



Rep. Will Guzzardi

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1 AMENDMENT TO HOUSE BILL 4294

2 AMENDMENT NO. _____. Amend House Bill 4294 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 Sections 1-5 and 1-8 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

1 counsel. At the request of any party financially unable to
2 employ counsel, with the exception of a foster parent permitted
3 to intervene under this Section, the court shall appoint the
4 Public Defender or such other counsel as the case may require.
5 Counsel appointed for the minor and any indigent party shall
6 appear at all stages of the trial court proceeding, and such
7 appointment shall continue through the permanency hearings and
8 termination of parental rights proceedings subject to
9 withdrawal, vacating of appointment, or substitution pursuant
10 to Supreme Court Rules or the Code of Civil Procedure.
11 Following the dispositional hearing, the court may require
12 appointed counsel, other than counsel for the minor or counsel
13 for the guardian ad litem, to withdraw his or her appearance
14 upon failure of the party for whom counsel was appointed under
15 this Section to attend any subsequent proceedings.

16 No hearing on any petition or motion filed under this Act
17 may be commenced unless the minor who is the subject of the
18 proceeding is represented by counsel. Notwithstanding the
19 preceding sentence, if a guardian ad litem has been appointed
20 for the minor under Section 2-17 of this Act and the guardian
21 ad litem is a licensed attorney at law of this State, or in the
22 event that a court appointed special advocate has been
23 appointed as guardian ad litem and counsel has been appointed
24 to represent the court appointed special advocate, the court
25 may not require the appointment of counsel to represent the
26 minor unless the court finds that the minor's interests are in

1 conflict with what the guardian ad litem determines to be in
2 the best interest of the minor. Each adult respondent shall be
3 furnished a written "Notice of Rights" at or before the first
4 hearing at which he or she appears.

5 (1.5) The Department shall maintain a system of response to
6 inquiry made by parents or putative parents as to whether their
7 child is under the custody or guardianship of the Department;
8 and if so, the Department shall direct the parents or putative
9 parents to the appropriate court of jurisdiction, including
10 where inquiry may be made of the clerk of the court regarding
11 the case number and the next scheduled court date of the
12 minor's case. Effective notice and the means of accessing
13 information shall be given to the public on a continuing basis
14 by the Department.

15 (2) (a) Though not appointed guardian or legal custodian or
16 otherwise made a party to the proceeding, any current or
17 previously appointed foster parent or relative caregiver, or
18 representative of an agency or association interested in the
19 minor has the right to be heard by the court, but does not
20 thereby become a party to the proceeding.

21 In addition to the foregoing right to be heard by the
22 court, any current foster parent or relative caregiver of a
23 minor and the agency designated by the court or the Department
24 of Children and Family Services as custodian of the minor who
25 is alleged to be or has been adjudicated an abused or neglected
26 minor under Section 2-3 or a dependent minor under Section 2-4

1 of this Act has the right to and shall be given adequate notice
2 at all stages of any hearing or proceeding under this Act.

3 Any foster parent or relative caregiver who is denied his
4 or her right to be heard under this Section may bring a
5 mandamus action under Article XIV of the Code of Civil
6 Procedure against the court or any public agency to enforce
7 that right. The mandamus action may be brought immediately upon
8 the denial of those rights but in no event later than 30 days
9 after the foster parent has been denied the right to be heard.

10 (b) If after an adjudication that a minor is abused or
11 neglected as provided under Section 2-21 of this Act and a
12 motion has been made to restore the minor to any parent,
13 guardian, or legal custodian found by the court to have caused
14 the neglect or to have inflicted the abuse on the minor, a
15 foster parent may file a motion to intervene in the proceeding
16 for the sole purpose of requesting that the minor be placed
17 with the foster parent, provided that the foster parent (i) is
18 the current foster parent of the minor or (ii) has previously
19 been a foster parent for the minor for one year or more, has a
20 foster care license or is eligible for a license or is not
21 required to have a license, and is not the subject of any
22 findings of abuse or neglect of any child. The juvenile court
23 may only enter orders placing a minor with a specific foster
24 parent under this subsection (2) (b) and nothing in this Section
25 shall be construed to confer any jurisdiction or authority on
26 the juvenile court to issue any other orders requiring the

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

25 (c) If a foster parent has had the minor who is the subject
26 of the proceeding under Article II in his or her home for more

1 than one year on or after July 3, 1994 and if the minor's
2 placement is being terminated from that foster parent's home,
3 that foster parent shall have standing and intervenor status
4 except in those circumstances where the Department of Children
5 and Family Services or anyone else authorized under Section 5
6 of the Abused and Neglected Child Reporting Act has removed the
7 minor from the foster parent because of a reasonable belief
8 that the circumstances or conditions of the minor are such that
9 continuing in the residence or care of the foster parent will
10 jeopardize the child's health or safety or presents an imminent
11 risk of harm to the minor's life.

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

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

22 If the child is alleged to be abused, neglected or
23 dependent, the court shall admonish the parents that if the
24 court declares the child to be a ward of the court and awards
25 custody or guardianship to the Department of Children and
26 Family Services, the parents must cooperate with the Department

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

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

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

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

24 (4) No sanction may be applied against the minor who is the
25 subject of the proceedings by reason of his refusal or failure
26 to testify in the course of any hearing held prior to final

1 adjudication under Section 2-22, 3-23, 4-20 or 5-705.

2 (5) In the discretion of the court, the minor may be
3 excluded from any part or parts of a dispositional hearing and,
4 with the consent of the parent or parents, guardian, counsel or
5 a guardian ad litem, from any part or parts of an adjudicatory
6 hearing.

7 (6) The general public except for the news media and the
8 crime victim, as defined in Section 3 of the Rights of Crime
9 Victims and Witnesses Act, shall be excluded from any hearing
10 involving a case brought under this Act, including the
11 reviewing courts, and, except for the persons specified in this
12 Section only persons, including representatives of agencies
13 and associations, who in the opinion of the court have a direct
14 interest in the case or in the work of the court shall be
15 admitted to the hearing. Audio or visual broadcasts involving a
16 case under this Act shall be prohibited, except that any
17 recording made may be released upon petition under the
18 provisions of Section 1-8. However, the court may, for the
19 minor's safety and protection and for good cause shown,
20 prohibit any person or agency present in court from further
21 disclosing the minor's identity. Nothing in this subsection (6)
22 prevents the court from allowing other juveniles to be present
23 or to participate in a court session being held under the
24 Juvenile Drug Court Treatment Act.

25 (7) A party shall not be entitled to exercise the right to
26 a substitution of a judge without cause under subdivision

1 (a) (2) of Section 2-1001 of the Code of Civil Procedure in a
2 proceeding under this Act if the judge is currently assigned to
3 a proceeding involving the alleged abuse, neglect, or
4 dependency of the minor's sibling or half sibling and that
5 judge has made a substantive ruling in the proceeding involving
6 the minor's sibling or half sibling.

7 (Source: P.A. 101-147, eff. 1-1-20.)

8 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

9 Sec. 1-8. Confidentiality and accessibility of juvenile
10 court records.

11 (A) A juvenile adjudication shall never be considered a
12 conviction nor shall an adjudicated individual be considered a
13 criminal. Unless expressly allowed by law, a juvenile
14 adjudication shall not operate to impose upon the individual
15 any of the civil disabilities ordinarily imposed by or
16 resulting from conviction. Unless expressly allowed by law,
17 adjudications shall not prejudice or disqualify the individual
18 in any civil service application or appointment, from holding
19 public office, or from receiving any license granted by public
20 authority. All juvenile court records, including records and
21 files in the reviewing courts, which have not been expunged are
22 sealed and may never be disclosed to the general public or
23 otherwise made widely available. Sealed juvenile court records
24 may be obtained only under this Section and Section 1-7 and
25 Part 9 of Article V of this Act, when their use is needed for

1 good cause and with an order from the juvenile court or
2 reviewing court. Inspection and copying of juvenile court
3 records relating to a minor who is the subject of a proceeding
4 under this Act shall be restricted to the following:

5 (1) The minor who is the subject of record, his or her
6 parents, guardian, and counsel.

7 (2) Law enforcement officers and law enforcement
8 agencies when such information is essential to executing an
9 arrest or search warrant or other compulsory process, or to
10 conducting an ongoing investigation or relating to a minor
11 who has been adjudicated delinquent and there has been a
12 previous finding that the act which constitutes the
13 previous offense was committed in furtherance of criminal
14 activities by a criminal street gang.

15 Before July 1, 1994, for the purposes of this Section,
16 "criminal street gang" means any ongoing organization,
17 association, or group of 3 or more persons, whether formal
18 or informal, having as one of its primary activities the
19 commission of one or more criminal acts and that has a
20 common name or common identifying sign, symbol or specific
21 color apparel displayed, and whose members individually or
22 collectively engage in or have engaged in a pattern of
23 criminal activity.

24 Beginning July 1, 1994, for purposes of this Section,
25 "criminal street gang" has the meaning ascribed to it in
26 Section 10 of the Illinois Streetgang Terrorism Omnibus

1 Prevention Act.

2 (3) Judges, hearing officers, prosecutors, public
3 defenders, probation officers, social workers, or other
4 individuals assigned by the court to conduct a
5 pre-adjudication or pre-disposition investigation, and
6 individuals responsible for supervising or providing
7 temporary or permanent care and custody for minors under
8 the order of the juvenile court when essential to
9 performing their responsibilities.

10 (4) Judges, federal, State, and local prosecutors,
11 public defenders, probation officers, and designated
12 staff:

13 (a) in the course of a trial when institution of
14 criminal proceedings has been permitted or required
15 under Section 5-805;

16 (b) when criminal proceedings have been permitted
17 or required under Section 5-805 and a minor is the
18 subject of a proceeding to determine the amount of
19 bail;

20 (c) when criminal proceedings have been permitted
21 or required under Section 5-805 and a minor is the
22 subject of a pre-trial investigation, pre-sentence
23 investigation or fitness hearing, or proceedings on an
24 application for probation; or

25 (d) when a minor becomes 18 years of age or older,
26 and is the subject of criminal proceedings, including a

1 hearing to determine the amount of bail, a pre-trial
2 investigation, a pre-sentence investigation, a fitness
3 hearing, or proceedings on an application for
4 probation.

5 (5) Adult and Juvenile Prisoner Review Boards.

6 (6) Authorized military personnel.

7 (6.5) Employees of the federal government authorized
8 by law.

9 (7) Victims, their subrogees and legal
10 representatives; however, such persons shall have access
11 only to the name and address of the minor and information
12 pertaining to the disposition or alternative adjustment
13 plan of the juvenile court.

14 (8) Persons engaged in bona fide research, with the
15 permission of the presiding judge of the juvenile court and
16 the chief executive of the agency that prepared the
17 particular records; provided that publication of such
18 research results in no disclosure of a minor's identity and
19 protects the confidentiality of the record.

20 (9) The Secretary of State to whom the Clerk of the
21 Court shall report the disposition of all cases, as
22 required in Section 6-204 of the Illinois Vehicle Code.
23 However, information reported relative to these offenses
24 shall be privileged and available only to the Secretary of
25 State, courts, and police officers.

26 (10) The administrator of a bonafide substance abuse

1 student assistance program with the permission of the
2 presiding judge of the juvenile court.

3 (11) Mental health professionals on behalf of the
4 Department of Corrections or the Department of Human
5 Services or prosecutors who are evaluating, prosecuting,
6 or investigating a potential or actual petition brought
7 under the Sexually Violent Persons Commitment Act relating
8 to a person who is the subject of juvenile court records or
9 the respondent to a petition brought under the Sexually
10 Violent Persons Commitment Act, who is the subject of
11 juvenile court records sought. Any records and any
12 information obtained from those records under this
13 paragraph (11) may be used only in sexually violent persons
14 commitment proceedings.

15 (12) Collection agencies, contracted or otherwise
16 engaged by a governmental entity, to collect any debts due
17 and owing to the governmental entity.

18 (A-1) Findings and exclusions of paternity entered in
19 proceedings occurring under Article II of this Act shall be
20 disclosed, in a manner and form approved by the Presiding Judge
21 of the Juvenile Court, to the Department of Healthcare and
22 Family Services when necessary to discharge the duties of the
23 Department of Healthcare and Family Services under Article X of
24 the Illinois Public Aid Code.

25 (B) A minor who is the victim in a juvenile proceeding
26 shall be provided the same confidentiality regarding

1 disclosure of identity as the minor who is the subject of
2 record.

3 (C) (0.1) In cases where the records concern a pending
4 juvenile court case or appeal, the requesting party seeking to
5 inspect the juvenile court records shall provide actual notice
6 to the attorney or guardian ad litem of the minor whose records
7 are sought.

8 (0.2) In cases where the juvenile court records concern a
9 juvenile court case that is no longer pending, the requesting
10 party seeking to inspect the juvenile court records shall
11 provide actual notice to the minor or the minor's parent or
12 legal guardian, and the matter shall be referred to the chief
13 judge presiding over matters pursuant to this Act.

14 (0.3) In determining whether juvenile court records should
15 be made available for inspection and whether inspection should
16 be limited to certain parts of the file, the court shall
17 consider the minor's interest in confidentiality and
18 rehabilitation over the requesting party's interest in
19 obtaining the information. The State's Attorney, the minor, and
20 the minor's parents, guardian, and counsel shall at all times
21 have the right to examine court files and records.

22 (0.4) Any records obtained in violation of this Section
23 shall not be admissible in any criminal or civil proceeding, or
24 operate to disqualify a minor from subsequently holding public
25 office, or operate as a forfeiture of any public benefit,
26 right, privilege, or right to receive any license granted by

1 public authority.

2 (D) Pending or following any adjudication of delinquency
3 for any offense defined in Sections 11-1.20 through 11-1.60 or
4 12-13 through 12-16 of the Criminal Code of 1961 or the
5 Criminal Code of 2012, the victim of any such offense shall
6 receive the rights set out in Sections 4 and 6 of the Bill of
7 Rights for Victims and Witnesses of Violent Crime Act; and the
8 juvenile who is the subject of the adjudication,
9 notwithstanding any other provision of this Act, shall be
10 treated as an adult for the purpose of affording such rights to
11 the victim.

12 (E) Nothing in this Section shall affect the right of a
13 Civil Service Commission or appointing authority of the federal
14 government, or any state, county, or municipality examining the
15 character and fitness of an applicant for employment with a law
16 enforcement agency, correctional institution, or fire
17 department to ascertain whether that applicant was ever
18 adjudicated to be a delinquent minor and, if so, to examine the
19 records of disposition or evidence which were made in
20 proceedings under this Act.

21 (F) Following any adjudication of delinquency for a crime
22 which would be a felony if committed by an adult, or following
23 any adjudication of delinquency for a violation of Section
24 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, the State's Attorney shall ascertain
26 whether the minor respondent is enrolled in school and, if so,

1 shall provide a copy of the dispositional order to the
2 principal or chief administrative officer of the school. Access
3 to the dispositional order shall be limited to the principal or
4 chief administrative officer of the school and any guidance
5 counselor designated by him or her.

6 (G) Nothing contained in this Act prevents the sharing or
7 disclosure of information or records relating or pertaining to
8 juveniles subject to the provisions of the Serious Habitual
9 Offender Comprehensive Action Program when that information is
10 used to assist in the early identification and treatment of
11 habitual juvenile offenders.

12 (H) When a court hearing a proceeding under Article II of
13 this Act becomes aware that an earlier proceeding under Article
14 II had been heard in a different county, that court shall
15 request, and the court in which the earlier proceedings were
16 initiated shall transmit, an authenticated copy of the juvenile
17 court record, including all documents, petitions, and orders
18 filed and the minute orders, transcript of proceedings, and
19 docket entries of the court.

20 (I) The Clerk of the Circuit Court shall report to the
21 Department of State Police, in the form and manner required by
22 the Department of State Police, the final disposition of each
23 minor who has been arrested or taken into custody before his or
24 her 18th birthday for those offenses required to be reported
25 under Section 5 of the Criminal Identification Act. Information
26 reported to the Department under this Section may be maintained

1 with records that the Department files under Section 2.1 of the
2 Criminal Identification Act.

3 (J) The changes made to this Section by Public Act 98-61
4 apply to juvenile law enforcement records of a minor who has
5 been arrested or taken into custody on or after January 1, 2014
6 (the effective date of Public Act 98-61).

7 (K) Willful violation of this Section is a Class C
8 misdemeanor and each violation is subject to a fine of \$1,000.
9 This subsection (K) shall not apply to the person who is the
10 subject of the record.

11 (L) A person convicted of violating this Section is liable
12 for damages in the amount of \$1,000 or actual damages,
13 whichever is greater.

14 (Source: P.A. 100-285, eff. 1-1-18; 100-720, eff. 8-3-18;
15 100-1162, eff. 12-20-18.)".