



Rep. Lilian Jiménez

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10400HB4890ham001

LRB104 17442 JRC 36766 a

1 AMENDMENT TO HOUSE BILL 4890

2 AMENDMENT NO. _____. Amend House Bill 4890 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Dependency Determinations for Unaccompanied Children Act.

6 Section 5. Legislative findings and purpose. The General
7 Assembly finds and declares that:

8 (1) State courts have a traditional and vital role in
9 making determinations regarding the protection, custody,
10 and care of children within the State; and

11 (2) it is therefore necessary to clarify the
12 jurisdiction of Illinois courts to issue such
13 determinations when the child is in the custody of the
14 federal Office of Refugee Resettlement.

15 Section 10. Definitions. As used in this Act:

1 "Abuse" includes the meaning ascribed to the term in
2 Section 103 of the Illinois Domestic Violence Act of 1986 and
3 in Section 2-3 of the Juvenile Court Act of 1987.

4 "Abandonment" includes, but is not limited to, the failure
5 of a parent to maintain a reasonable degree of interest,
6 concern, or responsibility for the welfare of the child or
7 when one or both of the child's parents are deceased or cannot
8 be reasonably located and includes the definition of
9 dependency in Section 2-4 of the Juvenile Court of 1987.

10 "Dependent on the court" means a child is under the
11 jurisdiction of a "juvenile court" as defined in this
12 Section's jurisdiction; the child was adjudicated at any time
13 by a court acting under this Act's authority as abused,
14 neglected, or abandoned as defined in this Act, and the child
15 is in need of oversight and supportive services as determined
16 by the court.

17 "Juvenile court" means a court located in the United
18 States that has jurisdiction under state law to make judicial
19 determinations concerning the custody, guardianship, abuse,
20 neglect, dependency, or protection of a juvenile and is
21 authorized to issue orders, make factual findings and
22 determinations concerning such matters as parental
23 reunification, best interest of minors, including such
24 findings necessary to enable a child who files a petition
25 under this Act to petition the United States Citizenship and
26 Immigration Services.

1 "Neglect" includes the meaning ascribed to the term in
2 paragraph (a) of subsection (1) of Section 2-3 of the Juvenile
3 Court Act of 1987 and the failure to perform caretaking
4 functions as defined in subsection (c) of Section 600 of the
5 Illinois Marriage and Dissolution of Marriage Act.

6 "Unaccompanied child" means a person under 18 years of age
7 who meets the definition in Section 279(g) (2) of Title 6 of the
8 United States Code, including any child who lacks a parent or
9 legal guardian in the United States available to provide care
10 and physical custody and who is in the custody of the federal
11 Office of Refugee Resettlement.

12 Section 15. Jurisdiction and venue.

13 (a) Proceedings may be instituted under this Act for
14 unaccompanied children in the custody of the federal Office of
15 Refugee Resettlement who are alleged to be abused, neglected,
16 or abandoned as defined in this Act. In making determinations
17 under this Act, the court shall be acting as a juvenile court.

18 (b) A proceeding under this Act may be commenced in any
19 county in this State.

20 Section 20. Petition.

21 (a) An unaccompanied child in the custody of the federal
22 Office of Refugee Resettlement housed in Illinois who is
23 alleged to have been abused, neglected, or abandoned by one or
24 both parents may file a petition seeking a finding of

1 dependency upon the court under this Act.

2 (b) The petition must:

3 (1) set forth the facts that bring the child under the
4 court's jurisdiction under this Act;

5 (2) state the child's name, age, and country of birth;

6 (3) identify the facility in Illinois where the child
7 is housed in the custody of the federal Office of Refugee
8 Resettlement;

9 (4) set forth facts alleging that reunification of the
10 child with one or both of the child's parents is not viable
11 because of abuse, neglect, abandonment, or another similar
12 basis; and

13 (5) set forth facts alleging that it is not in the best
14 interest of the child to be returned to the child's or
15 parent's previous country of nationality or last habitual
16 residence.

17 (c) Statements in the petition may be made upon
18 information and belief.

19 (d) The petition may not name the child's parent as a
20 respondent.

21 (e) The petition must clearly state that parental rights
22 may not be terminated through proceedings under this Act.

23 Section 25. Hearing and disposition.

24 (a) The court shall conduct a hearing within 35 days after
25 the petition is filed, unless a motion is made for an earlier

1 date because the child is approaching 18 years of age or other
2 emergent circumstances exist; in which case, the court shall
3 schedule and conduct the hearing as soon as reasonably
4 possible before the child's eighteenth birthday or to address
5 the emergent circumstances no later than 7 days after the
6 motion is filed alleging emergent circumstances.

7 (b) If the court finds the statements in the petition are
8 supported by a preponderance of the evidence, which may
9 consist solely of, but is not limited to, a declaration by the
10 child, the court shall issue an order that includes the
11 following findings:

12 (1) the child is declared a dependent on the court;

13 (2) reunification of the child with one or both of the
14 child's parents is not viable because of abuse, neglect,
15 abandonment, or other similar basis; and

16 (3) it is not in the best interest of the child to be
17 returned to the child's or parent's previous country of
18 nationality or last habitual residence.

19 (c) A child declared dependent on the court is eligible
20 for oversight and services as ordered by the court and may be
21 referred for psychological, educational, medical, or social
22 services deemed necessary as a result of parental abuse,
23 abandonment, or neglect or for protection against trafficking
24 or domestic violence. Participation in any referred services
25 is voluntary.

26 (d) The court may retain jurisdiction over the child until

1 the child reaches 18 years of age or until further order of the
2 court.

3 (e) Nothing in this Act is intended to modify, alter, or
4 otherwise amend existing law related to the physical custody
5 or placement of an unaccompanied child, and findings made
6 under this Act shall not be used in any manner that is
7 inconsistent with existing law relating to the physical
8 custody or placement of a minor child.

9 Section 30. Fees. No fees may be required of any child who
10 files a petition under this Act.

11 Section 35. Guardian ad litem. If a child is represented
12 by an attorney, a proceeding under this Act may proceed
13 without the appointment of a guardian ad litem for the child.

14 Section 40. Confidentiality. All court proceedings and
15 documents under this Act are confidential, must be sealed, and
16 may not be made available to the public.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."