



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0114

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-745

Amends the Juvenile Court Act of 1987. Provides that the Department of Juvenile Justice shall file a critical incident report with the court within 10 days of the occurrence of a critical incident involving a youth committed to the Department. Provides that critical incidents are incidents that involve a serious risk to the life, health, or wellbeing of the youth, including, but not limited to, accidents or suicide attempts resulting in serious bodily harm or hospitalization, psychiatric hospitalization, alleged or suspected abuse, or escape or attempted escape from custody. Provides that the report shall contain a brief description of the incident, a summary of the actions the Department took as a result of the incident, and relevant information regarding the youth's current physical, mental, and emotional health. Provides that if the minor is in the physical custody of the Department of Juvenile Justice, the Department shall file updated case plans with the court every 6 months.

LRB099 03699 RLC 23711 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 Section 5-745 as follows:

6 (705 ILCS 405/5-745)

7 Sec. 5-745. Court review.

8 (1) The court may require any legal custodian or guardian
9 of the person appointed under this Act, including the
10 Department of Juvenile Justice for youth committed under
11 Section 5-750 of this Act, to report periodically to the court
12 or may cite him or her into court and require him or her, or his
13 or her agency, to make a full and accurate report of his or her
14 or its doings in behalf of the minor, including efforts to
15 secure post-release placement of the youth after release from
16 the Department's facilities. The legal custodian or guardian,
17 within 10 days after the citation, shall make the report,
18 either in writing verified by affidavit or orally under oath in
19 open court, or otherwise as the court directs. Upon the hearing
20 of the report the court may remove the legal custodian or
21 guardian and appoint another in his or her stead or restore the
22 minor to the custody of his or her parents or former guardian
23 or legal custodian.

1 (1.5) The Department of Juvenile Justice shall file a
2 critical incident report with the court within 10 days of the
3 occurrence of a critical incident involving a youth committed
4 to the Department. "Critical incident" means an incident that
5 involves a serious risk to the life, health, or wellbeing of
6 the youth, including, but not limited to, an accident or
7 suicide attempt resulting in serious bodily harm or
8 hospitalization, psychiatric hospitalization, alleged or
9 suspected abuse, or escape or attempted escape from custody.
10 The report shall contain a brief description of the incident, a
11 summary of the actions the Department took as a result of the
12 incident, and relevant information regarding the youth's
13 current physical, mental, and emotional health. Upon receipt of
14 the critical incident report, the court shall review the report
15 and may require the Department to make a full report under
16 subsection (1) of this Section.

17 (2) A guardian or legal custodian appointed by the court
18 under this Act shall file updated case plans with the court
19 every 6 months. Every agency which has guardianship of a child
20 shall file a supplemental petition for court review, or review
21 by an administrative body appointed or approved by the court
22 and further order within 18 months of the sentencing order and
23 each 18 months thereafter. The petition shall state facts
24 relative to the child's present condition of physical, mental
25 and emotional health as well as facts relative to his or her
26 present custodial or foster care. The petition shall be set for

1 hearing and the clerk shall mail 10 days notice of the hearing
2 by certified mail, return receipt requested, to the person or
3 agency having the physical custody of the child, the minor and
4 other interested parties unless a written waiver of notice is
5 filed with the petition.

6 If the minor is in the custody of the Illinois Department
7 of Children and Family Services, pursuant to an order entered
8 under this Article, the court shall conduct permanency hearings
9 as set out in subsections (1), (2), and (3) of Section 2-28 of
10 Article II of this Act.

11 Rights of wards of the court under this Act are enforceable
12 against any public agency by complaints for relief by mandamus
13 filed in any proceedings brought under this Act.

14 (2.1) The following provisions apply if the minor is in the
15 physical custody of the Department of Juvenile Justice. The
16 Department of Juvenile Justice shall file updated case plans
17 with the court every 6 months. The plan shall also be provided
18 to the minor's court appointed guardian ad litem, when the
19 Department has received written notice of the appointment and a
20 copy of the order making the appointment. When the court record
21 includes the last known addresses for the minor's parents and
22 guardian, the Department shall send a notice to the parents or
23 guardian that the plan is available and the Department shall
24 provide the plan to the parents or guardian upon request. On or
25 before January 1, 2017, the Department of Juvenile Justice
26 shall adopt final rules setting out the information to be

1 contained in the case plan. The rules shall require that the
2 information in the case plan is sufficient to assist the court
3 in determining whether the minor's incarceration is consistent
4 with the goals under Section 5-101 of this Act. The rules shall
5 ensure that the materials and information contained in the plan
6 do not violate the minor's federal and State rights to privacy
7 and confidentiality and shall establish procedures whereby
8 these rights may be expressly waived in writing by the minor or
9 the minor's guardian or parent if waiver is authorized by law.
10 Upon receipt of the plan, the court shall review the case plan
11 and determine whether a hearing would serve the minor's best
12 interests. The guardian ad litem, parent, or guardian of the
13 minor may request that the court conduct a hearing. When the
14 court has set a hearing on the case plan, the clerk shall mail
15 notice of the hearing to the Director of Juvenile Justice and
16 the minor's guardian ad litem at least 10 days prior to the
17 hearing and when the court record includes their last known
18 addresses, to the minor's parents and guardian. If the minor
19 does not have an attorney or guardian ad litem appointed, the
20 court may appoint an attorney or guardian ad litem, or both,
21 for the minor. In conducting hearings under this Section, the
22 court may take testimony of witnesses and order that the minor
23 participate in the hearing by way of teleconferencing or
24 audio-visual communication, if this communication technology
25 is available. If after receiving evidence, the court determines
26 that the services contained in the plan are not reasonably

1 calculated to prepare the minor for a successful reentry into
2 the community, the court shall put in writing the factual basis
3 supporting the determination and enter specific findings based
4 on the evidence. The court also shall enter an order for the
5 Department to develop and implement a new case plan or to
6 implement changes to the current case plan consistent with the
7 court's findings. The new case plan shall be filed with the
8 court and served on all parties within 45 days of the date of
9 the order. The court shall continue the matter until the new
10 case plan is filed. Unless otherwise specifically authorized by
11 law, the court may not under this subsection (2.1) order
12 specific placements, specific services, or specific service
13 providers to be included in the plan.

14 (3) The minor or any person interested in the minor may
15 apply to the court for a change in custody of the minor and the
16 appointment of a new custodian or guardian of the person or for
17 the restoration of the minor to the custody of his or her
18 parents or former guardian or custodian. In the event that the
19 minor has attained 18 years of age and the guardian or
20 custodian petitions the court for an order terminating his or
21 her guardianship or custody, guardianship or legal custody
22 shall terminate automatically 30 days after the receipt of the
23 petition unless the court orders otherwise. No legal custodian
24 or guardian of the person may be removed without his or her
25 consent until given notice and an opportunity to be heard by
26 the court.

1 (Source: P.A. 96-178, eff. 1-1-10; 97-518, eff. 1-1-12.)