

SB1639



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1639

Introduced 2/8/2023, by Sen. Tom Bennett

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-13	from Ch. 37, par. 802-13
705 ILCS 405/2-23	from Ch. 37, par. 802-23
705 ILCS 405/2-28	from Ch. 37, par. 802-28

Amends the Juvenile Court Act of 1987. Provides a statutory form for a petition for adjudication of wardship. Deletes language prohibiting the court from ordering specific placements, specific services, or the use of specific service providers.

LRB103 27201 RLC 53571 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 Sections 2-13, 2-23, and 2-28 as follows:

6 (705 ILCS 405/2-13) (from Ch. 37, par. 802-13)
7 Sec. 2-13. Petition.

8 (1) Any adult person, any agency or association by its
9 representative may file, or the court on its own motion,
10 consistent with the health, safety and best interests of the
11 minor may direct the filing through the State's Attorney of a
12 petition in respect of a minor under this Act. The petition and
13 all subsequent court documents shall be entitled "In the
14 interest of, a minor".

15 (2) The petition shall be verified but the statements may
16 be made upon information and belief. It shall allege that the
17 minor is abused, neglected, or dependent, with citations to
18 the appropriate provisions of this Act, and set forth (a)
19 facts sufficient to bring the minor under Section 2-3 or 2-4
20 and to inform respondents of the cause of action, including,
21 but not limited to, a plain and concise statement of the
22 factual allegations that form the basis for the filing of the
23 petition; (b) the name, age and residence of the minor; (c) the

1 names and residences of his parents; (d) the name and
 2 residence of his legal guardian or the person or persons
 3 having custody or control of the minor, or of the nearest known
 4 relative if no parent or guardian can be found; and (e) if the
 5 minor upon whose behalf the petition is brought is sheltered
 6 in custody, the date on which such temporary custody was
 7 ordered by the court or the date set for a temporary custody
 8 hearing. If any of the facts herein required are not known by
 9 the petitioner, the petition shall so state.

10 (3) The petition must allege that it is in the best
 11 interests of the minor and of the public that he be adjudged a
 12 ward of the court and may pray generally for relief available
 13 under this Act. The petition need not specify any proposed
 14 disposition following adjudication of wardship. The petition
 15 may request that the minor remain in the custody of the parent,
 16 guardian, or custodian under an Order of Protection. The
 17 petition shall be substantially in the following form:

18 PETITION FOR ADJUDICATION OF WARDSHIP

19 Now comes, petitioner, and petitions this
 20 court to adjudicate a ward of
 21 the court. In support, the petitioner, on oath or affirmation,
 22 based on information or belief states as follows:

23 (1) is a (male/female) minor born on
 24,, who resides or may be found
 25 in this County at

26 (2) The names and residence addresses of the minor's

1 parents, legal guardian, and/or custodian are:

2	<u>Name and</u>	<u>Place of</u>	<u>City/</u>
3	<u>Relationship</u>	<u>Residence</u>	<u>State/Zip</u>

4

5

6

7 The minor and the persons named in (1) and (2) are designated
8 respondents.

9 (3) The minor was

10 () not taken into protective custody.

11 () taken into protective custody on,

12 at(a.m./p.m.).

13 () (4) A temporary custody hearing has been set for

14, at(a.m./p.m.).

15 () (5) The minor was neglected pursuant to the following

16 Section or Sections of the Juvenile Court Act of 1987:

17 () 2-3(1)(a), (lack of care), the facts supporting this
18 are:

19

20

21 () 2-3(1)(b), (injurious environment), the facts
22 supporting this are:

23

1
 2 () 2-3(1)(c), (drug-exposed infant), the facts supporting
 3 this are:
 4
 5

6 () (6) The minor was abused pursuant to the following Section
 7 or Sections of the Juvenile Court Act of 1987:

8 () 2-3(2)(i), (physical abuse), the facts supporting this
 9 are:

10
 11

12 () 2-3(2)(ii), (substantial risk/physical injury), the
 13 facts supporting this are:

14
 15

16 () 2-3(2)(iii), (sexual abuse), the facts supporting this
 17 are:

18
 19

20 () 2-3(2)(iv), (torture), the facts supporting this are:
 21

22

23 () 2-3(2)(v), (excessive corporal punishment), the facts
 24 supporting this are:

25

1

2 () (7) The minor is dependent pursuant to Section 2-4 of the
3 Juvenile Court Act of 1987, the facts supporting this are:

4

5

6 (8) It is in the best interests of the minor and the public
7 that the minor be adjudged a ward of the court.

8 WHEREFORE, the petitioner asks that the minor be adjudged
9 a ward of the court and that the court enter such orders as are
10 in the best interests of the minor and grant other relief under
11 the Juvenile Court Act of 1987.

12

13 Petitioner (Signature)

14 (4) If termination of parental rights and appointment of a
15 guardian of the person with power to consent to adoption of the
16 minor under Section 2-29 is sought, the petition shall so
17 state. If the petition includes this request, the prayer for
18 relief shall clearly and obviously state that the parents
19 could permanently lose their rights as a parent at this
20 hearing.

21 In addition to the foregoing, the petitioner, by motion,
22 may request the termination of parental rights and appointment

1 of a guardian of the person with power to consent to adoption
2 of the minor under Section 2-29 at any time after the entry of
3 a dispositional order under Section 2-22.

4 (4.5) (a) Unless good cause exists that filing a petition
5 to terminate parental rights is contrary to the child's best
6 interests, with respect to any minors committed to its care
7 pursuant to this Act, the Department of Children and Family
8 Services shall request the State's Attorney to file a petition
9 or motion for termination of parental rights and appointment
10 of guardian of the person with power to consent to adoption of
11 the minor under Section 2-29 if:

12 (i) a minor has been in foster care, as described in
13 subsection (b), for 15 months of the most recent 22
14 months; or

15 (ii) a minor under the age of 2 years has been
16 previously determined to be abandoned at an adjudicatory
17 hearing; or

18 (iii) the parent is criminally convicted of:

19 (A) first degree murder or second degree murder of
20 any child;

21 (B) attempt or conspiracy to commit first degree
22 murder or second degree murder of any child;

23 (C) solicitation to commit murder of any child,
24 solicitation to commit murder for hire of any child,
25 or solicitation to commit second degree murder of any
26 child;

1 (D) aggravated battery, aggravated battery of a
2 child, or felony domestic battery, any of which has
3 resulted in serious injury to the minor or a sibling of
4 the minor;

5 (E) predatory criminal sexual assault of a child;

6 (E-5) aggravated criminal sexual assault;

7 (E-10) criminal sexual abuse in violation of
8 subsection (a) of Section 11-1.50 of the Criminal Code
9 of 1961 or the Criminal Code of 2012;

10 (E-15) sexual exploitation of a child;

11 (E-20) permitting sexual abuse of a child;

12 (E-25) criminal sexual assault; or

13 (F) an offense in any other state the elements of
14 which are similar and bear a substantial relationship
15 to any of the foregoing offenses.

16 (a-1) For purposes of this subsection (4.5), good cause
17 exists in the following circumstances:

18 (i) the child is being cared for by a relative,

19 (ii) the Department has documented in the case plan a
20 compelling reason for determining that filing such
21 petition would not be in the best interests of the child,

22 (iii) the court has found within the preceding 12
23 months that the Department has failed to make reasonable
24 efforts to reunify the child and family, or

25 (iv) the parent is incarcerated, or the parent's prior
26 incarceration is a significant factor in why the child has

1 been in foster care for 15 months out of any 22-month
2 period, the parent maintains a meaningful role in the
3 child's life, and the Department has not documented
4 another reason why it would otherwise be appropriate to
5 file a petition to terminate parental rights pursuant to
6 this Section and the Adoption Act. The assessment of
7 whether an incarcerated parent maintains a meaningful role
8 in the child's life may include consideration of the
9 following:

10 (A) the child's best interest;

11 (B) the parent's expressions or acts of
12 manifesting concern for the child, such as letters,
13 telephone calls, visits, and other forms of
14 communication with the child and the impact of the
15 communication on the child;

16 (C) the parent's efforts to communicate with and
17 work with the Department for the purpose of complying
18 with the service plan and repairing, maintaining, or
19 building the parent-child relationship; or

20 (D) limitations in the parent's access to family
21 support programs, therapeutic services, visiting
22 opportunities, telephone and mail services, and
23 meaningful participation in court proceedings.

24 (b) For purposes of this subsection, the date of entering
25 foster care is defined as the earlier of:

26 (1) The date of a judicial finding at an adjudicatory

1 hearing that the child is an abused, neglected, or
2 dependent minor; or

3 (2) 60 days after the date on which the child is
4 removed from his or her parent, guardian, or legal
5 custodian.

6 (c) (Blank).

7 (d) (Blank).

8 (5) The court shall liberally allow the petitioner to
9 amend the petition to set forth a cause of action or to add,
10 amend, or supplement factual allegations that form the basis
11 for a cause of action up until 14 days before the adjudicatory
12 hearing. The petitioner may amend the petition after that date
13 and prior to the adjudicatory hearing if the court grants
14 leave to amend upon a showing of good cause. The court may
15 allow amendment of the petition to conform with the evidence
16 at any time prior to ruling. In all cases in which the court
17 has granted leave to amend based on new evidence or new
18 allegations, the court shall permit the respondent an adequate
19 opportunity to prepare a defense to the amended petition.

20 (6) At any time before dismissal of the petition or before
21 final closing and discharge under Section 2-31, one or more
22 motions in the best interests of the minor may be filed. The
23 motion shall specify sufficient facts in support of the relief
24 requested.

25 (Source: P.A. 101-529, eff. 1-1-20.)

1 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

2 Sec. 2-23. Kinds of dispositional orders.

3 (1) The following kinds of orders of disposition may be
4 made in respect of wards of the court:

5 (a) A minor found to be neglected or abused under
6 Section 2-3 or dependent under Section 2-4 may be (1)
7 continued in the custody of his or her parents, guardian
8 or legal custodian; (2) placed in accordance with Section
9 2-27; (3) restored to the custody of the parent, parents,
10 guardian, or legal custodian, provided the court shall
11 order the parent, parents, guardian, or legal custodian to
12 cooperate with the Department of Children and Family
13 Services and comply with the terms of an after-care plan
14 or risk the loss of custody of the child and the possible
15 termination of their parental rights; or (4) ordered
16 partially or completely emancipated in accordance with the
17 provisions of the Emancipation of Minors Act.

18 If the minor is being restored to the custody of a
19 parent, legal custodian, or guardian who lives outside of
20 Illinois, and an Interstate Compact has been requested and
21 refused, the court may order the Department of Children
22 and Family Services to arrange for an assessment of the
23 minor's proposed living arrangement and for ongoing
24 monitoring of the health, safety, and best interest of the
25 minor and compliance with any order of protective
26 supervision entered in accordance with Section 2-24.

1 However, in any case in which a minor is found by the
2 court to be neglected or abused under Section 2-3 of this
3 Act, custody of the minor shall not be restored to any
4 parent, guardian or legal custodian whose acts or
5 omissions or both have been identified, pursuant to
6 subsection (1) of Section 2-21, as forming the basis for
7 the court's finding of abuse or neglect, until such time
8 as a hearing is held on the issue of the best interests of
9 the minor and the fitness of such parent, guardian or
10 legal custodian to care for the minor without endangering
11 the minor's health or safety, and the court enters an
12 order that such parent, guardian or legal custodian is fit
13 to care for the minor.

14 (b) A minor found to be dependent under Section 2-4
15 may be (1) placed in accordance with Section 2-27 or (2)
16 ordered partially or completely emancipated in accordance
17 with the provisions of the Emancipation of Minors Act.

18 However, in any case in which a minor is found by the
19 court to be dependent under Section 2-4 of this Act,
20 custody of the minor shall not be restored to any parent,
21 guardian or legal custodian whose acts or omissions or
22 both have been identified, pursuant to subsection (1) of
23 Section 2-21, as forming the basis for the court's finding
24 of dependency, until such time as a hearing is held on the
25 issue of the fitness of such parent, guardian or legal
26 custodian to care for the minor without endangering the

1 minor's health or safety, and the court enters an order
2 that such parent, guardian or legal custodian is fit to
3 care for the minor.

4 (b-1) A minor between the ages of 18 and 21 may be
5 placed pursuant to Section 2-27 of this Act if (1) the
6 court has granted a supplemental petition to reinstate
7 wardship of the minor pursuant to subsection (2) of
8 Section 2-33, (2) the court has adjudicated the minor a
9 ward of the court, permitted the minor to return home
10 under an order of protection, and subsequently made a
11 finding that it is in the minor's best interest to vacate
12 the order of protection and commit the minor to the
13 Department of Children and Family Services for care and
14 service, or (3) the court returned the minor to the
15 custody of the respondent under Section 2-4b of this Act
16 without terminating the proceedings under Section 2-31 of
17 this Act, and subsequently made a finding that it is in the
18 minor's best interest to commit the minor to the
19 Department of Children and Family Services for care and
20 services.

21 (c) When the court awards guardianship to the
22 Department of Children and Family Services, the court
23 shall order the parents to cooperate with the Department
24 of Children and Family Services, comply with the terms of
25 the service plans, and correct the conditions that require
26 the child to be in care, or risk termination of their

1 parental rights.

2 (2) Any order of disposition may provide for protective
3 supervision under Section 2-24 and may include an order of
4 protection under Section 2-25.

5 Unless the order of disposition expressly so provides, it
6 does not operate to close proceedings on the pending petition,
7 but is subject to modification, not inconsistent with Section
8 2-28, until final closing and discharge of the proceedings
9 under Section 2-31.

10 (3) The court also shall enter any other orders necessary
11 to fulfill the service plan, including, but not limited to,
12 (i) orders requiring parties to cooperate with services, (ii)
13 restraining orders controlling the conduct of any party likely
14 to frustrate the achievement of the goal, and (iii) visiting
15 orders. When the child is placed separately from a sibling,
16 the court shall review the Sibling Contact Support Plan
17 developed under subsection (f) of Section 7.4 of the Children
18 and Family Services Act, if applicable. If the Department has
19 not convened a meeting to develop a Sibling Contact Support
20 Plan, or if the court finds that the existing Plan is not in
21 the child's best interest, the court may enter an order
22 requiring the Department to develop and implement a Sibling
23 Contact Support Plan under subsection (f) of Section 7.4 of
24 the Children and Family Services Act or order mediation.
25 ~~Unless otherwise specifically authorized by law, the court is~~
26 ~~not empowered under this subsection (3) to order specific~~

1 ~~placements, specific services, or specific service providers~~
2 ~~to be included in the plan.~~ If, after receiving evidence, the
3 court determines that the services contained in the plan are
4 not reasonably calculated to facilitate achievement of the
5 permanency goal, the court shall put in writing the factual
6 basis supporting the determination and enter specific findings
7 based on the evidence. The court also shall enter an order for
8 the Department to develop and implement a new service plan or
9 to implement changes to the current service plan consistent
10 with the court's findings. The new service plan shall be filed
11 with the court and served on all parties within 45 days after
12 the date of the order. The court shall continue the matter
13 until the new service plan is filed. ~~Except as authorized by~~
14 ~~subsection (3.5) of this Section or authorized by law, the~~
15 ~~court is not empowered under this Section to order specific~~
16 ~~placements, specific services, or specific service providers~~
17 ~~to be included in the service plan.~~

18 (3.5) If, after reviewing the evidence, including evidence
19 from the Department, the court determines that the minor's
20 current or planned placement is not necessary or appropriate
21 to facilitate achievement of the permanency goal, the court
22 shall put in writing the factual basis supporting its
23 determination and enter specific findings based on the
24 evidence. If the court finds that the minor's current or
25 planned placement is not necessary or appropriate, the court
26 may enter an order directing the Department to implement a

1 recommendation by the minor's treating clinician or a
2 clinician contracted by the Department to evaluate the minor
3 or a recommendation made by the Department. If the Department
4 places a minor in a placement under an order entered under this
5 subsection (3.5), the Department has the authority to remove
6 the minor from that placement when a change in circumstances
7 necessitates the removal to protect the minor's health,
8 safety, and best interest. If the Department determines
9 removal is necessary, the Department shall notify the parties
10 of the planned placement change in writing no later than 10
11 days prior to the implementation of its determination unless
12 remaining in the placement poses an imminent risk of harm to
13 the minor, in which case the Department shall notify the
14 parties of the placement change in writing immediately
15 following the implementation of its decision. The Department
16 shall notify others of the decision to change the minor's
17 placement as required by Department rule.

18 (4) In addition to any other order of disposition, the
19 court may order any minor adjudicated neglected with respect
20 to his or her own injurious behavior to make restitution, in
21 monetary or non-monetary form, under the terms and conditions
22 of Section 5-5-6 of the Unified Code of Corrections, except
23 that the "presentence hearing" referred to therein shall be
24 the dispositional hearing for purposes of this Section. The
25 parent, guardian or legal custodian of the minor may pay some
26 or all of such restitution on the minor's behalf.

1 (5) Any order for disposition where the minor is committed
2 or placed in accordance with Section 2-27 shall provide for
3 the parents or guardian of the estate of such minor to pay to
4 the legal custodian or guardian of the person of the minor such
5 sums as are determined by the custodian or guardian of the
6 person of the minor as necessary for the minor's needs. Such
7 payments may not exceed the maximum amounts provided for by
8 Section 9.1 of the Children and Family Services Act.

9 (6) Whenever the order of disposition requires the minor
10 to attend school or participate in a program of training, the
11 truant officer or designated school official shall regularly
12 report to the court if the minor is a chronic or habitual
13 truant under Section 26-2a of the School Code.

14 (7) The court may terminate the parental rights of a
15 parent at the initial dispositional hearing if all of the
16 conditions in subsection (5) of Section 2-21 are met.

17 (Source: P.A. 101-79, eff. 7-12-19; 102-489, eff. 8-20-21.)

18 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

19 Sec. 2-28. Court review.

20 (1) The court may require any legal custodian or guardian
21 of the person appointed under this Act to report periodically
22 to the court or may cite him into court and require him or his
23 agency~~7~~ to make a full and accurate report of his or its doings
24 in behalf of the minor. The custodian or guardian, within 10
25 days after such citation, or earlier if the court determines

1 it to be necessary to protect the health, safety, or welfare of
2 the minor, shall make the report, either in writing verified
3 by affidavit or orally under oath in open court, or otherwise
4 as the court directs. Upon the hearing of the report the court
5 may remove the custodian or guardian and appoint another in
6 his stead or restore the minor to the custody of his parents or
7 former guardian or custodian. However, custody of the minor
8 shall not be restored to any parent, guardian, or legal
9 custodian in any case in which the minor is found to be
10 neglected or abused under Section 2-3 or dependent under
11 Section 2-4 of this Act, unless the minor can be cared for at
12 home without endangering the minor's health or safety and it
13 is in the best interests of the minor, and if such neglect,
14 abuse, or dependency is found by the court under paragraph (1)
15 of Section 2-21 of this Act to have come about due to the acts
16 or omissions or both of such parent, guardian, or legal
17 custodian, until such time as an investigation is made as
18 provided in paragraph (5) and a hearing is held on the issue of
19 the fitness of such parent, guardian, or legal custodian to
20 care for the minor and the court enters an order that such
21 parent, guardian, or legal custodian is fit to care for the
22 minor.

23 (1.5) The public agency that is the custodian or guardian
24 of the minor shall file a written report with the court no
25 later than 15 days after a minor in the agency's care remains:

26 (1) in a shelter placement beyond 30 days;

1 (2) in a psychiatric hospital past the time when the
2 minor is clinically ready for discharge or beyond medical
3 necessity for the minor's health; or

4 (3) in a detention center or Department of Juvenile
5 Justice facility solely because the public agency cannot
6 find an appropriate placement for the minor.

7 The report shall explain the steps the agency is taking to
8 ensure the minor is placed appropriately, how the minor's
9 needs are being met in the minor's shelter placement, and if a
10 future placement has been identified by the Department, why
11 the anticipated placement is appropriate for the needs of the
12 minor and the anticipated placement date.

13 (1.6) Within 35 days after placing a child in its care in a
14 qualified residential treatment program, as defined by the
15 federal Social Security Act, the Department of Children and
16 Family Services shall file a written report with the court and
17 send copies of the report to all parties. Within 20 days of the
18 filing of the report, the court shall hold a hearing to
19 consider the Department's report and determine whether
20 placement of the child in a qualified residential treatment
21 program provides the most effective and appropriate level of
22 care for the child in the least restrictive environment and if
23 the placement is consistent with the short-term and long-term
24 goals for the child, as specified in the permanency plan for
25 the child. The court shall approve or disapprove the
26 placement. If applicable, the requirements of Sections 2-27.1

1 and 2-27.2 must also be met. The Department's written report
2 and the court's written determination shall be included in and
3 made part of the case plan for the child. If the child remains
4 placed in a qualified residential treatment program, the
5 Department shall submit evidence at each status and permanency
6 hearing:

7 (1) demonstrating that on-going assessment of the
8 strengths and needs of the child continues to support the
9 determination that the child's needs cannot be met through
10 placement in a foster family home, that the placement
11 provides the most effective and appropriate level of care
12 for the child in the least restrictive, appropriate
13 environment, and that the placement is consistent with the
14 short-term and long-term permanency goal for the child, as
15 specified in the permanency plan for the child;

16 (2) documenting the specific treatment or service
17 needs that should be met for the child in the placement and
18 the length of time the child is expected to need the
19 treatment or services; and

20 (3) the efforts made by the agency to prepare the
21 child to return home or to be placed with a fit and willing
22 relative, a legal guardian, or an adoptive parent, or in a
23 foster family home.

24 (2) The first permanency hearing shall be conducted by the
25 judge. Subsequent permanency hearings may be heard by a judge
26 or by hearing officers appointed or approved by the court in

1 the manner set forth in Section 2-28.1 of this Act. The initial
2 hearing shall be held (a) within 12 months from the date
3 temporary custody was taken, regardless of whether an
4 adjudication or dispositional hearing has been completed
5 within that time frame, (b) if the parental rights of both
6 parents have been terminated in accordance with the procedure
7 described in subsection (5) of Section 2-21, within 30 days of
8 the order for termination of parental rights and appointment
9 of a guardian with power to consent to adoption, or (c) in
10 accordance with subsection (2) of Section 2-13.1. Subsequent
11 permanency hearings shall be held every 6 months or more
12 frequently if necessary in the court's determination following
13 the initial permanency hearing, in accordance with the
14 standards set forth in this Section, until the court
15 determines that the plan and goal have been achieved. Once the
16 plan and goal have been achieved, if the minor remains in
17 substitute care, the case shall be reviewed at least every 6
18 months thereafter, subject to the provisions of this Section,
19 unless the minor is placed in the guardianship of a suitable
20 relative or other person and the court determines that further
21 monitoring by the court does not further the health, safety,
22 or best interest of the child and that this is a stable
23 permanent placement. The permanency hearings must occur within
24 the time frames set forth in this subsection and may not be
25 delayed in anticipation of a report from any source or due to
26 the agency's failure to timely file its written report (this

1 written report means the one required under the next paragraph
2 and does not mean the service plan also referred to in that
3 paragraph).

4 The public agency that is the custodian or guardian of the
5 minor, or another agency responsible for the minor's care,
6 shall ensure that all parties to the permanency hearings are
7 provided a copy of the most recent service plan prepared
8 within the prior 6 months at least 14 days in advance of the
9 hearing. If not contained in the agency's service plan, the
10 agency shall also include a report setting forth (i) any
11 special physical, psychological, educational, medical,
12 emotional, or other needs of the minor or his or her family
13 that are relevant to a permanency or placement determination
14 and (ii) for any minor age 16 or over, a written description of
15 the programs and services that will enable the minor to
16 prepare for independent living. If not contained in the
17 agency's service plan, the agency's report shall specify if a
18 minor is placed in a licensed child care facility under a
19 corrective plan by the Department due to concerns impacting
20 the minor's safety and well-being. The report shall explain
21 the steps the Department is taking to ensure the safety and
22 well-being of the minor and that the minor's needs are met in
23 the facility. The agency's written report must detail what
24 progress or lack of progress the parent has made in correcting
25 the conditions requiring the child to be in care; whether the
26 child can be returned home without jeopardizing the child's

1 health, safety, and welfare, and if not, what permanency goal
2 is recommended to be in the best interests of the child, and
3 why the other permanency goals are not appropriate. The
4 caseworker must appear and testify at the permanency hearing.
5 If a permanency hearing has not previously been scheduled by
6 the court, the moving party shall move for the setting of a
7 permanency hearing and the entry of an order within the time
8 frames set forth in this subsection.

9 At the permanency hearing, the court shall determine the
10 future status of the child. The court shall set one of the
11 following permanency goals:

12 (A) The minor will be returned home by a specific date
13 within 5 months.

14 (B) The minor will be in short-term care with a
15 continued goal to return home within a period not to
16 exceed one year, where the progress of the parent or
17 parents is substantial giving particular consideration to
18 the age and individual needs of the minor.

19 (B-1) The minor will be in short-term care with a
20 continued goal to return home pending a status hearing.
21 When the court finds that a parent has not made reasonable
22 efforts or reasonable progress to date, the court shall
23 identify what actions the parent and the Department must
24 take in order to justify a finding of reasonable efforts
25 or reasonable progress and shall set a status hearing to
26 be held not earlier than 9 months from the date of

1 adjudication nor later than 11 months from the date of
2 adjudication during which the parent's progress will again
3 be reviewed.

4 (C) The minor will be in substitute care pending court
5 determination on termination of parental rights.

6 (D) Adoption, provided that parental rights have been
7 terminated or relinquished.

8 (E) The guardianship of the minor will be transferred
9 to an individual or couple on a permanent basis provided
10 that goals (A) through (D) have been deemed inappropriate
11 and not in the child's best interests. The court shall
12 confirm that the Department has discussed adoption, if
13 appropriate, and guardianship with the caregiver prior to
14 changing a goal to guardianship.

15 (F) The minor over age 15 will be in substitute care
16 pending independence. In selecting this permanency goal,
17 the Department of Children and Family Services may provide
18 services to enable reunification and to strengthen the
19 minor's connections with family, fictive kin, and other
20 responsible adults, provided the services are in the
21 minor's best interest. The services shall be documented in
22 the service plan.

23 (G) The minor will be in substitute care because he or
24 she cannot be provided for in a home environment due to
25 developmental disabilities or mental illness or because he
26 or she is a danger to self or others, provided that goals

1 (A) through (D) have been deemed inappropriate and not in
2 the child's best interests.

3 In selecting any permanency goal, the court shall indicate
4 in writing the reasons the goal was selected and why the
5 preceding goals were deemed inappropriate and not in the
6 child's best interest. Where the court has selected a
7 permanency goal other than (A), (B), or (B-1), the Department
8 of Children and Family Services shall not provide further
9 reunification services, except as provided in paragraph (F) of
10 this subsection (2), but shall provide services consistent
11 with the goal selected.

12 (H) Notwithstanding any other provision in this
13 Section, the court may select the goal of continuing
14 foster care as a permanency goal if:

15 (1) The Department of Children and Family Services
16 has custody and guardianship of the minor;

17 (2) The court has deemed all other permanency
18 goals inappropriate based on the child's best
19 interest;

20 (3) The court has found compelling reasons, based
21 on written documentation reviewed by the court, to
22 place the minor in continuing foster care. Compelling
23 reasons include:

24 (a) the child does not wish to be adopted or to
25 be placed in the guardianship of his or her
26 relative or foster care placement;

1 (b) the child exhibits an extreme level of
2 need such that the removal of the child from his or
3 her placement would be detrimental to the child;
4 or

5 (c) the child who is the subject of the
6 permanency hearing has existing close and strong
7 bonds with a sibling, and achievement of another
8 permanency goal would substantially interfere with
9 the subject child's sibling relationship, taking
10 into consideration the nature and extent of the
11 relationship, and whether ongoing contact is in
12 the subject child's best interest, including
13 long-term emotional interest, as compared with the
14 legal and emotional benefit of permanence;

15 (4) The child has lived with the relative or
16 foster parent for at least one year; and

17 (5) The relative or foster parent currently caring
18 for the child is willing and capable of providing the
19 child with a stable and permanent environment.

20 The court shall set a permanency goal that is in the best
21 interest of the child. In determining that goal, the court
22 shall consult with the minor in an age-appropriate manner
23 regarding the proposed permanency or transition plan for the
24 minor. The court's determination shall include the following
25 factors:

26 (1) Age of the child.

1 (2) Options available for permanence, including both
2 out-of-state and in-state placement options.

3 (3) Current placement of the child and the intent of
4 the family regarding adoption.

5 (4) Emotional, physical, and mental status or
6 condition of the child.

7 (5) Types of services previously offered and whether
8 or not the services were successful and, if not
9 successful, the reasons the services failed.

10 (6) Availability of services currently needed and
11 whether the services exist.

12 (7) Status of siblings of the minor.

13 The court shall consider (i) the permanency goal contained
14 in the service plan, (ii) the appropriateness of the services
15 contained in the plan and whether those services have been
16 provided, (iii) whether reasonable efforts have been made by
17 all the parties to the service plan to achieve the goal, and
18 (iv) whether the plan and goal have been achieved. All
19 evidence relevant to determining these questions, including
20 oral and written reports, may be admitted and may be relied on
21 to the extent of their probative value.

22 The court shall make findings as to whether, in violation
23 of Section 8.2 of the Abused and Neglected Child Reporting
24 Act, any portion of the service plan compels a child or parent
25 to engage in any activity or refrain from any activity that is
26 not reasonably related to remedying a condition or conditions

1 that gave rise or which could give rise to any finding of child
2 abuse or neglect. The services contained in the service plan
3 shall include services reasonably related to remedy the
4 conditions that gave rise to removal of the child from the home
5 of his or her parents, guardian, or legal custodian or that the
6 court has found must be remedied prior to returning the child
7 home. Any tasks the court requires of the parents, guardian,
8 or legal custodian or child prior to returning the child home⁷
9 must be reasonably related to remedying a condition or
10 conditions that gave rise to or which could give rise to any
11 finding of child abuse or neglect.

12 If the permanency goal is to return home, the court shall
13 make findings that identify any problems that are causing
14 continued placement of the children away from the home and
15 identify what outcomes would be considered a resolution to
16 these problems. The court shall explain to the parents that
17 these findings are based on the information that the court has
18 at that time and may be revised, should additional evidence be
19 presented to the court.

20 The court shall review the Sibling Contact Support Plan
21 developed or modified under subsection (f) of Section 7.4 of
22 the Children and Family Services Act, if applicable. If the
23 Department has not convened a meeting to develop or modify a
24 Sibling Contact Support Plan, or if the court finds that the
25 existing Plan is not in the child's best interest, the court
26 may enter an order requiring the Department to develop,

1 modify, or implement a Sibling Contact Support Plan, or order
2 mediation.

3 If the goal has been achieved, the court shall enter
4 orders that are necessary to conform the minor's legal custody
5 and status to those findings.

6 If, after receiving evidence, the court determines that
7 the services contained in the plan are not reasonably
8 calculated to facilitate achievement of the permanency goal,
9 the court shall put in writing the factual basis supporting
10 the determination and enter specific findings based on the
11 evidence. The court also shall enter an order for the
12 Department to develop and implement a new service plan or to
13 implement changes to the current service plan consistent with
14 the court's findings. The new service plan shall be filed with
15 the court and served on all parties within 45 days of the date
16 of the order. The court shall continue the matter until the new
17 service plan is filed. ~~Except as authorized by subsection~~
18 ~~(2.5) of this Section and as otherwise specifically authorized~~
19 ~~by law, the court is not empowered under this Section to order~~
20 ~~specific placements, specific services, or specific service~~
21 ~~providers to be included in the service plan.~~

22 A guardian or custodian appointed by the court pursuant to
23 this Act shall file updated case plans with the court every 6
24 months.

25 Rights of wards of the court under this Act are
26 enforceable against any public agency by complaints for relief

1 by mandamus filed in any proceedings brought under this Act.

2 (2.5) If, after reviewing the evidence, including evidence
3 from the Department, the court determines that the minor's
4 current or planned placement is not necessary or appropriate
5 to facilitate achievement of the permanency goal, the court
6 shall put in writing the factual basis supporting its
7 determination and enter specific findings based on the
8 evidence. If the court finds that the minor's current or
9 planned placement is not necessary or appropriate, the court
10 may enter an order directing the Department to implement a
11 recommendation by the minor's treating clinician or a
12 clinician contracted by the Department to evaluate the minor
13 or a recommendation made by the Department. If the Department
14 places a minor in a placement under an order entered under this
15 subsection (2.5), the Department has the authority to remove
16 the minor from that placement when a change in circumstances
17 necessitates the removal to protect the minor's health,
18 safety, and best interest. If the Department determines
19 removal is necessary, the Department shall notify the parties
20 of the planned placement change in writing no later than 10
21 days prior to the implementation of its determination unless
22 remaining in the placement poses an imminent risk of harm to
23 the minor, in which case the Department shall notify the
24 parties of the placement change in writing immediately
25 following the implementation of its decision. The Department
26 shall notify others of the decision to change the minor's

1 placement as required by Department rule.

2 (3) Following the permanency hearing, the court shall
3 enter a written order that includes the determinations
4 required under subsection (2) of this Section and sets forth
5 the following:

6 (a) The future status of the minor, including the
7 permanency goal, and any order necessary to conform the
8 minor's legal custody and status to such determination; or

9 (b) If the permanency goal of the minor cannot be
10 achieved immediately, the specific reasons for continuing
11 the minor in the care of the Department of Children and
12 Family Services or other agency for short-term ~~short-term~~
13 placement, and the following determinations:

14 (i) (Blank).

15 (ii) Whether the services required by the court
16 and by any service plan prepared within the prior 6
17 months have been provided and (A) if so, whether the
18 services were reasonably calculated to facilitate the
19 achievement of the permanency goal or (B) if not
20 provided, why the services were not provided.

21 (iii) Whether the minor's current or planned
22 placement is necessary, and appropriate to the plan
23 and goal, recognizing the right of minors to the least
24 restrictive (most family-like) setting available and
25 in close proximity to the parents' home consistent
26 with the health, safety, best interest, and special

1 needs of the minor and, if the minor is placed
2 out-of-state, whether the out-of-state placement
3 continues to be appropriate and consistent with the
4 health, safety, and best interest of the minor.

5 (iv) (Blank).

6 (v) (Blank).

7 (4) The minor or any person interested in the minor may
8 apply to the court for a change in custody of the minor and the
9 appointment of a new custodian or guardian of the person or for
10 the restoration of the minor to the custody of his parents or
11 former guardian or custodian.

12 When return home is not selected as the permanency goal:

13 (a) The Department, the minor, or the current foster
14 parent or relative caregiver seeking private guardianship
15 may file a motion for private guardianship of the minor.
16 Appointment of a guardian under this Section requires
17 approval of the court.

18 (b) The State's Attorney may file a motion to
19 terminate parental rights of any parent who has failed to
20 make reasonable efforts to correct the conditions which
21 led to the removal of the child or reasonable progress
22 toward the return of the child, as defined in subdivision
23 (D)(m) of Section 1 of the Adoption Act or for whom any
24 other unfitness ground for terminating parental rights as
25 defined in subdivision (D) of Section 1 of the Adoption
26 Act exists.

1 When parental rights have been terminated for a
2 minimum of 3 years and the child who is the subject of the
3 permanency hearing is 13 years old or older and is not
4 currently placed in a placement likely to achieve
5 permanency, the Department of Children and Family Services
6 shall make reasonable efforts to locate parents whose
7 rights have been terminated, except when the Court
8 determines that those efforts would be futile or
9 inconsistent with the subject child's best interests. The
10 Department of Children and Family Services shall assess
11 the appropriateness of the parent whose rights have been
12 terminated, and shall, as appropriate, foster and support
13 connections between the parent whose rights have been
14 terminated and the youth. The Department of Children and
15 Family Services shall document its determinations and
16 efforts to foster connections in the child's case plan.

17 Custody of the minor shall not be restored to any parent,
18 guardian, or legal custodian in any case in which the minor is
19 found to be neglected or abused under Section 2-3 or dependent
20 under Section 2-4 of this Act, unless the minor can be cared
21 for at home without endangering his or her health or safety and
22 it is in the best interest of the minor, and if such neglect,
23 abuse, or dependency is found by the court under paragraph (1)
24 of Section 2-21 of this Act to have come about due to the acts
25 or omissions or both of such parent, guardian, or legal
26 custodian, until such time as an investigation is made as

1 provided in paragraph (5) and a hearing is held on the issue of
2 the health, safety, and best interest of the minor and the
3 fitness of such parent, guardian, or legal custodian to care
4 for the minor and the court enters an order that such parent,
5 guardian, or legal custodian is fit to care for the minor. If a
6 motion is filed to modify or vacate a private guardianship
7 order and return the child to a parent, guardian, or legal
8 custodian, the court may order the Department of Children and
9 Family Services to assess the minor's current and proposed
10 living arrangements and to provide ongoing monitoring of the
11 health, safety, and best interest of the minor during the
12 pendency of the motion to assist the court in making that
13 determination. In the event that the minor has attained 18
14 years of age and the guardian or custodian petitions the court
15 for an order terminating his guardianship or custody,
16 guardianship or custody shall terminate automatically 30 days
17 after the receipt of the petition unless the court orders
18 otherwise. No legal custodian or guardian of the person may be
19 removed without his consent until given notice and an
20 opportunity to be heard by the court.

21 When the court orders a child restored to the custody of
22 the parent or parents, the court shall order the parent or
23 parents to cooperate with the Department of Children and
24 Family Services and comply with the terms of an after-care
25 plan, or risk the loss of custody of the child and possible
26 termination of their parental rights. The court may also enter

1 an order of protective supervision in accordance with Section
2 2-24.

3 If the minor is being restored to the custody of a parent,
4 legal custodian, or guardian who lives outside of Illinois,
5 and an Interstate Compact has been requested and refused, the
6 court may order the Department of Children and Family Services
7 to arrange for an assessment of the minor's proposed living
8 arrangement and for ongoing monitoring of the health, safety,
9 and best interest of the minor and compliance with any order of
10 protective supervision entered in accordance with Section
11 2-24.

12 (5) Whenever a parent, guardian, or legal custodian files
13 a motion for restoration of custody of the minor, and the minor
14 was adjudicated neglected, abused, or dependent as a result of
15 physical abuse, the court shall cause to be made an
16 investigation as to whether the movant has ever been charged
17 with or convicted of any criminal offense which would indicate
18 the likelihood of any further physical abuse to the minor.
19 Evidence of such criminal convictions shall be taken into
20 account in determining whether the minor can be cared for at
21 home without endangering his or her health or safety and
22 fitness of the parent, guardian, or legal custodian.

23 (a) Any agency of this State or any subdivision
24 thereof shall cooperate with the agent of the court in
25 providing any information sought in the investigation.

26 (b) The information derived from the investigation and

1 any conclusions or recommendations derived from the
2 information shall be provided to the parent, guardian, or
3 legal custodian seeking restoration of custody prior to
4 the hearing on fitness and the movant shall have an
5 opportunity at the hearing to refute the information or
6 contest its significance.

7 (c) All information obtained from any investigation
8 shall be confidential as provided in Section 5-150 of this
9 Act.

10 (Source: P.A. 101-63, eff. 10-1-19; 102-193, eff. 7-30-21;
11 102-489, eff. 8-20-21; 102-813, eff. 5-13-22; revised
12 8-23-22.)