



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0391

Introduced 1/26/2007, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-27

from Ch. 37, par. 802-27

Amends the Juvenile Court Act of 1987. Provides that in cases relating to allegations of parental or custodial unfitness based upon neglect, dependency, or abuse of the minor, the Department of Children and Family Services, or the agency responsible, must submit a report to the court documenting the services offered and provided to preserve or reunify the family, and substantiating any determination of the success or failure of such services, and the court shall determine if such evidence is clear and convincing that such services will fail.

LRB095 05268 RLC 25346 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to minors.

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 2-27 as follows:

6 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

7 Sec. 2-27. Placement; legal custody or guardianship.

8 (1) If the court determines and puts in writing the factual
9 basis supporting the determination of whether the parents,
10 guardian, or legal custodian of a minor adjudged a ward of the
11 court are unfit or are unable, for some reason other than
12 financial circumstances alone, to care for, protect, train or
13 discipline the minor or are unwilling to do so, and that the
14 health, safety, and best interest of the minor will be
15 jeopardized if the minor remains in the custody of his or her
16 parents, guardian or custodian, the court may at this hearing
17 and at any later point:

18 (a) place the minor in the custody of a suitable
19 relative or other person as legal custodian or guardian;

20 (a-5) with the approval of the Department of Children
21 and Family Services, place the minor in the subsidized
22 guardianship of a suitable relative or other person as
23 legal guardian; "subsidized guardianship" means a private

1 guardianship arrangement for children for whom the
2 permanency goals of return home and adoption have been
3 ruled out and who meet the qualifications for subsidized
4 guardianship as defined by the Department of Children and
5 Family Services in administrative rules;

6 (b) place the minor under the guardianship of a
7 probation officer;

8 (c) commit the minor to an agency for care or
9 placement, except an institution under the authority of the
10 Department of Corrections or of the Department of Children
11 and Family Services;

12 (d) commit the minor to the Department of Children and
13 Family Services for care and service; however, a minor
14 charged with a criminal offense under the Criminal Code of
15 1961 or adjudicated delinquent shall not be placed in the
16 custody of or committed to the Department of Children and
17 Family Services by any court, except a minor less than 13
18 years of age and committed to the Department of Children
19 and Family Services under Section 5-710 of this Act. The
20 Department shall be given due notice of the pendency of the
21 action and the Guardianship Administrator of the
22 Department of Children and Family Services shall be
23 appointed guardian of the person of the minor. Whenever the
24 Department seeks to discharge a minor from its care and
25 service, the Guardianship Administrator shall petition the
26 court for an order terminating guardianship. The

1 Guardianship Administrator may designate one or more other
2 officers of the Department, appointed as Department
3 officers by administrative order of the Department
4 Director, authorized to affix the signature of the
5 Guardianship Administrator to documents affecting the
6 guardian-ward relationship of children for whom he or she
7 has been appointed guardian at such times as he or she is
8 unable to perform the duties of his or her office. The
9 signature authorization shall include but not be limited to
10 matters of consent of marriage, enlistment in the armed
11 forces, legal proceedings, adoption, major medical and
12 surgical treatment and application for driver's license.
13 Signature authorizations made pursuant to the provisions
14 of this paragraph shall be filed with the Secretary of
15 State and the Secretary of State shall provide upon payment
16 of the customary fee, certified copies of the authorization
17 to any court or individual who requests a copy.

18 (1.5) In making a determination under this Section, the
19 court shall also consider whether, based on health, safety, and
20 the best interests of the minor,

21 (a) appropriate services aimed at family preservation
22 and family reunification services have been provided to the
23 extent and in a manner that has not succeeded ~~unsuccessful~~
24 in rectifying the conditions that have led to a finding of
25 unfitness or inability to care for, protect, train, or
26 discipline the minor, or

1 (b) no family preservation or family reunification
2 services would be appropriate,
3 and if the petition or amended petition contained an allegation
4 that the parent is an unfit person as defined in subdivision
5 (D) of Section 1 of the Adoption Act, and the order of
6 adjudication recites that parental unfitness was established
7 by clear and convincing evidence, the court shall, when
8 appropriate and in the best interest of the minor, enter an
9 order terminating parental rights and appointing a guardian
10 with power to consent to adoption in accordance with Section
11 2-29. The Department of Children and Family Services, or the
12 agency responsible, must submit a report to the court
13 documenting the services offered and provided to preserve or
14 reunify the family, and substantiating any determination of the
15 success or failure of such services, and the court shall
16 determine if such evidence is clear and convincing that such
17 services will fail.

18 When making a placement, the court, wherever possible,
19 shall require the Department of Children and Family Services to
20 select a person holding the same religious belief as that of
21 the minor or a private agency controlled by persons of like
22 religious faith of the minor and shall require the Department
23 to otherwise comply with Section 7 of the Children and Family
24 Services Act in placing the child. In addition, whenever
25 alternative plans for placement are available, the court shall
26 ascertain and consider, to the extent appropriate in the

1 particular case, the views and preferences of the minor.

2 (2) When a minor is placed with a suitable relative or
3 other person pursuant to item (a) of subsection (1), the court
4 shall appoint him or her the legal custodian or guardian of the
5 person of the minor. When a minor is committed to any agency,
6 the court shall appoint the proper officer or representative
7 thereof as legal custodian or guardian of the person of the
8 minor. Legal custodians and guardians of the person of the
9 minor have the respective rights and duties set forth in
10 subsection (9) of Section 1-3 except as otherwise provided by
11 order of court; but no guardian of the person may consent to
12 adoption of the minor unless that authority is conferred upon
13 him or her in accordance with Section 2-29. An agency whose
14 representative is appointed guardian of the person or legal
15 custodian of the minor may place the minor in any child care
16 facility, but the facility must be licensed under the Child
17 Care Act of 1969 or have been approved by the Department of
18 Children and Family Services as meeting the standards
19 established for such licensing. No agency may place a minor
20 adjudicated under Sections 2-3 or 2-4 in a child care facility
21 unless the placement is in compliance with the rules and
22 regulations for placement under this Section promulgated by the
23 Department of Children and Family Services under Section 5 of
24 the Children and Family Services Act. Like authority and
25 restrictions shall be conferred by the court upon any probation
26 officer who has been appointed guardian of the person of a

1 minor.

2 (3) No placement by any probation officer or agency whose
3 representative is appointed guardian of the person or legal
4 custodian of a minor may be made in any out of State child care
5 facility unless it complies with the Interstate Compact on the
6 Placement of Children. Placement with a parent, however, is not
7 subject to that Interstate Compact.

8 (4) The clerk of the court shall issue to the legal
9 custodian or guardian of the person a certified copy of the
10 order of court, as proof of his authority. No other process is
11 necessary as authority for the keeping of the minor.

12 (5) Custody or guardianship granted under this Section
13 continues until the court otherwise directs, but not after the
14 minor reaches the age of 19 years except as set forth in
15 Section 2-31.

16 (6) (Blank).

17 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-512,
18 eff. 8-22-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
19 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)