



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4927

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/2-27	from Ch. 37, par. 802-27

Amends the Juvenile Court Act of 1987. Provides that if the court determines that the parent, legal guardian, or custodian of a minor has been convicted 2 or more times for the offense of participation in methamphetamine manufacturing, the court shall automatically terminate such parent, legal guardian, or custodian's rights in relation to the minor and place the minor with a suitable relative or other person or commit the minor to an agency for care or placement.

LRB095 17165 RLC 43222 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 Sections 2-3 and 2-27 as follows:

6 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

7 Sec. 2-3. Neglected or abused minor.

8 (1) Those who are neglected include:

9 (a) any minor under 18 years of age who is not
10 receiving the proper or necessary support, education as
11 required by law, or medical or other remedial care
12 recognized under State law as necessary for a minor's
13 well-being, or other care necessary for his or her
14 well-being, including adequate food, clothing and shelter,
15 or who is abandoned by his or her parents or other person
16 responsible for the minor's welfare, except that a minor
17 shall not be considered neglected for the sole reason that
18 the minor's parent or other person responsible for the
19 minor's welfare has left the minor in the care of an adult
20 relative for any period of time; or

21 (b) any minor under 18 years of age whose environment
22 is injurious to his or her welfare; or

23 (c) any newborn infant whose blood, urine, or meconium

1 contains any amount of a controlled substance as defined in
2 subsection (f) of Section 102 of the Illinois Controlled
3 Substances Act, as now or hereafter amended, or a
4 metabolite of a controlled substance, with the exception of
5 controlled substances or metabolites of such substances,
6 the presence of which in the newborn infant is the result
7 of medical treatment administered to the mother or the
8 newborn infant; or

9 (d) any minor under the age of 14 years whose parent or
10 other person responsible for the minor's welfare leaves the
11 minor without supervision for an unreasonable period of
12 time without regard for the mental or physical health,
13 safety, or welfare of that minor; or

14 (e) any minor who has been provided with interim crisis
15 intervention services under Section 3-5 of this Act and
16 whose parent, guardian, or custodian refuses to permit the
17 minor to return home unless the minor is an immediate
18 physical danger to himself, herself, or others living in
19 the home.

20 Whether the minor was left without regard for the mental or
21 physical health, safety, or welfare of that minor or the period
22 of time was unreasonable shall be determined by considering the
23 following factors, including but not limited to:

24 (1) the age of the minor;

25 (2) the number of minors left at the location;

26 (3) special needs of the minor, including whether the

1 minor is physically or mentally handicapped, or otherwise
2 in need of ongoing prescribed medical treatment such as
3 periodic doses of insulin or other medications;

4 (4) the duration of time in which the minor was left
5 without supervision;

6 (5) the condition and location of the place where the
7 minor was left without supervision;

8 (6) the time of day or night when the minor was left
9 without supervision;

10 (7) the weather conditions, including whether the
11 minor was left in a location with adequate protection from
12 the natural elements such as adequate heat or light;

13 (8) the location of the parent or guardian at the time
14 the minor was left without supervision, the physical
15 distance the minor was from the parent or guardian at the
16 time the minor was without supervision;

17 (9) whether the minor's movement was restricted, or the
18 minor was otherwise locked within a room or other
19 structure;

20 (10) whether the minor was given a phone number of a
21 person or location to call in the event of an emergency and
22 whether the minor was capable of making an emergency call;

23 (11) whether there was food and other provision left
24 for the minor;

25 (12) whether any of the conduct is attributable to
26 economic hardship or illness and the parent, guardian or

1 other person having physical custody or control of the
2 child made a good faith effort to provide for the health
3 and safety of the minor;

4 (13) the age and physical and mental capabilities of
5 the person or persons who provided supervision for the
6 minor;

7 (14) whether the minor was left under the supervision
8 of another person;

9 (15) any other factor that would endanger the health
10 and safety of that particular minor.

11 A minor shall not be considered neglected for the sole
12 reason that the minor has been relinquished in accordance with
13 the Abandoned Newborn Infant Protection Act.

14 (2) Those who are abused include any minor under 18 years
15 of age whose parent or immediate family member, or any person
16 responsible for the minor's welfare, or any person who is in
17 the same family or household as the minor, or any individual
18 residing in the same home as the minor, or a paramour of the
19 minor's parent:

20 (i) inflicts, causes to be inflicted, or allows to be
21 inflicted upon such minor physical injury, by other than
22 accidental means, which causes death, disfigurement,
23 impairment of physical or emotional health, or loss or
24 impairment of any bodily function;

25 (ii) creates a substantial risk of physical injury to
26 such minor by other than accidental means which would be

1 likely to cause death, disfigurement, impairment of
2 emotional health, or loss or impairment of any bodily
3 function;

4 (iii) commits or allows to be committed any sex offense
5 against such minor, as such sex offenses are defined in the
6 Criminal Code of 1961, as amended, and extending those
7 definitions of sex offenses to include minors under 18
8 years of age;

9 (iv) commits or allows to be committed an act or acts
10 of torture upon such minor; or

11 (v) inflicts excessive corporal punishment.

12 A minor shall not be considered abused for the sole reason
13 that the minor has been relinquished in accordance with the
14 Abandoned Newborn Infant Protection Act.

15 (2.5) Those who are abused include any minor under 18 years
16 of age whose parent or other person responsible for the minor's
17 welfare has been convicted 2 or more times of the offense of
18 participation in methamphetamine manufacturing as defined in
19 Section 15 of the Methamphetamine Control and Community
20 Protection Act.

21 (3) This Section does not apply to a minor who would be
22 included herein solely for the purpose of qualifying for
23 financial assistance for himself, his parents, guardian or
24 custodian.

25 (Source: P.A. 95-443, eff. 1-1-08.)

1 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

2 (Text of Section after amendment by P.A. 95-642)

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

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

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

16 (a-5) with the approval of the Department of Children
17 and Family Services, place the minor in the subsidized
18 guardianship of a suitable relative or other person as
19 legal guardian; "subsidized guardianship" means a private
20 guardianship arrangement for children for whom the
21 permanency goals of return home and adoption have been
22 ruled out and who meet the qualifications for subsidized
23 guardianship as defined by the Department of Children and
24 Family Services in administrative rules;

25 (b) place the minor under the guardianship of a
26 probation officer;

1 (c) commit the minor to an agency for care or
2 placement, except an institution under the authority of the
3 Department of Corrections or of the Department of Children
4 and Family Services;

5 (d) commit the minor to the Department of Children and
6 Family Services for care and service; however, a minor
7 charged with a criminal offense under the Criminal Code of
8 1961 or adjudicated delinquent shall not be placed in the
9 custody of or committed to the Department of Children and
10 Family Services by any court, except a minor less than 15
11 years of age and committed to the Department of Children
12 and Family Services under Section 5-710 of this Act or a
13 minor for whom an independent basis of abuse, neglect, or
14 dependency exists. An independent basis exists when the
15 allegations or adjudication of abuse, neglect, or
16 dependency do not arise from the same facts, incident, or
17 circumstances which give rise to a charge or adjudication
18 of delinquency. The Department shall be given due notice of
19 the pendency of the action and the Guardianship
20 Administrator of the Department of Children and Family
21 Services shall be appointed guardian of the person of the
22 minor. Whenever the Department seeks to discharge a minor
23 from its care and service, the Guardianship Administrator
24 shall petition the court for an order terminating
25 guardianship. The Guardianship Administrator may designate
26 one or more other officers of the Department, appointed as

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

16 (1.5) In making a determination under this Section, the
17 court shall also consider whether, based on health, safety, and
18 the best interests of the minor,

19 (a) appropriate services aimed at family preservation
20 and family reunification have been unsuccessful in
21 rectifying the conditions that have led to a finding of
22 unfitness or inability to care for, protect, train, or
23 discipline the minor, or

24 (b) no family preservation or family reunification
25 services would be appropriate,
26 and if the petition or amended petition contained an allegation

1 that the parent is an unfit person as defined in subdivision
2 (D) of Section 1 of the Adoption Act, and the order of
3 adjudication recites that parental unfitness was established
4 by clear and convincing evidence, the court shall, when
5 appropriate and in the best interest of the minor, enter an
6 order terminating parental rights and appointing a guardian
7 with power to consent to adoption in accordance with Section
8 2-29.

9 When making a placement, the court, wherever possible,
10 shall require the Department of Children and Family Services to
11 select a person holding the same religious belief as that of
12 the minor or a private agency controlled by persons of like
13 religious faith of the minor and shall require the Department
14 to otherwise comply with Section 7 of the Children and Family
15 Services Act in placing the child. In addition, whenever
16 alternative plans for placement are available, the court shall
17 ascertain and consider, to the extent appropriate in the
18 particular case, the views and preferences of the minor.

19 (1.6) If the court determines that the parent, legal
20 guardian, or custodian of a minor has been convicted 2 or more
21 times for the offense of participation in methamphetamine
22 manufacturing as defined in Section 15 of the Methamphetamine
23 Control and Community Protection Act, the court shall
24 automatically terminate such parent, legal guardian, or
25 custodian's rights in relation to the minor and place the minor
26 with a suitable relative or other person or commit the minor to

1 an agency for care or placement as provided in subsection (1).

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. 95-642, eff. 6-1-08.)