

AN ACT concerning guardianship.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Juvenile Court Act of 1987 is amended by changing Sections 2-27 and 2-33 as follows:

(705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

Sec. 2-27. Placement; legal custody or guardianship.

(1) If the court determines and puts in writing the factual basis supporting the determination of whether the parents, guardian, or legal custodian of a minor adjudged a ward of the court are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor or are unwilling to do so, and that the health, safety, and best interest of the minor will be jeopardized if the minor remains in the custody of the minor's parents, guardian or custodian, the court may at this hearing and at any later point:

(a) place the minor in the custody of a suitable relative or other person as legal custodian or guardian;

(a-5) with the approval of the Department of Children and Family Services, place the minor in the subsidized guardianship of a suitable relative or other person as legal guardian; "subsidized guardianship" has the meaning

ascribed to that term in Section 4d of the Children and Family Services Act;

(b) place the minor under the guardianship of a probation officer;

(c) commit the minor to an agency for care or placement, except an institution under the authority of the Department of Corrections or of the Department of Children and Family Services;

(d) on and after the effective date of this amendatory Act of the 98th General Assembly and before January 1, 2017, commit the minor to the Department of Children and Family Services for care and service; however, a minor charged with a criminal offense under the Criminal Code of 1961 or the Criminal Code of 2012 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except (i) a minor less than 16 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act, (ii) a minor under the age of 18 for whom an independent basis of abuse, neglect, or dependency exists, or (iii) a minor for whom the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33 of this Act. On and after January 1, 2017, commit the minor to the Department of Children and Family Services for care and service; however, a minor charged with a

criminal offense under the Criminal Code of 1961 or the Criminal Code of 2012 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except (i) a minor less than 15 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act, (ii) a minor under the age of 18 for whom an independent basis of abuse, neglect, or dependency exists, or (iii) a minor for whom the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33 of this Act. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency. The Department shall be given due notice of the pendency of the action and the Guardianship Administrator of the Department of Children and Family Services shall be appointed guardian of the person of the minor. Whenever the Department seeks to discharge a minor from its care and service, the Guardianship Administrator shall petition the court for an order terminating guardianship. The Guardianship Administrator may designate one or more other officers of the Department, appointed as Department officers by administrative order of the Department Director, authorized to affix the signature of the Guardianship

Administrator to documents affecting the guardian-ward relationship of children for whom the Guardianship Administrator has been appointed guardian at such times as the Guardianship Administrator is unable to perform the duties of the Guardianship Administrator office. The signature authorization shall include but not be limited to matters of consent of marriage, enlistment in the armed forces, legal proceedings, adoption, major medical and surgical treatment and application for driver's license. Signature authorizations made pursuant to the provisions of this paragraph shall be filed with the Secretary of State and the Secretary of State shall provide upon payment of the customary fee, certified copies of the authorization to any court or individual who requests a copy.

(1.5) In making a determination under this Section, the court shall also consider whether, based on health, safety, and the best interests of the minor,

(a) appropriate services aimed at family preservation and family reunification have been unsuccessful in rectifying the conditions that have led to a finding of unfitness or inability to care for, protect, train, or discipline the minor, or

(b) no family preservation or family reunification services would be appropriate,
and if the petition or amended petition contained an

allegation that the parent is an unfit person as defined in subdivision (D) of Section 1 of the Adoption Act, and the order of adjudication recites that parental unfitness was established by clear and convincing evidence, the court shall, when appropriate and in the best interest of the minor, enter an order terminating parental rights and appointing a guardian with power to consent to adoption in accordance with Section 2-29.

When making a placement, the court, wherever possible, shall require the Department of Children and Family Services to select a person holding the same religious belief as that of the minor or a private agency controlled by persons of like religious faith of the minor and shall require the Department to otherwise comply with Section 7 of the Children and Family Services Act in placing the child. In addition, whenever alternative plans for placement are available, the court shall ascertain and consider, to the extent appropriate in the particular case, the views and preferences of the minor.

(2) (a) ~~When a minor is placed with a suitable relative or other person pursuant to item (a) of subsection (1), the court shall appoint the suitable relative or other person the legal custodian or guardian of the person of the minor. When a minor is committed to any agency, the court shall appoint the proper officer or representative thereof as legal custodian or guardian of the person of the minor.~~ Legal custodians and guardians of the person of the minor appointed under

subsection (1) have the respective rights and duties set forth in subsection (8) or (9) of Section 1-3 except as otherwise provided by order of court; but no guardian of the person may consent to adoption of the minor unless that authority is conferred upon the guardian in accordance with Section 2-29.

(b) The following additional provisions apply to legal custodians or guardians appointed under paragraphs (b), (c), and (d) of subsection (1) :

(A) When a minor is committed to any agency, the court shall appoint the proper officer or representative thereof as legal custodian or guardian of the person of the minor.

(B) An agency whose representative is appointed guardian of the person or legal custodian of the minor may place the minor in any child care facility, but the facility must be licensed under the Child Care Act of 1969 or have been approved by the Department of Children and Family Services as meeting the standards established for such licensing.

(C) No agency may place a minor adjudicated under Sections 2-3 or 2-4 in a child care facility unless the placement is in compliance with the rules and regulations for placement under this Section promulgated by the Department of Children and Family Services under Section 5 of the Children and Family Services Act. ~~Like authority and restrictions shall be conferred by the court upon any probation officer who has been appointed guardian of the~~

~~person of a minor.~~

(3) No placement by any probation officer or agency whose representative is appointed guardian of the person or legal custodian of a minor may be made in any out of State child care facility unless it complies with the Interstate Compact on the Placement of Children. Placement with a parent, however, is not subject to that Interstate Compact.

(4) The clerk of the court shall issue to the legal custodian or guardian of the person a certified copy of the order of court, as proof of the legal custodian's or guardian's authority. No other process is necessary as authority for the keeping of the minor.

(5) (a) Custody or guardianship granted under (a) or (a-5) of subsection (1) this Section continues until the court otherwise directs, but not after the minor reaches the age of 18 years.

(b) Custody or guardianship granted under paragraph (b), (c), or (d) of subsection (1) continues until the court otherwise directs, but not after the minor reaches the age of 21 years. ~~but not after the minor reaches the age of 19 years except as set forth in Section 2-31, or if the minor was previously committed to the Department of Children and Family Services for care and service and the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33.~~

(6) (Blank).

(Source: P.A. 103-22, eff. 8-8-23; 103-1061, eff. 7-1-25.)

(705 ILCS 405/2-33)

(Text of Section before amendment by P.A. 104-107)

Sec. 2-33. Supplemental petition to reinstate wardship.

(1) Any time prior to a minor's 18th birthday, a supplemental petition may be filed to address issues related to the guardianship, including to seek enforcement of visitation or to terminate the guardianship or discharge the guardian pursuant to a supplemental petition filed under this Section, the court may reinstate wardship and open a previously closed case when:

(a) wardship and guardianship under the Juvenile Court Act of 1987 was vacated in conjunction with the appointment of a private guardian under the Probate Act of 1975 or under the Juvenile Court Act of 1987; and

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor. ~~and~~

~~(c) it is in the minor's best interest that wardship be reinstated.~~

Upon the filing of a supplemental petition, the court shall reinstate wardship and open a previously closed case for purposes of addressing the petition.

(2) Any time prior to a minor's 21st birthday, pursuant to

a supplemental petition filed under this Section, the court may reinstate wardship and open a previously closed case when:

(a) wardship and guardianship under this Act was vacated pursuant to:

(i) an order entered under subsection (2) of Section 2-31 in the case of a minor over the age of 18;

(ii) closure of a case under subsection (2) of Section 2-31 in the case of a minor under the age of 18 who has been partially or completely emancipated in accordance with the Emancipation of Minors Act; or

(iii) an order entered under subsection (3) of Section 2-31 based on the minor's attaining the age of 19 years before the effective date of this amendatory Act of the 101st General Assembly;

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor; and

(c) it is in the minor's best interest that wardship be reinstated.

(3) The supplemental petition must be filed in the same proceeding in which the original adjudication order was entered. Unless excused by court for good cause shown, the petitioner shall give notice of the time and place of the hearing on the supplemental petition, in person or by mail, to the minor, if the minor is 14 years of age or older, and to the

parties to the juvenile court proceeding. Notice shall be provided at least 3 court days in advance of the hearing date. Any hearing on a supplemental petition filed under subsection (1) for custody to be restored to a parent, guardian, or legal custodian shall be conducted consistent with paragraph (4) of Section 2-28 of this Act.

(3.5) Whenever a petition is filed ~~to reinstate wardship~~ pursuant to subsection (1), prior to granting the petition, the court may order the Department of Children and Family Services to assess the minor's current and proposed living arrangements and to provide ongoing monitoring of the health, safety, and best interest of the minor during the pendency of the petition to assist the court in making that determination.

(4) A minor who is the subject of a petition to reinstate wardship under this Section shall be provided with representation in accordance with Sections 1-5 and 2-17 of this Act.

(5) Whenever a minor is committed to the Department of Children and Family Services for care and services following the reinstatement of wardship under this Section, the Department shall:

(a) Within 30 days of such commitment, prepare and file with the court a case plan which complies with the federal Adoption Assistance and Child Welfare Act of 1980 and is consistent with the health, safety and best interests of the minor; and

(b) Promptly refer the minor for such services as are necessary and consistent with the minor's health, safety and best interests.

(Source: P.A. 101-78, eff. 7-12-19; 102-489, eff. 8-20-21.)

(Text of Section after amendment by P.A. 104-107)

Sec. 2-33. Supplemental petition to reinstate wardship.

(1) Any time prior to a minor's 18th birthday, a supplemental petition may be filed to address issues related to the guardianship, including to seek enforcement of visitation or to terminate the guardianship or discharge the guardian pursuant to a supplemental petition filed under this Section, the court may reinstate wardship and open a previously closed case when:

(a) wardship and guardianship under the Juvenile Court Act of 1987 was vacated in conjunction with the appointment of a private guardian under the Probate Act of 1975 or under the Juvenile Court Act of 1987; and

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor. †
~~and~~

~~(c) it is in the minor's best interest that wardship be reinstated.~~

Upon the filing of a supplemental petition, the court shall reinstate wardship and open a previously closed case for

purposes of addressing the petition.

(2) Any time prior to a minor's 21st birthday, pursuant to a supplemental petition filed under this Section, the court may reinstate wardship and open a previously closed case when:

(a) wardship and guardianship under this Act was vacated pursuant to:

(i) an order entered under subsection (2) of Section 2-31 in the case of a minor over the age of 18;

(ii) closure of a case under subsection (2) of Section 2-31 in the case of a minor under the age of 18 who has been partially or completely emancipated in accordance with the Emancipation of Minors Act; or

(iii) an order entered under subsection (3) of Section 2-31 based on the minor's attaining the age of 19 years before the effective date of this amendatory Act of the 101st General Assembly;

(b) the minor is not presently a ward of the court under Article II of this Act nor is there a petition for adjudication of wardship pending on behalf of the minor; and

(c) it is in the minor's best interest that wardship be reinstated.

(3) The supplemental petition must be filed in the same proceeding in which the original adjudication order was entered. Unless excused by court for good cause shown, the petitioner shall give notice of the time and place of the

hearing on the supplemental petition, in person or by mail, to the minor, if the minor is 14 years of age or older, and to the parties to the juvenile court proceeding. Notice shall be provided at least 3 court days in advance of the hearing date. Any hearing on a supplemental petition filed under subsection (1) for custody to be restored to a parent, guardian, or legal custodian shall be conducted consistent with paragraph (4) of Section 2-28 of this Act.

(3.5) Whenever a petition is filed ~~to reinstate wardship~~ pursuant to subsection (1), prior to granting the petition, the court may order the Department of Children and Family Services to assess the minor's current and proposed living arrangements and to provide ongoing monitoring of the health, safety, and best interest of the minor during the pendency of the petition to assist the court in making that determination.

(4) A minor who is the subject of a petition to reinstate wardship under this Section shall be provided with representation in accordance with Sections 1-5 and 2-17 of this Act.

(5) Whenever a minor is committed to the Department of Children and Family Services for care and services following the reinstatement of wardship under this Section, the Department shall:

(a) Within 30 days of such commitment, prepare and file with the court a case plan which complies with the federal Adoption Assistance and Child Welfare Act of 1980

and is consistent with the health, safety and best interests of the minor; and

(b) Promptly refer the minor for such services as are necessary and consistent with the minor's health, safety and best interests.

(6) Whenever the court grants a petition to reinstate wardship under this Section, the court shall schedule the case for a permanency hearing in accordance with Section 2-28 and a Successful Transition to Adulthood Review hearing in accordance with Section 2-28.2, if applicable.

(Source: P.A. 104-107, eff. 7-1-26.)

Section 10. The Probate Act of 1975 is amended by changing Section 11-5 as follows:

(755 ILCS 5/11-5) (from Ch. 110 1/2, par. 11-5)

Sec. 11-5. Appointment of guardian.

(a) Upon the filing of a petition for the appointment of a guardian or on its own motion, the court may appoint a guardian of the estate or of both the person and estate, of a minor, or may appoint a guardian of the person only of a minor or minors, as the court finds to be in the best interest of the minor or minors.

(a-1) A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, may designate in any writing, including a will, a person qualified to act

under Section 11-3 to be appointed as guardian of the person or estate, or both, of an unmarried minor or of a child likely to be born. A parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, or a guardian or a standby guardian of an unmarried minor or of a child likely to be born may designate in any writing, including a will, a person qualified to act under Section 11-3 to be appointed as successor guardian of the minor's person or estate, or both. The designation must be witnessed by 2 or more credible witnesses at least 18 years of age, neither of whom is the person designated as the guardian. The designation may be proved by any competent evidence. If the designation is executed and attested in the same manner as a will, it shall have prima facie validity. The designation of a guardian or successor guardian does not affect the rights of the other parent in the minor.

(b) The court lacks jurisdiction to proceed on a petition for the appointment of a guardian of a minor if it finds that (i) the minor has a living parent, adoptive parent or adjudicated parent, whose parental rights have not been terminated, whose whereabouts are known, and who is willing and able to make and carry out day-to-day child care decisions concerning the minor, unless: (1) the parent or parents voluntarily relinquished physical custody of the minor; (2) after receiving notice of the hearing under Section 11-10.1, the parent or parents fail to object to the appointment at the

hearing on the petition; (3) the parent or parents consent to the appointment as evidenced by a written document that has been notarized and dated, or by a personal appearance and consent in open court; or (4) the parent or parents, due to an administrative separation, are unable to give consent to the appointment in person or by a notarized, written document as evidenced by a sworn affidavit submitted by the petitioner describing the parent's or parents' inability to receive notice or give consent; or (ii) there is a guardian for the minor appointed by a court of competent jurisdiction. There shall be a rebuttable presumption that a parent of a minor is willing and able to make and carry out day-to-day child care decisions concerning the minor, but the presumption may be rebutted by a preponderance of the evidence. If a short-term guardian has been appointed for the minor prior to the filing of the petition and the petitioner for guardianship is not the short-term guardian, there shall be a rebuttable presumption that it is in the best interest of the minor to remain in the care of the short-term guardian. The petitioner shall have the burden of proving by a preponderance of the evidence that it is not in the child's best interest to remain with the short-term guardian.

(b-1) If the court finds the appointment of a guardian of the minor to be in the best interest of the minor, and if a standby guardian has previously been appointed for the minor under Section 11-5.3, the court shall appoint the standby

guardian as the guardian of the person or estate, or both, of the minor unless the court finds, upon good cause shown, that the appointment would no longer be in the best interest of the minor.

(b-2) No petition for the appointment of a guardian of a minor shall be filed if the primary purpose of the filing is to reduce the financial resources available to the minor in order to cause the minor to qualify for public or private financial assistance from an educational institution. The court may deny the petition if it finds by a preponderance of the evidence that the primary purpose of the filing is to enable the minor to declare financial independence so that the minor may obtain public or private financial assistance from an educational institution or a State or federal student financial aid program.

(b-3) If the minor is a youth in care under the guardianship of the Department of Children and Family Services pursuant to the Juvenile Court Act of 1987 when the petition for the appointment of a guardian of a minor is filed, the court's determinations and findings shall be made consistent with subsection (4) of Section 2-28 of the Juvenile Court Act of 1987. Any motion to modify or vacate the appointment of a guardian of a minor who was a youth in care immediately preceding the filing of a petition for the appointment of a minor guardian shall be filed and reviewed pursuant to Section 2-33 of the Juvenile Court Act of 1987. If custody and

guardianship is to be restored to a parent or guardian who was a respondent in the Juvenile Court Act of 1987 case, the court's determinations and findings shall be made consistent with subsection (4) of Section 2-28 of the Juvenile Court Act of 1987. For purposes of this subsection, "youth in care" has the meaning provided in Section 4d of the Children and Family Services Act.

(c) If the minor is 14 years of age or more, the minor may nominate the guardian of the minor's person and estate, subject to approval of the court. If the minor's nominee is not approved by the court or if, after notice to the minor, the minor fails to nominate a guardian of the minor's person or estate, the court may appoint the guardian without nomination.

(d) The court shall not appoint as guardian of the person of the minor any person whom the court has determined had caused or substantially contributed to the minor becoming a neglected or abused minor as defined in the Juvenile Court Act of 1987, unless 2 years have elapsed since the last proven incident of abuse or neglect and the court determines that appointment of such person as guardian is in the best interests of the minor.

(e) Previous statements made by the minor relating to any allegations that the minor is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the Juvenile Court Act of 1987, shall be admissible in evidence in

a hearing concerning appointment of a guardian of the person or estate of the minor. No such statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect. (Source: P.A. 103-475, eff. 1-1-24.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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