

HB2935



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2935

by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-5

from Ch. 37, par. 801-5

Amends the Juvenile Court Act of 1987. Provides that counsel appointed for the minor and any indigent party shall appear at all stages of the trial court proceeding, and the appointment shall continue through the permanency hearings and termination of parental rights proceedings subject to withdrawal, vacating of appointment, or substitution.

LRB101 10499 SLF 55605 b

A BILL FOR

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

1 termination of parental rights proceedings subject to
2 withdrawal, vacating of appointment, or substitution pursuant
3 to Supreme Court Rules or the Code of Civil Procedure.
4 Following the dispositional hearing, the court may require
5 appointed counsel, other than counsel for the minor or counsel
6 for the guardian ad litem, to withdraw his or her appearance
7 upon failure of the party for whom counsel was appointed under
8 this Section to attend any subsequent 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, but does not
13 thereby become a party to the proceeding.

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

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

1 the denial of those rights but in no event later than 30 days
2 after the foster parent has been denied the right to be heard.

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

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

18 (c) If a foster parent has had the minor who is the subject
19 of the proceeding under Article II in his or her home for more
20 than one year on or after July 3, 1994 and if the minor's
21 placement is being terminated from that foster parent's home,
22 that foster parent shall have standing and intervenor status
23 except in those circumstances where the Department of Children
24 and Family Services or anyone else authorized under Section 5
25 of the Abused and Neglected Child Reporting Act has removed the
26 minor from the foster parent because of a reasonable belief

1 that the circumstances or conditions of the minor are such that
2 continuing in the residence or care of the foster parent will
3 jeopardize the child's health or safety or presents an imminent
4 risk of harm to the minor's life.

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

8 (3) Parties respondent are entitled to notice in compliance
9 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or
10 5-525 and 5-530, as appropriate. At the first appearance before
11 the court by the minor, his parents, guardian, custodian or
12 responsible relative, the court shall explain the nature of the
13 proceedings and inform the parties of their rights under the
14 first 2 paragraphs of this Section.

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

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

1 other final judgment of the court.

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

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

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

21 (5) In the discretion of the court, the minor may be
22 excluded from any part or parts of a dispositional hearing and,
23 with the consent of the parent or parents, guardian, counsel or
24 a guardian ad litem, from any part or parts of an adjudicatory
25 hearing.

26 (6) The general public except for the news media and the

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

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

22 (Source: P.A. 98-249, eff. 1-1-14.)