



Rep. Sara Feigenholtz

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09400SB1469ham002

LRB094 06589 RAS 47295 a

1 AMENDMENT TO SENATE BILL 1469

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1469 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Adoption Act is amended by changing Section  
5 13 as follows:

6 (750 ILCS 50/13) (from Ch. 40, par. 1516)

7 Sec. 13. Interim order. As soon as practicable after the  
8 filing of a petition for adoption the court shall hold a  
9 hearing for the following purposes:

10 A. In other than an adoption of a related child or an  
11 adoption through an agency, or of an adult:

12 (a) To determine the validity of the consent, provided  
13 that the execution of a consent pursuant to this Act shall  
14 be prima facie evidence of its validity, and provided that  
15 the validity of a consent shall not be affected by the  
16 omission therefrom of the names of the petitioners or  
17 adopting parents at the time the consent is executed or  
18 acknowledged, and further provided that the execution of a  
19 consent prior to the filing of a petition for adoption  
20 shall not affect its validity.

21 (b) To determine whether there is available suitable  
22 temporary custodial care for a child sought to be adopted.

23 B. In all cases except standby adoptions:

24 (a) The court shall appoint some licensed attorney

1 other than the State's attorney acting in his or her  
2 official capacity as guardian ad litem to represent a child  
3 sought to be adopted. Such guardian ad litem shall have  
4 power to consent to the adoption of the child, if such  
5 consent is required.

6 (b) The court shall appoint a guardian ad litem for all  
7 named minors or defendants who are persons under legal  
8 disability, if any.

9 (c) If the petition alleges a person to be unfit  
10 pursuant to the provisions of subparagraph (p) of paragraph  
11 D of Section 1 of this Act, such person shall be  
12 represented by counsel. If such person is indigent or an  
13 appearance has not been entered on his behalf at the time  
14 the matter is set for hearing, the court shall appoint as  
15 counsel for him either the Guardianship and Advocacy  
16 Commission, the public defender, or, only if no attorney  
17 from the Guardianship and Advocacy Commission or the public  
18 defender is available, an attorney licensed to practice law  
19 in this State.

20 (d) If it is proved to the satisfaction of the court,  
21 after such investigation as the court deems necessary, that  
22 termination of parental rights and temporary commitment of  
23 the child to an agency or to a person deemed competent by  
24 the court, including petitioners, will be for the welfare  
25 of the child, the court may order the child to be so  
26 committed and may terminate the parental rights of the  
27 parents and declare the child a ward of the court or, if it  
28 is not so proved, the court may enter such other order as  
29 it shall deem necessary and advisable.

30 (e) Before an interim custody order is granted under  
31 this Section, ~~service of~~ summons or other acceptable notice  
32 under Section 7 or 12a of this Act shall be served or  
33 published with the appropriate entry ~~had~~ upon any person or  
34 agency whose consent or surrender is required under Section

1        8 of this Act ~~the parent or parents~~ whose rights have not  
2        been terminated or who has not waived notice, ~~except as~~  
3        ~~provided in subsection (f)~~. Reasonable ~~notice and~~  
4        opportunity to be heard shall be given to the person or  
5        agency upon that person's or agency's filing of an  
6        appearance with the clerk of court within the time  
7        specified by applicable law ~~the parent or parents after~~  
8        ~~service of summons when the address of the parent or~~  
9        ~~parents is available~~. The party seeking an interim custody  
10       order shall make all reasonable efforts to locate the  
11       person or agency whose consent or surrender is required  
12       under Section 8 of this Act ~~parent or parents of the child~~  
13       ~~or children they are seeking to adopt~~ and to notify the  
14       person or agency whose consent or surrender is required ~~the~~  
15       ~~parent or parents~~ of the pending adoption petition ~~party's~~  
16       ~~request for an interim custody order pursuant to this~~  
17       ~~Section~~.

18       (f) An interim custody order may be granted without  
19       notice upon presentation to the court of a written  
20       petition, accompanied by an affidavit, stating that there  
21       is an immediate danger to the child and that irreparable  
22       harm will result to the child if notice is given to the  
23       parent or parents or legal guardian. Upon making a finding  
24       that there is an immediate danger to the child if service  
25       of process is had upon and notice of hearing is given to  
26       the parent or parents or legal guardian prior to the entry  
27       of an order granting temporary custody to someone other  
28       than a parent or legal guardian, the court may enter an  
29       order of temporary custody which shall expire not more than  
30       10 days after its entry. Every ex parte custody order  
31       granted without notice shall state the injury which the  
32       court sought to avoid by granting the order, the  
33       irreparable injury that would have occurred had notice been  
34       given, and the reason the order was granted without notice.

1 The matter shall be set down for full hearing before the  
2 expiration of the ex parte order and will be heard after  
3 service of summons is had upon and notice of hearing is  
4 given to the parent or parents or legal guardian. At the  
5 hearing the burden of proof shall be upon the party seeking  
6 to extend the interim custody order to show that the order  
7 was properly granted without notice and that custody should  
8 remain with the party seeking to adopt during the pendency  
9 of the adoption proceeding. If the interim custody order is  
10 extended, the reasons for granting the extension shall be  
11 stated in the order.

12 C. In the case of a child born outside the United States or  
13 a territory thereof, if the petitioners have previously been  
14 appointed guardians of such child by a court of competent  
15 jurisdiction in a country other than the United States or a  
16 territory thereof, the court may order that the petitioners  
17 continue as guardians of such child.

18 D. In standby adoption cases:

19 (a) The court shall appoint a licensed attorney other  
20 than the State's Attorney acting in his or her official  
21 capacity as guardian ad litem to represent a child sought  
22 to be adopted. The guardian ad litem shall have power to  
23 consent to the adoption of the child, if consent is  
24 required.

25 (b) The court shall appoint a guardian ad litem for all  
26 named minors or defendants who are persons under legal  
27 disability, if any.

28 (c) The court lacks jurisdiction to proceed on the  
29 petition for standby adoption if the child has a living  
30 parent, adoptive parent, or adjudicated parent whose  
31 rights have not been terminated and whose whereabouts are  
32 known, unless the parent consents to the standby adoption  
33 or, after receiving notice of the hearing on the standby  
34 adoption petition, fails to object to the appointment of a

1           standby adoptive parent at the hearing on the petition.

2           (d) The court shall investigate as needed for the  
3           welfare of the child and shall determine whether the  
4           petitioner or petitioners shall be permitted to adopt.

5           (Source: P.A. 90-14, eff. 7-1-97; 90-349, eff. 1-1-98; 91-572,  
6           eff. 1-1-00.)

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