



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2861

Introduced 2/16/2023, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-28

from Ch. 37, par. 802-28

Amends the Juvenile Court Act of 1987 concerning abused, neglected, and dependent minors. Provides that, within 30 (Instead of 35) days after placing a child in its care in a qualified residential treatment program, as defined by the federal Social Security Act, the Department of Children and Family Services shall prepare a written report for filing with the court and send copies of the report to all parties (rather "shall file a written report with the court and send copies of the report to all parties"). Provides that, within 20 days of the filing of the report, or as soon thereafter as the court's schedule allows but not more than 60 days from the date of placement, the court shall hold a hearing to consider the Department's report and determine whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and if the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child.

LRB103 24986 RLC 51320 b

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 2-28 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~~r~~ 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
17 as the court directs. Upon the hearing of the report the court
18 may remove the custodian or guardian and appoint another in
19 his stead or restore the minor to the custody of his parents or
20 former guardian or custodian. However, custody of the minor
21 shall not be restored to any parent, guardian, or legal
22 custodian in any case in which the minor is found to be
23 neglected or abused under Section 2-3 or dependent under

1 Section 2-4 of this Act, unless the minor can be cared for at
2 home without endangering the minor's health or safety and it
3 is in the best interests of the minor, and if such neglect,
4 abuse, or dependency is found by the court under paragraph (1)
5 of Section 2-21 of this Act to have come about due to the acts
6 or omissions or both of such parent, guardian, or legal
7 custodian, until such time as an investigation is made as
8 provided in paragraph (5) and a hearing is held on the issue of
9 the fitness of such parent, guardian, or legal custodian to
10 care for the minor and the court enters an order that such
11 parent, guardian, or legal custodian is fit to care for the
12 minor.

13 (1.5) The public agency that is the custodian or guardian
14 of the minor shall file a written report with the court no
15 later than 15 days after a minor in the agency's care remains:

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

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

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

23 The report shall explain the steps the agency is taking to
24 ensure the minor is placed appropriately, how the minor's
25 needs are being met in the minor's shelter placement, and if a
26 future placement has been identified by the Department, why

1 the anticipated placement is appropriate for the needs of the
2 minor and the anticipated placement date.

3 (1.6) Within 30 ~~35~~ days after placing a child in its care
4 in a qualified residential treatment program, as defined by
5 the federal Social Security Act, the Department of Children
6 and Family Services shall prepare ~~file~~ a written report for
7 filing with the court and send copies of the report to all
8 parties. Within 20 days of the filing of the report, or as soon
9 thereafter as the court's schedule allows but not more than 60
10 days from the date of placement, the court shall hold a hearing
11 to consider the Department's report and determine whether
12 placement of the child in a qualified residential treatment
13 program provides the most effective and appropriate level of
14 care for the child in the least restrictive environment and if
15 the placement is consistent with the short-term and long-term
16 goals for the child, as specified in the permanency plan for
17 the child. The court shall approve or disapprove the
18 placement. If applicable, the requirements of Sections 2-27.1
19 and 2-27.2 must also be met. The Department's written report
20 and the court's written determination shall be included in and
21 made part of the case plan for the child. If the child remains
22 placed in a qualified residential treatment program, the
23 Department shall submit evidence at each status and permanency
24 hearing:

25 (1) demonstrating that on-going assessment of the
26 strengths and needs of the child continues to support the

1 determination that the child's needs cannot be met through
2 placement in a foster family home, that the placement
3 provides the most effective and appropriate level of care
4 for the child in the least restrictive, appropriate
5 environment, and that the placement is consistent with the
6 short-term and long-term permanency goal for the child, as
7 specified in the permanency plan for the child;

8 (2) documenting the specific treatment or service
9 needs that should be met for the child in the placement and
10 the length of time the child is expected to need the
11 treatment or services; and

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

16 (2) The first permanency hearing shall be conducted by the
17 judge. Subsequent permanency hearings may be heard by a judge
18 or by hearing officers appointed or approved by the court in
19 the manner set forth in Section 2-28.1 of this Act. The initial
20 hearing shall be held (a) within 12 months from the date
21 temporary custody was taken, regardless of whether an
22 adjudication or dispositional hearing has been completed
23 within that time frame, (b) if the parental rights of both
24 parents have been terminated in accordance with the procedure
25 described in subsection (5) of Section 2-21, within 30 days of
26 the order for termination of parental rights and appointment

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

22 The public agency that is the custodian or guardian of the
23 minor, or another agency responsible for the minor's care,
24 shall ensure that all parties to the permanency hearings are
25 provided a copy of the most recent service plan prepared
26 within the prior 6 months at least 14 days in advance of the

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

1 At the permanency hearing, the court shall determine the
2 future status of the child. The court shall set one of the
3 following permanency goals:

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

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

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

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

24 (D) Adoption, provided that parental rights have been
25 terminated or relinquished.

26 (E) The guardianship of the minor will be transferred

1 to an individual or couple on a permanent basis provided
2 that goals (A) through (D) have been deemed inappropriate
3 and not in the child's best interests. The court shall
4 confirm that the Department has discussed adoption, if
5 appropriate, and guardianship with the caregiver prior to
6 changing a goal to guardianship.

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

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

21 In selecting any permanency goal, the court shall indicate
22 in writing the reasons the goal was selected and why the
23 preceding goals were deemed inappropriate and not in the
24 child's best interest. Where the court has selected a
25 permanency goal other than (A), (B), or (B-1), the Department
26 of Children and Family Services shall not provide further

1 reunification services, except as provided in paragraph (F) of
2 this subsection (2), but shall provide services consistent
3 with the goal selected.

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

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

9 (2) The court has deemed all other permanency
10 goals inappropriate based on the child's best
11 interest;

12 (3) The court has found compelling reasons, based
13 on written documentation reviewed by the court, to
14 place the minor in continuing foster care. Compelling
15 reasons include:

16 (a) the child does not wish to be adopted or to
17 be placed in the guardianship of his or her
18 relative or foster care placement;

19 (b) the child exhibits an extreme level of
20 need such that the removal of the child from his or
21 her placement would be detrimental to the child;
22 or

23 (c) the child who is the subject of the
24 permanency hearing has existing close and strong
25 bonds with a sibling, and achievement of another
26 permanency goal would substantially interfere with

1 the subject child's sibling relationship, taking
2 into consideration the nature and extent of the
3 relationship, and whether ongoing contact is in
4 the subject child's best interest, including
5 long-term emotional interest, as compared with the
6 legal and emotional benefit of permanence;

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

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

12 The court shall set a permanency goal that is in the best
13 interest of the child. In determining that goal, the court
14 shall consult with the minor in an age-appropriate manner
15 regarding the proposed permanency or transition plan for the
16 minor. The court's determination shall include the following
17 factors:

18 (1) Age of the child.

19 (2) Options available for permanence, including both
20 out-of-state and in-state placement options.

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

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

25 (5) Types of services previously offered and whether
26 or not the services were successful and, if not

1 successful, the reasons the services failed.

2 (6) Availability of services currently needed and
3 whether the services exist.

4 (7) Status of siblings of the minor.

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

14 The court shall make findings as to whether, in violation
15 of Section 8.2 of the Abused and Neglected Child Reporting
16 Act, any portion of the service plan compels a child or parent
17 to engage in any activity or refrain from any activity that is
18 not reasonably related to remedying a condition or conditions
19 that gave rise or which could give rise to any finding of child
20 abuse or neglect. The services contained in the service plan
21 shall include services reasonably related to remedy the
22 conditions that gave rise to removal of the child from the home
23 of his or her parents, guardian, or legal custodian or that the
24 court has found must be remedied prior to returning the child
25 home. Any tasks the court requires of the parents, guardian,
26 or legal custodian or child prior to returning the child home,

1 must be reasonably related to remedying a condition or
2 conditions that gave rise to or which could give rise to any
3 finding of child abuse or neglect.

4 If the permanency goal is to return home, the court shall
5 make findings that identify any problems that are causing
6 continued placement of the children away from the home and
7 identify what outcomes would be considered a resolution to
8 these problems. The court shall explain to the parents that
9 these findings are based on the information that the court has
10 at that time and may be revised, should additional evidence be
11 presented to the court.

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

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

24 If, after receiving evidence, the court determines that
25 the services contained in the plan are not reasonably
26 calculated to facilitate achievement of the permanency goal,

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

14 A guardian or custodian appointed by the court pursuant to
15 this Act shall file updated case plans with the court every 6
16 months.

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

20 (2.5) If, after reviewing the evidence, including evidence
21 from the Department, the court determines that the minor's
22 current or planned placement is not necessary or appropriate
23 to facilitate achievement of the permanency goal, the court
24 shall put in writing the factual basis supporting its
25 determination and enter specific findings based on the
26 evidence. If the court finds that the minor's current or

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

20 (3) Following the permanency hearing, the court shall
21 enter a written order that includes the determinations
22 required under subsection (2) of this Section and sets forth
23 the following:

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

1 (b) If the permanency goal of the minor cannot be
2 achieved immediately, the specific reasons for continuing
3 the minor in the care of the Department of Children and
4 Family Services or other agency for short-term ~~short-term~~
5 placement, and the following determinations:

6 (i) (Blank).

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

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

23 (iv) (Blank).

24 (v) (Blank).

25 (4) The minor or any person interested in the minor may
26 apply to the court for a change in custody of the minor and the

1 appointment of a new custodian or guardian of the person or for
2 the restoration of the minor to the custody of his parents or
3 former guardian or custodian.

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

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

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

19 When parental rights have been terminated for a
20 minimum of 3 years and the child who is the subject of the
21 permanency hearing is 13 years old or older and is not
22 currently placed in a placement likely to achieve
23 permanency, the Department of Children and Family Services
24 shall make reasonable efforts to locate parents whose
25 rights have been terminated, except when the Court
26 determines that those efforts would be futile or

1 inconsistent with the subject child's best interests. The
2 Department of Children and Family Services shall assess
3 the appropriateness of the parent whose rights have been
4 terminated, and shall, as appropriate, foster and support
5 connections between the parent whose rights have been
6 terminated and the youth. The Department of Children and
7 Family Services shall document its determinations and
8 efforts to foster connections in the child's case plan.

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

1 Family Services to assess the minor's current and proposed
2 living arrangements and to provide ongoing monitoring of the
3 health, safety, and best interest of the minor during the
4 pendency of the motion to assist the court in making that
5 determination. In the event that the minor has attained 18
6 years of age and the guardian or custodian petitions the court
7 for an order terminating his guardianship or custody,
8 guardianship or custody shall terminate automatically 30 days
9 after the receipt of the petition unless the court orders
10 otherwise. No legal custodian or guardian of the person may be
11 removed without his consent until given notice and an
12 opportunity to be heard by the court.

13 When the court orders a child restored to the custody of
14 the parent or parents, the court shall order the parent or
15 parents to cooperate with the Department of Children and
16 Family Services and comply with the terms of an after-care
17 plan, or risk the loss of custody of the child and possible
18 termination of their parental rights. The court may also enter
19 an order of protective supervision in accordance with Section
20 2-24.

21 If the minor is being restored to the custody of a parent,
22 legal custodian, or guardian who lives outside of Illinois,
23 and an Interstate Compact has been requested and refused, the
24 court may order the Department of Children and Family Services
25 to arrange for an assessment of the minor's proposed living
26 arrangement and for ongoing monitoring of the health, safety,

1 and best interest of the minor and compliance with any order of
2 protective supervision entered in accordance with Section
3 2-24.

4 (5) Whenever a parent, guardian, or legal custodian files
5 a motion for restoration of custody of the minor, and the minor
6 was adjudicated neglected, abused, or dependent as a result of
7 physical abuse, the court shall cause to be made an
8 investigation as to whether the movant has ever been charged
9 with or convicted of any criminal offense which would indicate
10 the likelihood of any further physical abuse to the minor.
11 Evidence of such criminal convictions shall be taken into
12 account in determining whether the minor can be cared for at
13 home without endangering his or her health or safety and
14 fitness of the parent, guardian, or legal custodian.

15 (a) Any agency of this State or any subdivision
16 thereof shall cooperate with the agent of the court in
17 providing any information sought in the investigation.

18 (b) The information derived from the investigation and
19 any conclusions or recommendations derived from the
20 information shall be provided to the parent, guardian, or
21 legal custodian seeking restoration of custody prior to
22 the hearing on fitness and the movant shall have an
23 opportunity at the hearing to refute the information or
24 contest its significance.

25 (c) All information obtained from any investigation
26 shall be confidential as provided in Section 5-150 of this

1 Act.

2 (Source: P.A. 101-63, eff. 10-1-19; 102-193, eff. 7-30-21;
3 102-489, eff. 8-20-21; 102-813, eff. 5-13-22; revised
4 8-23-22.)