

# SB0218



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB0218

Introduced 1/31/2019, by Sen. Thomas Cullerton

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-13

from Ch. 37, par. 802-13

Amends the Juvenile Court Act of 1987. Provides that unless good cause exists that filing a petition to terminate parental rights is contrary to the child's best interests, the Department of Children and Family Services shall request the State's Attorney to file a petition or motion for termination of parental rights and appointment of guardian of the person with power to consent to adoption of the minor under the Act if the parent is criminally convicted of predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, sexual exploitation of a child, or permitting sexual abuse of a child. Makes technical changes.

LRB101 06652 SLF 51679 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 2-13 as follows:

6 (705 ILCS 405/2-13) (from Ch. 37, par. 802-13)

7 Sec. 2-13. Petition.

8 (1) Any adult person, any agency or association by its  
9 representative may file, or the court on its own motion,  
10 consistent with the health, safety and best interests of the  
11 minor may direct the filing through the State's Attorney of a  
12 petition in respect of a minor under this Act. The petition and  
13 all subsequent court documents shall be entitled "In the  
14 interest of ....., a minor".

15 (2) The petition shall be verified but the statements may  
16 be made upon information and belief. It shall allege that the  
17 minor is abused, neglected, or dependent, with citations to the  
18 appropriate provisions of this Act, and set forth (a) facts  
19 sufficient to bring the minor under Section 2-3 or 2-4 and to  
20 inform respondents of the cause of action, including, but not  
21 limited to, a plain and concise statement of the factual  
22 allegations that form the basis for the filing of the petition;  
23 (b) the name, age and residence of the minor; (c) the names and

1 residences of his parents; (d) the name and residence of his  
2 legal guardian or the person or persons having custody or  
3 control of the minor, or of the nearest known relative if no  
4 parent or guardian can be found; and (e) if the minor upon  
5 whose behalf the petition is brought is sheltered in custody,  
6 the date on which such temporary custody was ordered by the  
7 court or the date set for a temporary custody hearing. If any  
8 of the facts herein required are not known by the petitioner,  
9 the petition shall so state.

10 (3) The petition must allege that it is in the best  
11 interests of the minor and of the public that he be adjudged a  
12 ward of the court and may pray generally for relief available  
13 under this Act. The petition need not specify any proposed  
14 disposition following adjudication of wardship. The petition  
15 may request that the minor remain in the custody of the parent,  
16 guardian, or custodian under an Order of Protection.

17 (4) If termination of parental rights and appointment of a  
18 guardian of the person with power to consent to adoption of the  
19 minor under Section 2-29 is sought, the petition shall so  
20 state. If the petition includes this request, the prayer for  
21 relief shall clearly and obviously state that the parents could  
22 permanently lose their rights as a parent at this hearing.

23 In addition to the foregoing, the petitioner, by motion,  
24 may request the termination of parental rights and appointment  
25 of a guardian of the person with power to consent to adoption  
26 of the minor under Section 2-29 at any time after the entry of

1 a dispositional order under Section 2-22.

2 (4.5) (a) Unless good cause exists that filing a petition  
3 to terminate parental rights is contrary to the child's best  
4 interests, with respect to any minors committed to its care  
5 pursuant to this Act, the Department of Children and Family  
6 Services shall request the State's Attorney to file a petition  
7 or motion for termination of parental rights and appointment of  
8 guardian of the person with power to consent to adoption of the  
9 minor under Section 2-29 if:

10 (i) a minor has been in foster care, as described in  
11 subsection (b), for 15 months of the most recent 22 months;  
12 or

13 (ii) a minor under the age of 2 years has been  
14 previously determined to be abandoned at an adjudicatory  
15 hearing; or

16 (iii) the parent is criminally convicted of:

17 (A) first degree murder or second degree murder of  
18 any child; τ

19 (B) attempt or conspiracy to commit first degree  
20 murder or second degree murder of any child; τ

21 (C) solicitation to commit murder of any child,  
22 solicitation to commit murder for hire of any child, or  
23 solicitation to commit second degree murder of any  
24 child; τ

25 (D) aggravated battery, aggravated battery of a  
26 child, or felony domestic battery, any of which has

1 resulted in serious injury to the minor or a sibling of  
2 the minor; 7

3 (E) predatory criminal sexual assault of a child;  
4 ~~aggravated criminal sexual assault in violation of~~  
5 ~~subdivision (a) (1) of Section 11 1.40 or subdivision~~  
6 ~~(a) (1) of Section 12 14.1 of the Criminal Code of 1961~~  
7 ~~or the Criminal Code of 2012, or~~

8 (E-5) aggravated criminal sexual assault;

9 (E-10) criminal sexual abuse;

10 (E-15) sexual exploitation of a child;

11 (E-20) permitting sexual abuse of a child; or

12 (F) an offense in any other state the elements of  
13 which are similar and bear a substantial relationship  
14 to any of the foregoing offenses.

15 (a-1) For purposes of this subsection (4.5), good cause  
16 exists in the following circumstances:

17 (i) the child is being cared for by a relative,

18 (ii) the Department has documented in the case plan a  
19 compelling reason for determining that filing such  
20 petition would not be in the best interests of the child,

21 (iii) the court has found within the preceding 12  
22 months that the Department has failed to make reasonable  
23 efforts to reunify the child and family, or

24 (iv) the parent is incarcerated, or the parent's prior  
25 incarceration is a significant factor in why the child has  
26 been in foster care for 15 months out of any 22-month

1 period, the parent maintains a meaningful role in the  
2 child's life, and the Department has not documented another  
3 reason why it would otherwise be appropriate to file a  
4 petition to terminate parental rights pursuant to this  
5 Section and the Adoption Act. The assessment of whether an  
6 incarcerated parent maintains a meaningful role in the  
7 child's life may include consideration of the following:

8 (A) the child's best interest;

9 (B) the parent's expressions or acts of  
10 manifesting concern for the child, such as letters,  
11 telephone calls, visits, and other forms of  
12 communication with the child and the impact of the  
13 communication on the child;

14 (C) the parent's efforts to communicate with and  
15 work with the Department for the purpose of complying  
16 with the service plan and repairing, maintaining, or  
17 building the parent-child relationship; or

18 (D) limitations in the parent's access to family  
19 support programs, therapeutic services, visiting  
20 opportunities, telephone and mail services, and  
21 meaningful participation in court proceedings.

22 (b) For purposes of this subsection, the date of entering  
23 foster care is defined as the earlier of:

24 (1) The date of a judicial finding at an adjudicatory  
25 hearing that the child is an abused, neglected, or  
26 dependent minor; or

1           (2) 60 days after the date on which the child is  
2 removed from his or her parent, guardian, or legal  
3 custodian.

4           (c) (Blank).

5           (d) (Blank).

6           (5) The court shall liberally allow the petitioner to amend  
7 the petition to set forth a cause of action or to add, amend,  
8 or supplement factual allegations that form the basis for a  
9 cause of action up until 14 days before the adjudicatory  
10 hearing. The petitioner may amend the petition after that date  
11 and prior to the adjudicatory hearing if the court grants leave  
12 to amend upon a showing of good cause. The court may allow  
13 amendment of the petition to conform with the evidence at any  
14 time prior to ruling. In all cases in which the court has  
15 granted leave to amend based on new evidence or new  
16 allegations, the court shall permit the respondent an adequate  
17 opportunity to prepare a defense to the amended petition.

18           (6) At any time before dismissal of the petition or before  
19 final closing and discharge under Section 2-31, one or more  
20 motions in the best interests of the minor may be filed. The  
21 motion shall specify sufficient facts in support of the relief  
22 requested.

23           (Source: P.A. 99-836, eff. 1-1-17.)