



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3003

Introduced 2/23/2011, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-13

from Ch. 37, par. 802-13

Amends the Juvenile Court Act of 1987. Deletes language authorizing the filing of a petition under the Act by any adult person, by any agency or association by its representative, or by the State's Attorney at the direction of the court on its own motion, consistent with the health, safety, and best interests of the minor. Provides that the State's Attorney may file a petition alleging that a minor is abused, neglected, or dependent.

LRB097 08538 RLC 48665 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 2-13 as follows:

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

7 Sec. 2-13. Petition.

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

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

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

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

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

25 In addition to the foregoing, the petitioner, by motion,
26 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) With respect to any minors committed to its care
5 pursuant to this Act, the Department of Children and Family
6 Services shall request the State's Attorney to file a petition
7 or motion for termination of parental rights and appointment of
8 guardian of the person with power to consent to adoption of the
9 minor under Section 2-29 if:

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

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

16 (iii) the parent is criminally convicted of (A) first
17 degree murder or second degree murder of any child, (B)
18 attempt or conspiracy to commit first degree murder or
19 second degree murder of any child, (C) solicitation to
20 commit murder of any child, solicitation to commit murder
21 for hire of any child, or solicitation to commit second
22 degree murder of any child, (D) aggravated battery,
23 aggravated battery of a child, or felony domestic battery,
24 any of which has resulted in serious injury to the minor or
25 a sibling of the minor, (E) aggravated criminal sexual
26 assault in violation of subdivision (b) (1) of Section 12-14

1 of the Criminal Code of 1961, or (F) an offense in any
2 other state the elements of which are similar and bear a
3 substantial relationship to any of the foregoing offenses
4 unless:

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

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

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

12 (iv) paragraph (c) of this subsection (4.5) provides
13 otherwise.

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

16 (1) The date of a judicial finding at an adjudicatory
17 hearing that the child is an abused, neglected, or
18 dependent minor; or

19 (2) 60 days after the date on which the child is
20 removed from his or her parent, guardian, or legal
21 custodian.

22 (c) With respect to paragraph (a)(i), the following
23 transition rules shall apply:

24 (1) If the child entered foster care after November 19,
25 1997 and this amendatory Act of 1998 takes effect before
26 the child has been in foster care for 15 months of the

1 preceding 22 months, then the Department shall comply with
2 the requirements of paragraph (a) of this subsection (4.5)
3 for that child as soon as the child has been in foster care
4 for 15 of the preceding 22 months.

5 (2) If the child entered foster care after November 19,
6 1997 and this amendatory Act of 1998 takes effect after the
7 child has been in foster care for 15 of the preceding 22
8 months, then the Department shall comply with the
9 requirements of paragraph (a) of this subsection (4.5) for
10 that child within 3 months after the end of the next
11 regular session of the General Assembly.

12 (3) If the child entered foster care prior to November
13 19, 1997, then the Department shall comply with the
14 requirements of paragraph (a) of this subsection (4.5) for
15 that child in accordance with Department policy or rule.

16 (d) If the State's Attorney determines that the
17 Department's request for filing of a petition or motion
18 conforms to the requirements set forth in subdivisions (a),
19 (b), and (c) of this subsection (4.5), then the State's
20 Attorney shall file the petition or motion as requested.

21 (5) The court shall liberally allow the petitioner to amend
22 the petition to set forth a cause of action or to add, amend,
23 or supplement factual allegations that form the basis for a
24 cause of action up until 14 days before the adjudicatory
25 hearing. The petitioner may amend the petition after that date
26 and prior to the adjudicatory hearing if the court grants leave

1 to amend upon a showing of good cause. The court may allow
2 amendment of the petition to conform with the evidence at any
3 time prior to ruling. In all cases in which the court has
4 granted leave to amend based on new evidence or new
5 allegations, the court shall permit the respondent an adequate
6 opportunity to prepare a defense to the amended petition.

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

12 (Source: P.A. 95-405, eff. 6-1-08.)