consideration the nature and extent of the  
7 relationship, and whether ongoing contact is in  
8 the subject child's best interest, including  
9 long-term emotional interest, as compared with the  
10 legal and emotional benefit of permanence;

11 (4) The child has lived with the relative or foster  
12 parent for at least one year; and

13 (5) The relative or foster parent currently caring  
14 for the child is willing and capable of providing the  
15 child with a stable and permanent environment.

16 The court shall set a permanency goal that is in the best  
17 interest of the child. In determining that goal, the court  
18 shall consult with the minor in an age-appropriate manner  
19 regarding the proposed permanency or transition plan for the  
20 minor. The court's determination shall include the following  
21 factors:

22 (1) Age of the child.

23 (2) Options available for permanence, including both  
24 out-of-State and in-State placement options.

25 (3) Current placement of the child and the intent of  
26 the family regarding adoption.

1           (4) Emotional, physical, and mental status or  
2           condition of the child.

3           (5) Types of services previously offered and whether or  
4           not the services were successful and, if not successful,  
5           the reasons the services failed.

6           (6) Availability of services currently needed and  
7           whether the services exist.

8           (7) Status of siblings of the minor.

9           The court shall consider (i) the permanency goal contained  
10          in the service plan, (ii) the appropriateness of the services  
11          contained in the plan and whether those services have been  
12          provided, (iii) whether reasonable efforts have been made by  
13          all the parties to the service plan to achieve the goal, and  
14          (iv) whether the plan and goal have been achieved. All evidence  
15          relevant to determining these questions, including oral and  
16          written reports, may be admitted and may be relied on to the  
17          extent of their probative value.

18          The court shall make findings as to whether, in violation  
19          of Section 8.2 of the Abused and Neglected Child Reporting Act,  
20          any portion of the service plan compels a child or parent to  
21          engage in any activity or refrain from any activity that is not  
22          reasonably related to remedying a condition or conditions that  
23          gave rise or which could give rise to any finding of child  
24          abuse or neglect. The services contained in the service plan  
25          shall include services reasonably related to remedy the  
26          conditions that gave rise to removal of the child from the home



1 of his or her parents, guardian, or legal custodian or that the  
2 court has found must be remedied prior to returning the child  
3 home. Any tasks the court requires of the parents, guardian, or  
4 legal custodian or child prior to returning the child home,  
5 must be reasonably related to remedying a condition or  
6 conditions that gave rise to or which could give rise to any  
7 finding of child abuse or neglect.

8 If the permanency goal is to return home, the court shall  
9 make findings that identify any problems that are causing  
10 continued placement of the children away from the home and  
11 identify what outcomes would be considered a resolution to  
12 these problems. The court shall explain to the parents that  
13 these findings are based on the information that the court has  
14 at that time and may be revised, should additional evidence be  
15 presented to the court.

16 The court shall review the Sibling Contact and Support Plan  
17 developed or modified under subsection (f) of Section 7.4 of  
18 the Children and Family Services Act, if applicable. If the  
19 Department has not convened a meeting to develop or modify a  
20 Sibling Contact Support Plan, or if the court finds that the  
21 existing Plan is not in the child's best interest, the court  
22 may enter an order requiring the Department to develop, modify  
23 or implement a Sibling Contact Support Plan, or order  
24 mediation.

25 If the goal has been achieved, the court shall enter orders  
26 that are necessary to conform the minor's legal custody and

1 status to those findings.

2 If, after receiving evidence, the court determines that the  
3 services contained in the plan are not reasonably calculated to  
4 facilitate achievement of the permanency goal, the court shall  
5 put in writing the factual basis supporting the determination  
6 and enter specific findings based on the evidence. The court  
7 also shall enter an order for the Department to develop and  
8 implement a new service plan or to implement changes to the  
9 current service plan consistent with the court's findings. The  
10 new service plan shall be filed with the court and served on  
11 all parties within 45 days of the date of the order. The court  
12 shall continue the matter until the new service plan is filed.  
13 Unless otherwise specifically authorized by law, the court is  
14 not empowered under this subsection (2) or under subsection (3)  
15 to order specific placements, specific services, or specific  
16 service providers to be included in the plan.

17 A guardian or custodian appointed by the court pursuant to  
18 this Act shall file updated case plans with the court every 6  
19 months.

20 Rights of wards of the court under this Act are enforceable  
21 against any public agency by complaints for relief by mandamus  
22 filed in any proceedings brought under this Act.

23 (3) Following the permanency hearing, the court shall enter  
24 a written order that includes the determinations required under  
25 subsection (2) of this Section and sets forth the following:

26 (a) The future status of the minor, including the

1 permanency goal, and any order necessary to conform the  
2 minor's legal custody and status to such determination; or

3 (b) If the permanency goal of the minor cannot be  
4 achieved immediately, the specific reasons for continuing  
5 the minor in the care of the Department of Children and  
6 Family Services or other agency for short term placement,  
7 and the following determinations:

8 (i) (Blank).

9 (ii) Whether the services required by the court and  
10 by any service plan prepared within the prior 6 months  
11 have been provided and (A) if so, whether the services  
12 were reasonably calculated to facilitate the  
13 achievement of the permanency goal or (B) if not  
14 provided, why the services were not provided.

15 (iii) Whether the minor's continued placement with  
16 the Department of Children and Family Services is  
17 necessary, and the type of placement is appropriate to  
18 the plan and goal, recognizing the right of minors to  
19 the least restrictive (most family-like) setting  
20 available and in close proximity to the parents' home  
21 consistent with the health, safety, best interest and  
22 special needs of the minor and, if the minor is placed  
23 out-of-State, whether the out-of-State placement  
24 continues to be appropriate and consistent with the  
25 health, safety, and best interest of the minor. This  
26 determination does not constitute a judicial

1           determination on the merits of any specific placement  
2           decision.

3           (iv) (Blank).

4           (v) (Blank).

5           (4) The minor or any person interested in the minor may  
6 apply to the court for a change in custody of the minor and the  
7 appointment of a new custodian or guardian of the person or for  
8 the restoration of the minor to the custody of his parents or  
9 former guardian or custodian.

10          When return home is not selected as the permanency goal:

11           (a) The Department, the minor, or the current foster  
12 parent or relative caregiver seeking private guardianship  
13 may file a motion for private guardianship of the minor.  
14 Appointment of a guardian under this Section requires  
15 approval of the court.

16           (b) The State's Attorney may file a motion to terminate  
17 parental rights of any parent who has failed to make  
18 reasonable efforts to correct the conditions which led to  
19 the removal of the child or reasonable progress toward the  
20 return of the child, as defined in subdivision (D)(m) of  
21 Section 1 of the Adoption Act or for whom any other  
22 unfitness ground for terminating parental rights as  
23 defined in subdivision (D) of Section 1 of the Adoption Act  
24 exists.

25          When parental rights have been terminated for a minimum  
26 of 3 years and the child who is the subject of the

1 permanency hearing is 13 years old or older and is not  
2 currently placed in a placement likely to achieve  
3 permanency, the Department of Children and Family Services  
4 shall make reasonable efforts to locate parents whose  
5 rights have been terminated, except when the Court  
6 determines that those efforts would be futile or  
7 inconsistent with the subject child's best interests. The  
8 Department of Children and Family Services shall assess the  
9 appropriateness of the parent whose rights have been  
10 terminated, and shall, as appropriate, foster and support  
11 connections between the parent whose rights have been  
12 terminated and the youth. The Department of Children and  
13 Family Services shall document its determinations and  
14 efforts to foster connections in the child's case plan.

15 Custody of the minor shall not be restored to any parent,  
16 guardian or legal custodian in any case in which the minor is  
17 found to be neglected or abused under Section 2-3 or dependent  
18 under Section 2-4 of this Act, unless the minor can be cared  
19 for at home without endangering his or her health or safety and  
20 it is in the best interest of the minor, and if such neglect,  
21 abuse, or dependency is found by the court under paragraph (1)  
22 of Section 2-21 of this Act to have come about due to the acts  
23 or omissions or both of such parent, guardian or legal  
24 custodian, until such time as an investigation is made as  
25 provided in paragraph (5) and a hearing is held on the issue of  
26 the health, safety and best interest of the minor and the

1 fitness of such parent, guardian or legal custodian to care for  
2 the minor and the court enters an order that such parent,  
3 guardian or legal custodian is fit to care for the minor. In  
4 the event that the minor has attained 18 years of age and the  
5 guardian or custodian petitions the court for an order  
6 terminating his guardianship or custody, guardianship or  
7 custody shall terminate automatically 30 days after the receipt  
8 of the petition unless the court orders otherwise. No legal  
9 custodian or guardian of the person may be removed without his  
10 consent until given notice and an opportunity to be heard by  
11 the court.

12 When the court orders a child restored to the custody of  
13 the parent or parents, the court shall order the parent or  
14 parents to cooperate with the Department of Children and Family  
15 Services and comply with the terms of an after-care plan, or  
16 risk the loss of custody of the child and possible termination  
17 of their parental rights. The court may also enter an order of  
18 protective supervision in accordance with Section 2-24.

19 (5) Whenever a parent, guardian, or legal custodian files a  
20 motion for restoration of custody of the minor, and the minor  
21 was adjudicated neglected, abused, or dependent as a result of  
22 physical abuse, the court shall cause to be made an  
23 investigation as to whether the movant has ever been charged  
24 with or convicted of any criminal offense which would indicate  
25 the likelihood of any further physical abuse to the minor.  
26 Evidence of such criminal convictions shall be taken into

1 account in determining whether the minor can be cared for at  
2 home without endangering his or her health or safety and  
3 fitness of the parent, guardian, or legal custodian.

4 (a) Any agency of this State or any subdivision thereof  
5 shall co-operate with the agent of the court in providing  
6 any information sought in the investigation.

7 (b) The information derived from the investigation and  
8 any conclusions or recommendations derived from the  
9 information shall be provided to the parent, guardian, or  
10 legal custodian seeking restoration of custody prior to the  
11 hearing on fitness and the movant shall have an opportunity  
12 at the hearing to refute the information or contest its  
13 significance.

14 (c) All information obtained from any investigation  
15 shall be confidential as provided in Section 5-150 of this  
16 Act.

17 (Source: P.A. 96-600, eff. 8-21-09; 96-1375, eff. 7-29-10;  
18 97-425, eff. 8-16-11; 97-1076, eff. 8-24-12.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.