



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0520

Introduced 2/4/2009, by Rep. Esther Golar

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-3	from Ch. 37, par. 801-3
705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/2-4	from Ch. 37, par. 802-4

Amends the Juvenile Court Act of 1987. Defines "mentally capable adult relative" and "physically capable adult relative". Provides that a minor shall not be considered neglected or dependent for the sole reason that the minor's parent or parents or other person or persons responsible for the minor's welfare have left the minor in the care of a physically and mentally capable adult relative who is willing and able to care for the minor for any period of time. Effective immediately.

LRB096 07675 RLC 17776 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 1-3, 2-3 and 2-4 as follows:

6 (705 ILCS 405/1-3) (from Ch. 37, par. 801-3)

7 Sec. 1-3. Definitions. Terms used in this Act, unless the
8 context otherwise requires, have the following meanings
9 ascribed to them:

10 (1) "Adjudicatory hearing" means a hearing to determine
11 whether the allegations of a petition under Section 2-13, 3-15
12 or 4-12 that a minor under 18 years of age is abused, neglected
13 or dependent, or requires authoritative intervention, or
14 addicted, respectively, are supported by a preponderance of the
15 evidence or whether the allegations of a petition under Section
16 5-520 that a minor is delinquent are proved beyond a reasonable
17 doubt.

18 (2) "Adult" means a person 21 years of age or older.

19 (3) "Agency" means a public or private child care facility
20 legally authorized or licensed by this State for placement or
21 institutional care or for both placement and institutional
22 care.

23 (4) "Association" means any organization, public or

1 private, engaged in welfare functions which include services to
2 or on behalf of children but does not include "agency" as
3 herein defined.

4 (4.05) Whenever a "best interest" determination is
5 required, the following factors shall be considered in the
6 context of the child's age and developmental needs:

7 (a) the physical safety and welfare of the child,
8 including food, shelter, health, and clothing;

9 (b) the development of the child's identity;

10 (c) the child's background and ties, including
11 familial, cultural, and religious;

12 (d) the child's sense of attachments, including:

13 (i) where the child actually feels love,
14 attachment, and a sense of being valued (as opposed to
15 where adults believe the child should feel such love,
16 attachment, and a sense of being valued);

17 (ii) the child's sense of security;

18 (iii) the child's sense of familiarity;

19 (iv) continuity of affection for the child;

20 (v) the least disruptive placement alternative for
21 the child;

22 (e) the child's wishes and long-term goals;

23 (f) the child's community ties, including church,
24 school, and friends;

25 (g) the child's need for permanence which includes the
26 child's need for stability and continuity of relationships

1 with parent figures and with siblings and other relatives;

2 (h) the uniqueness of every family and child;

3 (i) the risks attendant to entering and being in
4 substitute care; and

5 (j) the preferences of the persons available to care
6 for the child.

7 (4.1) "Chronic truant" shall have the definition ascribed
8 to it in Section 26-2a of the School Code.

9 (5) "Court" means the circuit court in a session or
10 division assigned to hear proceedings under this Act.

11 (6) "Dispositional hearing" means a hearing to determine
12 whether a minor should be adjudged to be a ward of the court,
13 and to determine what order of disposition should be made in
14 respect to a minor adjudged to be a ward of the court.

15 (7) "Emancipated minor" means any minor 16 years of age or
16 over who has been completely or partially emancipated under the
17 Emancipation of Minors Act or under this Act.

18 (8) "Guardianship of the person" of a minor means the duty
19 and authority to act in the best interests of the minor,
20 subject to residual parental rights and responsibilities, to
21 make important decisions in matters having a permanent effect
22 on the life and development of the minor and to be concerned
23 with his or her general welfare. It includes but is not
24 necessarily limited to:

25 (a) the authority to consent to marriage, to enlistment
26 in the armed forces of the United States, or to a major

1 medical, psychiatric, and surgical treatment; to represent
2 the minor in legal actions; and to make other decisions of
3 substantial legal significance concerning the minor;

4 (b) the authority and duty of reasonable visitation,
5 except to the extent that these have been limited in the
6 best interests of the minor by court order;

7 (c) the rights and responsibilities of legal custody
8 except where legal custody has been vested in another
9 person or agency; and

10 (d) the power to consent to the adoption of the minor,
11 but only if expressly conferred on the guardian in
12 accordance with Section 2-29, 3-30, or 4-27.

13 (9) "Legal custody" means the relationship created by an
14 order of court in the best interests of the minor which imposes
15 on the custodian the responsibility of physical possession of a
16 minor and the duty to protect, train and discipline him and to
17 provide him with food, shelter, education and ordinary medical
18 care, except as these are limited by residual parental rights
19 and responsibilities and the rights and responsibilities of the
20 guardian of the person, if any.

21 (9.1) "Mentally capable adult relative" means a person 21
22 years of age or older who is free of learning disabilities,
23 psychiatric diagnoses, or other mental disabilities that
24 prevent him or her from providing the care necessary to
25 safeguard the physical safety and welfare of the minor.

26 (10) "Minor" means a person under the age of 21 years

1 subject to this Act.

2 (11) "Parent" means the father or mother of a child and
3 includes any adoptive parent. It also includes a man (i) whose
4 paternity is presumed or has been established under the law of
5 this or another jurisdiction or (ii) who has registered with
6 the Putative Father Registry in accordance with Section 12.1 of
7 the Adoption Act and whose paternity has not been ruled out
8 under the law of this or another jurisdiction. It does not
9 include a parent whose rights in respect to the minor have been
10 terminated in any manner provided by law.

11 (11.1) "Permanency goal" means a goal set by the court as
12 defined in subdivision (2) of Section 2-28.

13 (11.2) "Permanency hearing" means a hearing to set the
14 permanency goal and to review and determine (i) the
15 appropriateness of the services contained in the plan and
16 whether those services have been provided, (ii) whether
17 reasonable efforts have been made by all the parties to the
18 service plan to achieve the goal, and (iii) whether the plan
19 and goal have been achieved.

20 (12) "Petition" means the petition provided for in Section
21 2-13, 3-15, 4-12 or 5-520, including any supplemental petitions
22 thereunder in Section 3-15, 4-12 or 5-520.

23 (12.1) "Physically capable adult relative" means a person
24 21 years of age or older who is free of physical disabilities
25 or severe limitations, including but not limited to the ability
26 to be freely mobile, that prevent him or her from providing the

1 care necessary to safeguard the physical safety and welfare of
2 the minor.

3 (13) "Residual parental rights and responsibilities" means
4 those rights and responsibilities remaining with the parent
5 after the transfer of legal custody or guardianship of the
6 person, including, but not necessarily limited to, the right to
7 reasonable visitation (which may be limited by the court in the
8 best interests of the minor as provided in subsection (8) (b) of
9 this Section), the right to consent to adoption, the right to
10 determine the minor's religious affiliation, and the
11 responsibility for his support.

12 (14) "Shelter" means the temporary care of a minor in
13 physically unrestricting facilities pending court disposition
14 or execution of court order for placement.

15 (15) "Station adjustment" means the informal handling of an
16 alleged offender by a juvenile police officer.

17 (16) "Ward of the court" means a minor who is so adjudged
18 under Section 2-22, 3-23, 4-20 or 5-705, after a finding of the
19 requisite jurisdictional facts, and thus is subject to the
20 dispositional powers of the court under this Act.

21 (17) "Juvenile police officer" means a sworn police officer
22 who has completed a Basic Recruit Training Course, has been
23 assigned to the position of juvenile police officer by his or
24 her chief law enforcement officer and has completed the
25 necessary juvenile officers training as prescribed by the
26 Illinois Law Enforcement Training Standards Board, or in the

1 case of a State police officer, juvenile officer training
2 approved by the Director of the Department of State Police.

3 (18) "Secure child care facility" means any child care
4 facility licensed by the Department of Children and Family
5 Services to provide secure living arrangements for children
6 under 18 years of age who are subject to placement in
7 facilities under the Children and Family Services Act and who
8 are not subject to placement in facilities for whom standards
9 are established by the Department of Corrections under Section
10 3-15-2 of the Unified Code of Corrections. "Secure child care
11 facility" also means a facility that is designed and operated
12 to ensure that all entrances and exits from the facility, a
13 building, or a distinct part of the building are under the
14 exclusive control of the staff of the facility, whether or not
15 the child has the freedom of movement within the perimeter of
16 the facility, building, or distinct part of the building.

17 (Source: P.A. 95-331, eff. 8-21-07.)

18 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

20 (1) Those who are neglected include:

21 (a) any minor under 18 years of age who is not
22 receiving the proper or necessary support, education as
23 required by law, or medical or other remedial care
24 recognized under State law as necessary for a minor's
25 well-being, or other care necessary for his or her

1 well-being, including adequate food, clothing and shelter,
2 or who is abandoned by his or her parent or parents or
3 other person or persons responsible for the minor's
4 welfare, except that a minor shall not be considered
5 neglected for the sole reason that the minor's parent or
6 parents or other person or persons responsible for the
7 minor's welfare have ~~has~~ left the minor in the care of a
8 physically and mentally capable ~~an~~ adult relative who is
9 willing and able to care for the minor for any period of
10 time; or

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

13 (c) any newborn infant whose blood, urine, or meconium
14 contains any amount of a controlled substance as defined in
15 subsection (f) of Section 102 of the Illinois Controlled
16 Substances Act, as now or hereafter amended, or a
17 metabolite of a controlled substance, with the exception of
18 controlled substances or metabolites of such substances,
19 the presence of which in the newborn infant is the result
20 of medical treatment administered to the mother or the
21 newborn infant; or

22 (d) any minor under the age of 14 years whose parent or
23 other person responsible for the minor's welfare leaves the
24 minor without supervision for an unreasonable period of
25 time without regard for the mental or physical health,
26 safety, or welfare of that minor; or

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

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

11 (1) the age of the minor;

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

13 (3) special needs of the minor, including whether the
14 minor is physically or mentally handicapped, or otherwise
15 in need of ongoing prescribed medical treatment such as
16 periodic doses of insulin or other medications;

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

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

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

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

26 (8) the location of the parent or guardian at the time

1 the minor was left without supervision, the physical
2 distance the minor was from the parent or guardian at the
3 time the minor was without supervision;

4 (9) whether the minor's movement was restricted, or the
5 minor was otherwise locked within a room or other
6 structure;

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

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

12 (12) whether any of the conduct is attributable to
13 economic hardship or illness and the parent, guardian or
14 other person having physical custody or control of the
15 child made a good faith effort to provide for the health
16 and safety of the minor;

17 (13) the age and physical and mental capabilities of
18 the person or persons who provided supervision for the
19 minor;

20 (14) whether the minor was left under the supervision
21 of another person;

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

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

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

7 (i) inflicts, causes to be inflicted, or allows to be
8 inflicted upon such minor physical injury, by other than
9 accidental means, which causes death, disfigurement,
10 impairment of physical or emotional health, or loss or
11 impairment of any bodily function;

12 (ii) creates a substantial risk of physical injury to
13 such minor by other than accidental means which would be
14 likely to cause death, disfigurement, impairment of
15 emotional health, or loss or impairment of any bodily
16 function;

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

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

24 (v) inflicts excessive corporal punishment.

25 A minor shall not be considered abused for the sole reason
26 that the minor has been relinquished in accordance with the

1 Abandoned Newborn Infant Protection Act.

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

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

7 (705 ILCS 405/2-4) (from Ch. 37, par. 802-4)

8 Sec. 2-4. Dependent minor.

9 (1) Those who are dependent include any minor under 18
10 years of age:

11 (a) who is without a parent, guardian or legal
12 custodian;

13 (b) who is without proper care because of the physical
14 or mental disability of his parent, guardian or custodian;

15 (c) who is without proper medical or other remedial
16 care recognized under State law or other care necessary for
17 his or her well being through no fault, neglect or lack of
18 concern by his parents, guardian or custodian, provided
19 that no order may be made terminating parental rights, nor
20 may a minor be removed from the custody of his or her
21 parents for longer than 6 months, pursuant to an
22 adjudication as a dependent minor under this subdivision
23 (c), unless it is found to be in his or her best interest
24 by the court or the case automatically closes as provided
25 under Section 2-31 of this Act; or

1 (d) who has a parent, guardian or legal custodian who
2 with good cause wishes to be relieved of all residual
3 parental rights and responsibilities, guardianship or
4 custody, and who desires the appointment of a guardian of
5 the person with power to consent to the adoption of the
6 minor under Section 2-29.

7 (2) This Section does not apply to a minor who would be
8 included herein solely for the purpose of qualifying for
9 financial assistance for himself, his parent or parents,
10 guardian or custodian or to a minor solely because his or her
11 parent or parents or guardian has left the minor for any period
12 of time in the care of a physically and mentally capable an
13 adult relative who is willing and able to care for the minor.

14 (Source: P.A. 91-357, eff. 7-29-99.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.