



Rep. Natalie A. Manley

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LRB102 03081 KMF 23936 a

1 AMENDMENT TO HOUSE BILL 1068

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1068 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, or earlier if the court determines  
14 it to be necessary to protect the health, safety, or welfare of  
15 the minor, shall make the report, either in writing verified  
16 by affidavit or orally under oath in open court, or otherwise

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

20 (1.5) The public agency that is the custodian or guardian  
21 of the minor shall file a written report with the court no  
22 later than 15 days after a minor in the agency's care remains:

23 (1) in a shelter placement beyond 30 days;

24 (2) in a psychiatric hospital past the time when the  
25 minor is clinically ready for discharge or beyond medical  
26 necessity for the minor's health; or

1           (3) in a detention center or Department of Juvenile  
2 Justice facility solely because the public agency cannot  
3 find an appropriate placement for the minor.

4           The report shall explain the steps the agency is taking to  
5 ensure the minor is placed appropriately, how the minor's  
6 needs are being met in the minor's shelter placement, and if a  
7 future placement has been identified by the Department, why  
8 the anticipated placement is appropriate for the needs of the  
9 minor and the anticipated placement date.

10           (1.6) Within 35 days after placing a child in its care in a  
11 qualified residential treatment program, as defined by the  
12 federal Social Security Act, the Department of Children and  
13 Family Services shall file a written report with the court and  
14 send copies of the report to all parties. Within 20 days of the  
15 filing of the report, the court shall hold a hearing to  
16 consider the Department's report and determine whether  
17 placement of the child in a qualified residential treatment  
18 program provides the most effective and appropriate level of  
19 care for the child in the least restrictive environment and if  
20 the placement is consistent with the short-term and long-term  
21 goals for the child, as specified in the permanency plan for  
22 the child. The court shall approve or disapprove the  
23 placement. If applicable, the requirements of Sections 2-27.1  
24 and 2-27.2 must also be met. The Department's written report  
25 and the court's written determination shall be included in and  
26 made part of the case plan for the child. If the child remains

1 placed in a qualified residential treatment program, the  
2 Department shall submit evidence at each status and permanency  
3 hearing:

4 (1) demonstrating that on-going assessment of the  
5 strengths and needs of the child continues to support the  
6 determination that the child's needs cannot be met through  
7 placement in a foster family home, that the placement  
8 provides the most effective and appropriate level of care  
9 for the child in the least restrictive, appropriate  
10 environment, and that the placement is consistent with the  
11 short-term and long-term permanency goal for the child, as  
12 specified in the permanency plan for the child;

13 (2) documenting the specific treatment or service  
14 needs that should be met for the child in the placement and  
15 the length of time the child is expected to need the  
16 treatment or services; and

17 (3) the efforts made by the agency to prepare the  
18 child to return home or to be placed with a fit and willing  
19 relative, a legal guardian, or an adoptive parent, or in a  
20 foster family home.

21 (2) The first permanency hearing shall be conducted by the  
22 judge. Subsequent permanency hearings may be heard by a judge  
23 or by hearing officers appointed or approved by the court in  
24 the manner set forth in Section 2-28.1 of this Act. The initial  
25 hearing shall be held (a) within 12 months from the date  
26 temporary custody was taken, regardless of whether an

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

26 The public agency that is the custodian or guardian of the

1 minor, or another agency responsible for the minor's care,  
2 shall ensure that all parties to the permanency hearings are  
3 provided a copy of the most recent service plan prepared  
4 within the prior 6 months at least 14 days in advance of the  
5 hearing. If not contained in the agency's service plan, the  
6 agency shall also include a report setting forth (i) any  
7 special physical, psychological, educational, medical,  
8 emotional, or other needs of the minor or his or her family  
9 that are relevant to a permanency or placement determination  
10 and (ii) for any minor age 16 or over, a written description of  
11 the programs and services that will enable the minor to  
12 prepare for independent living. If not contained in the  
13 agency's service plan, the agency's report shall specify if a  
14 minor is placed in a licensed child care facility under a  
15 corrective plan by the Department due to concerns impacting  
16 the minor's safety and well-being. The report shall explain  
17 the steps the Department is taking to ensure the safety and  
18 well-being of the minor and that the minor's needs are met in  
19 the facility. The agency's written report must detail what  
20 progress or lack of progress the parent has made in correcting  
21 the conditions requiring the child to be in care; whether the  
22 child can be returned home without jeopardizing the child's  
23 health, safety, and welfare, and if not, what permanency goal  
24 is recommended to be in the best interests of the child, and  
25 why the other permanency goals are not appropriate. The  
26 caseworker must appear and testify at the permanency hearing.

1 If a permanency hearing has not previously been scheduled by  
2 the court, the moving party shall move for the setting of a  
3 permanency hearing and the entry of an order within the time  
4 frames set forth in this subsection.

5 At the permanency hearing, the court shall determine the  
6 future status of the child. The court shall set one of the  
7 following permanency goals:

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

10 (B) The minor will be in short-term care with a  
11 continued goal to return home within a period not to  
12 exceed one year, where the progress of the parent or  
13 parents is substantial giving particular consideration to  
14 the age and individual needs of the minor.

15 (B-1) The minor will be in short-term care with a  
16 continued goal to return home pending a status hearing.  
17 When the court finds that a parent has not made reasonable  
18 efforts or reasonable progress to date, the court shall  
19 identify what actions the parent and the Department must  
20 take in order to justify a finding of reasonable efforts  
21 or reasonable progress and shall set a status hearing to  
22 be held not earlier than 9 months from the date of  
23 adjudication nor later than 11 months from the date of  
24 adjudication during which the parent's progress will again  
25 be reviewed.

26 (C) The minor will be in substitute care pending court

1 determination on termination of parental rights.

2 (D) Adoption, provided that parental rights have been  
3 terminated or relinquished.

4 (E) The guardianship of the minor will be transferred  
5 to an individual or couple on a permanent basis provided  
6 that goals (A) through (D) have been deemed inappropriate  
7 and not in the child's best interests. The court shall  
8 confirm that the Department has discussed adoption, if  
9 appropriate, and guardianship with the caregiver prior to  
10 changing a goal to guardianship ~~ruled out.~~

11 (F) The minor over age 15 will be in substitute care  
12 pending independence. In selecting this permanency goal,  
13 the Department of Children and Family Services may provide  
14 services to enable reunification and to strengthen the  
15 minor's connections with family, fictive kin, and other  
16 responsible adults, provided the services are in the  
17 minor's best interest. The services shall be documented in  
18 the service plan.

19 (G) The minor will be in substitute care because he or  
20 she cannot be provided for in a home environment due to  
21 developmental disabilities or mental illness or because he  
22 or she is a danger to self or others, provided that goals  
23 (A) through (D) have been deemed inappropriate and not in  
24 the child's best interests ~~ruled out.~~

25 In selecting any permanency goal, the court shall indicate  
26 in writing the reasons the goal was selected and why the



1 preceding goals were deemed inappropriate and not in the  
2 child's best interest ~~ruled-out~~. Where the court has selected  
3 a permanency goal other than (A), (B), or (B-1), the  
4 Department of Children and Family Services shall not provide  
5 further reunification services, except as provided in  
6 paragraph (F) of this subsection (2), but shall provide  
7 services consistent with the goal selected.

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

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

13 (2) The court has deemed ~~ruled-out~~ all other  
14 permanency goals inappropriate based on the child's  
15 best interest;

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

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

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

26 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  
12 foster 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  
4           or not the services were successful and, if not  
5           successful, 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  
15          evidence relevant to determining these questions, including  
16          oral and written reports, may be admitted and may be relied on  
17          to the 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  
20          Act, any portion of the service plan compels a child or parent  
21          to engage in any activity or refrain from any activity that is  
22          not reasonably related to remedying a condition or conditions  
23          that 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,  
4 or 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 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  
26 orders that are necessary to conform the minor's legal custody

1 and status to those findings.

2 If, after receiving evidence, the court determines that  
3 the services contained in the plan are not reasonably  
4 calculated to facilitate achievement of the permanency goal,  
5 the court shall put in writing the factual basis supporting  
6 the determination and enter specific findings based on the  
7 evidence. The court also shall enter an order for the  
8 Department to develop and implement a new service plan or to  
9 implement changes to the current service plan consistent with  
10 the court's findings. The new service plan shall be filed with  
11 the court and served on all parties within 45 days of the date  
12 of the order. The court shall continue the matter until the new  
13 service plan is filed. Except as authorized by subsection  
14 (2.5) of this Section and as otherwise specifically authorized  
15 by law, the court is not empowered under this Section to order  
16 specific placements, specific services, or specific service  
17 providers to be included in the service plan.

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

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

24 (2.5) If, after reviewing the evidence, including evidence  
25 from the Department, the court determines that the minor's  
26 current or planned placement is not necessary or appropriate

1 to facilitate achievement of the permanency goal, the court  
2 shall put in writing the factual basis supporting its  
3 determination and enter specific findings based on the  
4 evidence. If the court finds that the minor's current or  
5 planned placement is not necessary or appropriate, the court  
6 may enter an order directing the Department to implement a  
7 recommendation by the minor's treating clinician or a  
8 clinician contracted by the Department to evaluate the minor  
9 or a recommendation made by the Department. If the Department  
10 places a minor in a placement under an order entered under this  
11 subsection (2.5), the Department has the authority to remove  
12 the minor from that placement when a change in circumstances  
13 necessitates the removal to protect the minor's health,  
14 safety, and best interest. If the Department determines  
15 removal is necessary, the Department shall notify the parties  
16 of the planned placement change in writing no later than 10  
17 days prior to the implementation of its determination unless  
18 remaining in the placement poses an imminent risk of harm to  
19 the minor, in which case the Department shall notify the  
20 parties of the placement change in writing immediately  
21 following the implementation of its decision. The Department  
22 shall notify others of the decision to change the minor's  
23 placement as required by Department rule.

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

1 the following:

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

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

10 (i) (Blank).

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

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

1 (iv) (Blank).

2 (v) (Blank).

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

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

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

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

23 When parental rights have been terminated for a  
24 minimum of 3 years and the child who is the subject of the  
25 permanency hearing is 13 years old or older and is not  
26 currently placed in a placement likely to achieve



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

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

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

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

18 (5) Whenever a parent, guardian, or legal custodian files  
19 a 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  
4 thereof shall co-operate with the agent of the court in  
5 providing 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  
10 the hearing on fitness and the movant shall have an  
11 opportunity at the hearing to refute the information or  
12 contest its 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. 100-45, eff. 8-11-17; 100-136, eff. 8-18-17;  
17 100-229, eff. 1-1-18; 100-863, eff. 8-14-18; 100-978, eff.  
18 8-19-18; 101-63, eff. 10-1-19.)

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