

HB3147



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3147

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-34

Amends the Juvenile Court Act of 1987. Provides that a motion to reinstate parental rights may be filed only by the Department of Children and Family Services or the minor regarding any minor who is presently a ward of the court under the Abused, Neglected, or Dependent Minors Article of the Act when certain specified conditions are met. Deletes that the Section concerning a motion to reinstate parental rights is repealed 4 years after its effective date (August 21, 2013). Effective immediately.

LRB098 09051 RLC 39187 b

A BILL FOR

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 2-34 as follows:

6 (705 ILCS 405/2-34)

7 (Section scheduled to be repealed on August 21, 2013)

8 Sec. 2-34. Motion to reinstate parental rights.

9 (1) For purposes of this subsection (1), the term "parent"
10 refers to the person or persons whose rights were terminated as
11 described in paragraph (a) of this subsection; and the term
12 "minor" means a person under the age of 21 years subject to
13 this Act for whom the Department of Children and Family
14 Services Guardianship Administrator is appointed the temporary
15 custodian or guardian.

16 A motion to reinstate parental rights may be filed only by
17 the Department of Children and Family Services or the minor
18 regarding any minor who is presently a ward of the court under
19 Article II of this Act when all the conditions set out in
20 paragraphs (a), (b), (c), (d), (e), (f), and (g) of this
21 subsection (1) are met:

22 (a) while the minor was under the jurisdiction of the
23 court under Article II of this Act, the minor's parent or

1 parents surrendered the minor for adoption to an agency
2 legally authorized to place children for adoption, or the
3 minor's parent or parents consented to his or her adoption,
4 or the minor's parent or parents consented to his or her
5 adoption by a specified person or persons, or the parent or
6 parents' rights were terminated pursuant to a finding of
7 unfitness pursuant to Section 2-29 of this Act and a
8 guardian was appointed with the power to consent to
9 adoption pursuant to Section 2-29 of this Act; and

10 (b) (i) since the signing of the surrender, the signing
11 of the consent, or the unfitness finding, the minor has
12 remained a ward of the Court under Article II of this Act;
13 or

14 (ii) the minor was made a ward of the Court, the minor
15 was placed in the private guardianship of an individual or
16 individuals, and after the appointment of a private
17 guardian and a new petition alleging abuse, neglect, or
18 dependency pursuant to Section 2-3 or 2-4 is filed, and the
19 minor is again found by the court to be abused, neglected
20 or dependent; or a supplemental petition to reinstate
21 wardship is filed pursuant to Section 2-33, and the court
22 reinstates wardship; or

23 (iii) the minor was made a ward of the Court, wardship
24 was terminated after the minor was adopted, after the
25 adoption a new petition alleging abuse, neglect, or
26 dependency pursuant to Section 2-3 or 2-4 is filed, and the

1 minor is again found by the court to be abused, neglected,
2 or dependent, and either (i) the adoptive parent or parents
3 are deceased, (ii) the adoptive parent or parents signed a
4 surrender of parental rights, or (iii) the parental rights
5 of the adoptive parent or parents were terminated;

6 (c) the minor is not currently in a placement likely to
7 achieve permanency;

8 (d) it is in the minor's best interest that parental
9 rights be reinstated;

10 (e) the parent named in the motion wishes parental
11 rights to be reinstated and is currently appropriate to
12 have rights reinstated;

13 (f) more than 3 years have lapsed since the signing of
14 the consent or surrender, or the entry of the order
15 appointing a guardian with the power to consent to
16 adoption;

17 (g) (i) the child is 13 years of age or older or (ii)
18 the child is the younger sibling of such child, 13 years of
19 age or older, for whom reinstatement of parental rights is
20 being sought and the younger sibling independently meets
21 the criteria set forth in paragraphs (a) through (h) of
22 this subsection; and

23 (h) if the court has previously denied a motion to
24 reinstate parental rights filed by the Department, there
25 has been a substantial change in circumstances following
26 the denial of the earlier motion.

1 (2) The motion may be filed only by the Department of
2 Children and Family Services. Unless excused by the court for
3 good cause shown, the movant shall give notice of the time and
4 place of the hearing on the motion, in person or by mail, to
5 the parties to the juvenile court proceeding. Notice shall be
6 provided at least 14 days in advance of the hearing date. The
7 motion shall include the allegations required in subsection (1)
8 of this Section.

9 (3) Any party may file a motion to dismiss the motion with
10 prejudice on the basis that the parent has intentionally acted
11 to prevent the child from being adopted, after parental rights
12 were terminated or the parent intentionally acted to disrupt
13 the child's adoption. If the court finds by a preponderance of
14 the evidence that the parent has intentionally acted to prevent
15 the child from being adopted, after parental rights were
16 terminated or that the parent intentionally acted to disrupt
17 the child's adoption, the court shall dismiss the petition with
18 prejudice.

19 (4) The court shall not grant a motion for reinstatement of
20 parental rights unless the court finds that the motion is
21 supported by clear and convincing evidence. In ruling on a
22 motion to reinstate parental rights, the court shall make
23 findings consistent with the requirements in subsection (1) of
24 this Section. The court shall consider the reasons why the
25 child was initially brought to the attention of the court, the
26 history of the child's case as it relates to the parent seeking

1 reinstatement, and the current circumstances of the parent for
2 whom reinstatement of rights is sought. If reinstatement is
3 being considered subsequent to a finding of unfitness pursuant
4 to Section 2-29 of this Act having been entered with respect to
5 the parent whose rights are being restored, the court in
6 determining the minor's best interest shall consider, in
7 addition to the factors set forth in paragraph (4.05) of
8 Section 1-3 of this Act, the specific grounds upon which the
9 unfitness findings were made. Upon the entry of an order
10 granting a motion to reinstate parental rights, parental rights
11 of the parent named in the order shall be reinstated, any
12 previous order appointing a guardian with the power to consent
13 to adoption shall be void and with respect to the parent named
14 in the order, any consent shall be void.

15 (5) If the case is post-disposition, the court, upon the
16 entry of an order granting a motion to reinstate parental
17 rights, shall schedule the matter for a permanency hearing
18 pursuant to Section 2-28 of this Act within 45 days.

19 (6) Custody of the minor shall not be restored to the
20 parent, except by order of court pursuant to subsection (4) of
21 Section 2-28 of this Act.

22 (7) In any case involving a child over the age of 13 who
23 meets the criteria established in this Section for
24 reinstatement of parental rights, the Department of Children
25 and Family Services shall conduct an assessment of the child's
26 circumstances to assist in future planning for the child,

1 including, but not limited to a determination regarding the
2 appropriateness of filing a motion to reinstate parental
3 rights.

4 (8) (Blank). ~~This Section is repealed 4 years after the~~
5 ~~effective date of this amendatory Act of the 96th General~~
6 ~~Assembly.~~

7 (Source: P.A. 96-600, eff. 8-21-09; 96-1375, eff. 7-29-10.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.