



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4055

Introduced 2/27/2009, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

750 ILCS 50/14.5 new

Amends the Adoption Act. Provides that a former parent whose parental rights have been terminated pursuant to a surrender of the minor for adoption, a consent to the minor's adoption, or a finding of unfitness of the parent may petition for those rights to be reinstated if the adoptive parent dies or is incapable of caring for the child due to a physical or mental impairment and consents to the reinstatement of parental rights. Provides that, before granting a petition for reinstatement, the court must consider the petitioner's current abilities, the best interests of the minor and the basis for the termination of parental rights. Contains other provisions. Effective July 1, 2009.

LRB096 09934 AJ0 22482 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by adding Section
5 14.5 as follows:

6 (750 ILCS 50/14.5 new)

7 Sec. 14.5. Supplemental petition to reinstate parental
8 rights.

9 (a) For purposes of this Section, the term "former parent"
10 means a person whose rights were terminated as described in
11 paragraph (1) or (2). A petition to reinstate parental rights
12 may be filed regarding any minor who was a ward of the court
13 under Article II of the Juvenile Court Act of 1987 when:

14 (1) while the minor was under the jurisdiction of the
15 court under Article II of the Juvenile Court Act of 1987,
16 the minor's former parent or former parents surrendered the
17 minor for adoption to an agency legally authorized to place
18 children for adoption, or the minor's former parent or
19 former parents consented to the minor's adoption, or the
20 former parent's or former parents' rights were terminated
21 pursuant to a finding of unfitness pursuant to Section 2-29
22 of the Juvenile Court Act of 1987 and a guardian was
23 appointed with the power to consent to adoption pursuant to

1 Section 2-29 of the Juvenile Court Act of 1987; or

2 (2) following the appointment of a guardian with the
3 right to consent to the adoption of the minor pursuant to
4 Section 2-29 of the Juvenile Court Act of 1987, the former
5 parent's or former parents' rights were terminated
6 pursuant to a finding of unfitness pursuant to Section 13.
7 A.(d); and

8 (3) (i) since the signing of the surrender or consent,
9 or the unfitness finding, the minor remained a ward of the
10 court and was subsequently adopted by an individual or
11 individuals and (ii) either the adoptive parent has died;
12 or due to a mental or physical impairment the adoptive
13 parent is no longer able to provide care for the minor and
14 the adoptive parent or his or her representative have
15 indicated a willingness to consent in open court or by such
16 means as is approved by the court to the reinstatement of
17 parental rights of the petitioner; and

18 (4) the former parent named in the supplemental
19 petition wishes to have his or her parental rights
20 reinstated and meets the criteria established in this
21 Section to have those parental rights reinstated; and

22 (5) it is in the best interests of the minor to have
23 the petitioner's parental rights reinstated.

24 (b) The supplemental petition may be filed by any party or
25 by the individual seeking reinstatement of parental rights.

26 (c) Where a former parent seeks to have a court order the

1 reinstatement of his or her parental rights, the following
2 procedures shall apply:

3 (1) In addition to the requirements set out in this Act
4 in Section 5, a petition for reinstatement of parental
5 rights filed by a former parent shall include the following
6 allegations:

7 (A) that his or her parental rights were previously
8 terminated pursuant to Section 2-29 of the Juvenile
9 Court Act of 1987;

10 (B) the basis upon which his or her parental rights
11 were been terminated;

12 (C) that the petitioner is able and willing to
13 resume care, custody, and control of the minor;

14 (D) that the adoptive parent of the minor is
15 deceased; or the adoptive parent is no longer able to
16 provide care for the minor due to a mental or physical
17 impairment and is in agreement with the petitioner's
18 request for a court order reinstating parental rights;
19 and

20 (E) that it is in the best interests of the minor
21 to reinstate the petitioner's parental rights.

22 (2) A former parent shall not have standing to file a
23 petition for reinstatement of parental rights, where the
24 minor is the subject of a pending petition filed under
25 Article II of the Juvenile Court Act of 1987. If the minor
26 named in the petition for reinstatement of parental rights

1 is not the subject of a pending petition filed under
2 Article II of the Juvenile Court Act of 1987, a former
3 parent shall have standing to file a petition for
4 reinstatement of parental rights only if: the adoptive
5 parent is deceased; or the adoptive parent is no longer
6 able to provide care for the minor due to a mental or
7 physical impairment and has indicated his or her
8 willingness to consent to such reinstatement.

9 (d) Interim order. Following presentment of a petition for
10 reinstatement of parental rights concerning a child who was
11 previously named in a petition filed under Article II of the
12 Juvenile Court Act of 1987 the following procedures and
13 safeguards shall be employed, in addition to the applicable
14 requirements set out in this Act, and shall be included in the
15 written interim order for the reinstatement of parental rights:

16 (1) In determining the minor's best interest pursuant
17 to Section 2-29 of the Juvenile Court Act of 1987 and this
18 Act, the Court shall consider, in addition to the factors
19 set forth in subsection 4.05 of Section 1-3 of the Juvenile
20 Court Act of 1987, the reasons why the case was initially
21 brought to the attention of the juvenile court and adoption
22 proceedings were instituted, the history of the case as it
23 relates to the former parent seeking reinstatement, and the
24 current circumstances of the former parent for whom
25 reinstatement of rights is sought.

26 (2) In any case involving a child who meets these

1 criteria for reinstatement of parental rights, the
2 Department of Children and Family Services shall be
3 appointed as the investigator as outlined in Section 6 to
4 conduct an investigation and report to the court (i) the
5 facts and circumstances which raised concerns as to the
6 petitioner's ability and willingness to provide adequate
7 care and protection to children in his or her custody, (ii)
8 an assessment of the petitioner's current ability and
9 willingness to provide adequate care and protection for the
10 child named in the petition, and (iii) any information
11 which might reasonably raise a concern as to the child's
12 safety, well being, or best interests should the court
13 grant the petition to reinstate parental rights.

14 (3) In selecting the minor's guardian ad litem,
15 pursuant to subsection (B) of Section 13, whenever
16 practical, the court shall give preference to the guardian
17 ad litem who represented the minor in the juvenile court
18 proceeding. The guardian ad litem shall have the right to
19 review and copy all records, including juvenile court
20 records relating to the petitioner, the minor, and the
21 minor's siblings and half siblings.

22 (4) The report of the investigator and the guardian ad
23 litem shall be presented in writing to the court and shall
24 serve as a basis for the order of court upon the petition
25 for reinstatement of parental rights.

26 (e) Order of reinstatement of parental rights.

1 (1) If it is proved to the satisfaction of the court,
2 after such investigation as the court deems necessary, an
3 order of reinstatement of parental rights shall be entered.

4 (2) An order of reinstatement of parental rights shall
5 be final as to all findings and shall be entered in
6 writing.

7 (3) Upon the entry of an order granting a supplemental
8 petition to reinstate parental rights, all parental rights
9 of the former parent named in the order shall be reinstated
10 and the physical care, custody and control of the minor
11 shall be reinstated to the former parent.

12 (4) The order of reinstatement of parental rights shall
13 include an order to the Illinois Department of Public
14 Health to issue a new birth certificate for the person who
15 is the subject of the petition for reinstatement of
16 parental rights.

17 Section 99. Effective date. This Act takes effect July 1,
18 2009.