



Sen. Mattie Hunter

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1 AMENDMENT TO SENATE BILL 542

2 AMENDMENT NO. _____. Amend Senate Bill 542 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 2-28 as follows:

6 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

7 Sec. 2-28. Court review.

8 (1) The court may require any legal custodian or guardian
9 of the person appointed under this Act to report periodically
10 to the court or may cite him into court and require him or his
11 agency, to make a full and accurate report of his or its doings
12 in behalf of the minor. The custodian or guardian, within 10
13 days after such citation, shall make the report, either in
14 writing verified by affidavit or orally under oath in open
15 court, or otherwise as the court directs. Upon the hearing of
16 the report the court may remove the custodian or guardian and

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

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

1 described in subsection (5) of Section 2-21, within 30 days of
2 the order for termination of parental rights and appointment of
3 a guardian with power to consent to adoption, or (c) in
4 accordance with subsection (2) of Section 2-13.1. Subsequent
5 permanency hearings shall be held every 6 months or more
6 frequently if necessary in the court's determination following
7 the initial permanency hearing, in accordance with the
8 standards set forth in this Section, until the court determines
9 that the plan and goal have been achieved. Once the plan and
10 goal have been achieved, if the minor remains in substitute
11 care, the case shall be reviewed at least every 6 months
12 thereafter, subject to the provisions of this Section, unless
13 the minor is placed in the guardianship of a suitable relative
14 or other person and the court determines that further
15 monitoring by the court does not further the health, safety or
16 best interest of the child and that this is a stable permanent
17 placement. The permanency hearings must occur within the time
18 frames set forth in this subsection and may not be delayed in
19 anticipation of a report from any source or due to the agency's
20 failure to timely file its written report (this written report
21 means the one required under the next paragraph and does not
22 mean the service plan also referred to in that paragraph).

23 The public agency that is the custodian or guardian of the
24 minor, or another agency responsible for the minor's care,
25 shall ensure that all parties to the permanency hearings are
26 provided a copy of the most recent service plan prepared within

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

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

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

26 (B) The minor will be in short-term care with a

1 continued goal to return home within a period not to exceed
2 one year, where the progress of the parent or parents is
3 substantial giving particular consideration to the age and
4 individual needs of the minor.

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

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

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

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

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

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

1 developmental disabilities or mental illness or because he
2 or she is a danger to self or others, provided that goals
3 (A) through (D) have been ruled out.

4 In selecting any permanency goal, the court shall indicate
5 in writing the reasons the goal was selected and why the
6 preceding goals were ruled out. Where the court has selected a
7 permanency goal other than (A), (B), or (B-1), the Department
8 of Children and Family Services ~~shall not provide further~~
9 ~~reunification services, but~~ shall provide services consistent
10 with the goal selected while concurrently providing services to
11 enable reunification and to strengthen connections with
12 family, fictive kin, and other responsible adults.

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

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

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

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

24 (a) the child does not wish to be adopted or to
25 be placed in the guardianship of his or her
26 relative or foster care placement;

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

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

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

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

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

25 (1) Age of the child.

26 (2) Options available for permanence, including both

1 out-of-State and in-State placement options.

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

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

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

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

11 (7) Status of siblings of the minor.

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

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

1 abuse or neglect. The services contained in the service plan
2 shall include services reasonably related to remedy the
3 conditions that gave rise to removal of the child from the home
4 of his or her parents, guardian, or legal custodian or that the
5 court has found must be remedied prior to returning the child
6 home. Any tasks the court requires of the parents, guardian, or
7 legal custodian or child prior to returning the child home,
8 must be reasonably related to remedying a condition or
9 conditions that gave rise to or which could give rise to any
10 finding of child abuse or neglect.

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

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

1 mediation.

2 If the goal has been achieved, the court shall enter orders
3 that are necessary to conform the minor's legal custody and
4 status to those findings.

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

20 A guardian or custodian appointed by the court pursuant to
21 this Act shall file updated case plans with the court every 6
22 months.

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

26 (3) Following the permanency hearing, the court shall enter

1 a written order that includes the determinations required under
2 subsection (2) of this Section and sets forth the following:

3 (a) The future status of the minor, including the
4 permanency goal, and any order necessary to conform the
5 minor's legal custody and status to such determination; or

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

11 (i) (Blank).

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

18 (iii) Whether the minor's placement is necessary,
19 and appropriate to the plan and goal, recognizing the
20 right of minors to the least restrictive (most
21 family-like) setting available and in close proximity
22 to the parents' home consistent with the health,
23 safety, best interest and special needs of the minor
24 and, if the minor is placed out-of-State, whether the
25 out-of-State placement continues to be appropriate and
26 consistent with the health, safety, and best interest

1 of the minor.

2 (iv) (Blank).

3 (v) (Blank).

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

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

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

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

24 When parental rights have been terminated for a minimum
25 of 3 years and the child who is the subject of the
26 permanency hearing is 13 years old or older and is not

1 currently placed in a placement likely to achieve
2 permanency, the Department of Children and Family Services
3 shall make reasonable efforts to locate parents whose
4 rights have been terminated, except when the Court
5 determines that those efforts would be futile or
6 inconsistent with the subject child's best interests. The
7 Department of Children and Family Services shall assess the
8 appropriateness of the parent whose rights have been
9 terminated, and shall, as appropriate, foster and support
10 connections between the parent whose rights have been
11 terminated and the youth. The Department of Children and
12 Family Services shall document its determinations and
13 efforts to foster connections in the child's case plan.

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

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

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

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

1 home without endangering his or her health or safety and
2 fitness of the parent, guardian, or legal custodian.

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

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

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

16 (Source: P.A. 97-425, eff. 8-16-11; 97-1076, eff. 8-24-12;
17 98-756, eff. 7-16-14.)".