



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0292

Introduced 2/3/2005, by Sen. Dale E. Risinger

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-5
725 ILCS 120/3

from Ch. 37, par. 801-5
from Ch. 38, par. 1403

Amends the Juvenile Court Act of 1987. In the provision that the general public except for the news media and the victim shall be excluded from any hearing, changes the reference from "victim" to "crime victim" as defined in the Rights of Crime Victims and Witnesses Act. Amends the Rights of Crime Victims and Witnesses Act. Defines "crime victim" in proceedings under the Juvenile Court Act of 1987 to include both parents of a deceased minor who is a crime victim.

LRB094 06439 RLC 36527 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 1-5 as follows:

6 (705 ILCS 405/1-5) (from Ch. 37, par. 801-5)

7 Sec. 1-5. Rights of parties to proceedings.

8 (1) Except as provided in this Section and paragraph (2) of
9 Sections 2-22, 3-23, 4-20, 5-610 or 5-705, the minor who is the
10 subject of the proceeding and his parents, guardian, legal
11 custodian or responsible relative who are parties respondent
12 have the right to be present, to be heard, to present evidence
13 material to the proceedings, to cross-examine witnesses, to
14 examine pertinent court files and records and also, although
15 proceedings under this Act are not intended to be adversary in
16 character, the right to be represented by counsel. At the
17 request of any party financially unable to employ counsel, with
18 the exception of a foster parent permitted to intervene under
19 this Section, the court shall appoint the Public Defender or
20 such other counsel as the case may require. Counsel appointed
21 for the minor and any indigent party shall appear at all stages
22 of the trial court proceeding, and such appointment shall
23 continue through the permanency hearings and termination of
24 parental rights proceedings subject to withdrawal or
25 substitution pursuant to Supreme Court Rules or the Code of
26 Civil Procedure. Following the dispositional hearing, the
27 court may require appointed counsel, other than counsel for the
28 minor or counsel for the guardian ad litem, to withdraw his or
29 her appearance upon failure of the party for whom counsel was
30 appointed under this Section to attend any subsequent
31 proceedings.

32 No hearing on any petition or motion filed under this Act

1 may be commenced unless the minor who is the subject of the
2 proceeding is represented by counsel. Notwithstanding the
3 preceding sentence, if a guardian ad litem has been appointed
4 for the minor under Section 2-17 of this Act and the guardian
5 ad litem is a licensed attorney at law of this State, or in the
6 event that a court appointed special advocate has been
7 appointed as guardian ad litem and counsel has been appointed
8 to represent the court appointed special advocate, the court
9 may not require the appointment of counsel to represent the
10 minor unless the court finds that the minor's interests are in
11 conflict with what the guardian ad litem determines to be in
12 the best interest of the minor. Each adult respondent shall be
13 furnished a written "Notice of Rights" at or before the first
14 hearing at which he or she appears.

15 (1.5) The Department shall maintain a system of response to
16 inquiry made by parents or putative parents as to whether their
17 child is under the custody or guardianship of the Department;
18 and if so, the Department shall direct the parents or putative
19 parents to the appropriate court of jurisdiction, including
20 where inquiry may be made of the clerk of the court regarding
21 the case number and the next scheduled court date of the
22 minor's case. Effective notice and the means of accessing
23 information shall be given to the public on a continuing basis
24 by the Department.

25 (2) (a) Though not appointed guardian or legal custodian or
26 otherwise made a party to the proceeding, any current or
27 previously appointed foster parent or relative caregiver, or
28 representative of an agency or association interested in the
29 minor has the right to be heard by the court, but does not
30 thereby become a party to the proceeding.

31 In addition to the foregoing right to be heard by the
32 court, any current foster parent or relative caregiver of a
33 minor and the agency designated by the court or the Department
34 of Children and Family Services as custodian of the minor who
35 is alleged to be or has been adjudicated an abused or neglected
36 minor under Section 2-3 or a dependent minor under Section 2-4

1 of this Act has the right to and shall be given adequate notice
2 at all stages of any hearing or proceeding under this Act.

3 Any foster parent or relative caregiver who is denied his
4 or her right to be heard under this Section may bring a
5 mandamus action under Article XIV of the Code of Civil
6 Procedure against the court or any public agency to enforce
7 that right. The mandamus action may be brought immediately upon
8 the denial of those rights but in no event later than 30 days
9 after the foster parent has been denied the right to be heard.

10 (b) If after an adjudication that a minor is abused or
11 neglected as provided under Section 2-21 of this Act and a
12 motion has been made to restore the minor to any parent,
13 guardian, or legal custodian found by the court to have caused
14 the neglect or to have inflicted the abuse on the minor, a
15 foster parent may file a motion to intervene in the proceeding
16 for the sole purpose of requesting that the minor be placed
17 with the foster parent, provided that the foster parent (i) is
18 the current foster parent of the minor or (ii) has previously
19 been a foster parent for the minor for one year or more, has a
20 foster care license or is eligible for a license, and is not
21 the subject of any findings of abuse or neglect of any child.
22 The juvenile court may only enter orders placing a minor with a
23 specific foster parent under this subsection (2) (b) and nothing
24 in this Section shall be construed to confer any jurisdiction
25 or authority on the juvenile court to issue any other orders
26 requiring the appointed guardian or custodian of a minor to
27 place the minor in a designated foster home or facility. This
28 Section is not intended to encompass any matters that are
29 within the scope or determinable under the administrative and
30 appeal process established by rules of the Department of
31 Children and Family Services under Section 5(o) of the Children
32 and Family Services Act. Nothing in this Section shall relieve
33 the court of its responsibility, under Section 2-14(a) of this
34 Act to act in a just and speedy manner to reunify families
35 where it is the best interests of the minor and the child can
36 be cared for at home without endangering the child's health or

1 safety and, if reunification is not in the best interests of
2 the minor, to find another permanent home for the minor.
3 Nothing in this Section, or in any order issued by the court
4 with respect to the placement of a minor with a foster parent,
5 shall impair the ability of the Department of Children and
6 Family Services, or anyone else authorized under Section 5 of
7 the Abused and Neglected Child Reporting Act, to remove a minor
8 from the home of a foster parent if the Department of Children
9 and Family Services or the person removing the minor has reason
10 to believe that the circumstances or conditions of the minor
11 are such that continuing in the residence or care of the foster
12 parent will jeopardize the child's health and safety or present
13 an imminent risk of harm to that minor's life.

14 (c) If a foster parent has had the minor who is the subject
15 of the proceeding under Article II in his or her home for more
16 than one year on or after July 3, 1994 and if the minor's
17 placement is being terminated from that foster parent's home,
18 that foster parent shall have standing and intervenor status
19 except in those circumstances where the Department of Children
20 and Family Services or anyone else authorized under Section 5
21 of the Abused and Neglected Child Reporting Act has removed the
22 minor from the foster parent because of a reasonable belief
23 that the circumstances or conditions of the minor are such that
24 continuing in the residence or care of the foster parent will
25 jeopardize the child's health or safety or presents an imminent
26 risk of harm to the minor's life.

27 (d) The court may grant standing to any foster parent if
28 the court finds that it is in the best interest of the child
29 for the foster parent to have standing and intervenor status.

30 (3) Parties respondent are entitled to notice in compliance
31 with Sections 2-15 and 2-16, 3-17 and 3-18, 4-14 and 4-15 or
32 5-525 and 5-530, as appropriate. At the first appearance before
33 the court by the minor, his parents, guardian, custodian or
34 responsible relative, the court shall explain the nature of the
35 proceedings and inform the parties of their rights under the
36 first 2 paragraphs of this Section.

1 If the child is alleged to be abused, neglected or
2 dependent, the court shall admonish the parents that if the
3 court declares the child to be a ward of the court and awards
4 custody or guardianship to the Department of Children and
5 Family Services, the parents must cooperate with the Department
6 of Children and Family Services, comply with the terms of the
7 service plans, and correct the conditions that require the
8 child to be in care, or risk termination of their parental
9 rights.

10 Upon an adjudication of wardship of the court under
11 Sections 2-22, 3-23, 4-20 or 5-705, the court shall inform the
12 parties of their right to appeal therefrom as well as from any
13 other final judgment of the court.

14 When the court finds that a child is an abused, neglected,
15 or dependent minor under Section 2-21, the court shall admonish
16 the parents that the parents must cooperate with the Department
17 of Children and Family Services, comply with the terms of the
18 service plans, and correct the conditions that require the
19 child to be in care, or risk termination of their parental
20 rights.

21 When the court declares a child to be a ward of the court
22 and awards guardianship to the Department of Children and
23 Family Services under Section 2-22, the court shall admonish
24 the parents, guardian, custodian, or responsible relative that
25 the parents must cooperate with the Department of Children and
26 Family Services, comply with the terms of the service plans,
27 and correct the conditions that require the child to be in
28 care, or risk termination of their parental rights.

29 (4) No sanction may be applied against the minor who is the
30 subject of the proceedings by reason of his refusal or failure
31 to testify in the course of any hearing held prior to final
32 adjudication under Section 2-22, 3-23, 4-20 or 5-705.

33 (5) In the discretion of the court, the minor may be
34 excluded from any part or parts of a dispositional hearing and,
35 with the consent of the parent or parents, guardian, counsel or
36 a guardian ad litem, from any part or parts of an adjudicatory

1 hearing.

2 (6) The general public except for the news media and the
3 crime victim, as defined in Section 3 of the Rights of Crime
4 Victims and Witnesses Act, shall be excluded from any hearing
5 and, except for the persons specified in this Section only
6 persons, including representatives of agencies and
7 associations, who in the opinion of the court have a direct
8 interest in the case or in the work of the court shall be
9 admitted to the hearing. However, the court may, for the
10 minor's safety and protection and for good cause shown,
11 prohibit any person or agency present in court from further
12 disclosing the minor's identity. Nothing in this subsection (6)
13 prevents the court from allowing other juveniles to be present
14 or to participate in a court session being held under the
15 Juvenile Drug Court Treatment Act.

16 (7) A party shall not be entitled to exercise the right to
17 a substitution of a judge without cause under subdivision
18 (a)(2) of Section 2-1001 of the Code of Civil Procedure in a
19 proceeding under this Act if the judge is currently assigned to
20 a proceeding involving the alleged abuse, neglect, or
21 dependency of the minor's sibling or half sibling and that
22 judge has made a substantive ruling in the proceeding involving
23 the minor's sibling or half sibling.

24 (Source: P.A. 92-559, eff. 1-1-03; 93-539, eff. 8-18-03.)

25 Section 10. The Rights of Crime Victims and Witnesses Act
26 is amended by changing Section 3 as follows:

27 (725 ILCS 120/3) (from Ch. 38, par. 1403)

28 Sec. 3. The terms used in this Act, unless the context
29 clearly requires otherwise, shall have the following meanings:

30 (a) "Crime victim" means (1) a person physically injured in
31 this State as a result of a violent crime perpetrated or
32 attempted against that person or (2) a person who suffers
33 injury to or loss of property as a result of a violent crime
34 perpetrated or attempted against that person or (3) a single

1 representative who may be the spouse, parent, child or sibling
2 of a person killed as a result of a violent crime perpetrated
3 against the person killed or the spouse, parent, child or
4 sibling of any person granted rights under this Act who is
5 physically or mentally incapable of exercising such rights,
6 except where the spouse, parent, child or sibling is also the
7 defendant or prisoner or (4) any person against whom a violent
8 crime has been committed or (5) any person who has suffered
9 personal injury as a result of a violation of Section 11-501 of
10 the Illinois Vehicle Code, or of a similar provision of a local
11 ordinance, or of Section 9-3 of the Criminal Code of 1961, as
12 amended or (6) in proceedings under the Juvenile Court Act of
13 1987, both parents of a deceased minor who is a crime victim;

14 (b) "Witness" means any person who personally observed the
15 commission of a violent crime and who will testify on behalf of
16 the State of Illinois in the criminal prosecution of the
17 violent crime;

18 (c) "Violent Crime" means any felony in which force or
19 threat of force was used against the victim, or any offense
20 involving sexual exploitation, sexual conduct or sexual
21 penetration, domestic battery, violation of an order of
22 protection, stalking, or any misdemeanor which results in death
23 or great bodily harm to the victim or any violation of Section
24 9-3 of the Criminal Code of 1961, or Section 11-501 of the
25 Illinois Vehicle Code, or a similar provision of a local
26 ordinance, if the violation resulted in personal injury or
27 death, and includes any action committed by a juvenile that
28 would be a violent crime if committed by an adult. For the
29 purposes of this paragraph, "personal injury" shall include any
30 Type A injury as indicated on the traffic accident report
31 completed by a law enforcement officer that requires immediate
32 professional attention in either a doctor's office or medical
33 facility. A type A injury shall include severely bleeding
34 wounds, distorted extremities, and injuries that require the
35 injured party to be carried from the scene;

36 (d) "Sentencing Hearing" means any hearing where a sentence

1 is imposed by the court on a convicted defendant and includes
2 hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2
3 and 5-7-7 of the Unified Code of Corrections except those cases
4 in which both parties have agreed to the imposition of a
5 specific sentence.

6 (e) "Court proceedings" includes the preliminary hearing,
7 any hearing the effect of which may be the release of the
8 defendant from custody or to alter the conditions of bond, the
9 trial, sentencing hearing, notice of appeal, any modification
10 of sentence, probation revocation hearings or parole hearings.

11 (Source: P.A. 88-316; 88-489; 88-670, eff. 12-2-94.)