



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5866

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/5	from Ch. 23, par. 5005
325 ILCS 5/8.2	from Ch. 23, par. 2058.2
705 ILCS 405/2-23	from Ch. 37, par. 802-23
705 ILCS 405/2-28	from Ch. 37, par. 802-28

Amends the Children and Family Services Act concerning family preservation services to children subject to certain juvenile court actions; enhanced family preservation services, including respite care; moneys received on behalf of children; and stipends to youth to support successful transition outcomes. Amends the Abused and Neglected Child Reporting Act concerning service plans for children subject to certain juvenile court actions. Amends the Juvenile Court Act of 1987 concerning certain service plans; long-term foster care as a permanency goal; and compelling a child or parent to engage in or refrain from certain activities. Effective immediately.

LRB095 17978 JAM 44061 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

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

4 Section 5. The Children and Family Services Act is amended  
5 by changing Section 5 as follows:

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

7 (Text of Section before amendment by P.A. 95-642)

8 Sec. 5. Direct child welfare services; Department of  
9 Children and Family Services. To provide direct child welfare  
10 services when not available through other public or private  
11 child care or program facilities.

12 (a) For purposes of this Section:

13 (1) "Children" means persons found within the State who  
14 are under the age of 18 years. The term also includes  
15 persons under age 19 who:

16 (A) were committed to the Department pursuant to  
17 the Juvenile Court Act or the Juvenile Court Act of  
18 1987, as amended, prior to the age of 18 and who  
19 continue under the jurisdiction of the court; or

20 (B) were accepted for care, service and training by  
21 the Department prior to the age of 18 and whose best  
22 interest in the discretion of the Department would be  
23 served by continuing that care, service and training

1           because of severe emotional disturbances, physical  
2           disability, social adjustment or any combination  
3           thereof, or because of the need to complete an  
4           educational or vocational training program.

5           (2) "Homeless youth" means persons found within the  
6           State who are under the age of 19, are not in a safe and  
7           stable living situation and cannot be reunited with their  
8           families.

9           (3) "Child welfare services" means public social  
10          services which are directed toward the accomplishment of  
11          the following purposes:

12                 (A) protecting and promoting the health, safety  
13                 and welfare of children, including homeless, dependent  
14                 or neglected children;

15                 (B) remedying, or assisting in the solution of  
16                 problems which may result in, the neglect, abuse,  
17                 exploitation or delinquency of children;

18                 (C) preventing the unnecessary separation of  
19                 children from their families by identifying family  
20                 problems, assisting families in resolving their  
21                 problems, and preventing the breakup of the family  
22                 where the prevention of child removal is desirable and  
23                 possible when the child can be cared for at home  
24                 without endangering the child's health and safety;

25                 (D) restoring to their families children who have  
26                 been removed, by the provision of services to the child

1 and the families when the child can be cared for at  
2 home without endangering the child's health and  
3 safety;

4 (E) placing children in suitable adoptive homes,  
5 in cases where restoration to the biological family is  
6 not safe, possible or appropriate;

7 (F) assuring safe and adequate care of children  
8 away from their homes, in cases where the child cannot  
9 be returned home or cannot be placed for adoption. At  
10 the time of placement, the Department shall consider  
11 concurrent planning, as described in subsection (1-1)  
12 of this Section so that permanency may occur at the  
13 earliest opportunity. Consideration should be given so  
14 that if reunification fails or is delayed, the  
15 placement made is the best available placement to  
16 provide permanency for the child;

17 (G) (blank);

18 (H) (blank); and

19 (I) placing and maintaining children in facilities  
20 that provide separate living quarters for children  
21 under the age of 18 and for children 18 years of age  
22 and older, unless a child 18 years of age is in the  
23 last year of high school education or vocational  
24 training, in an approved individual or group treatment  
25 program, in a licensed shelter facility, or secure  
26 child care facility. The Department is not required to

1 place or maintain children:

2 (i) who are in a foster home, or

3 (ii) who are persons with a developmental  
4 disability, as defined in the Mental Health and  
5 Developmental Disabilities Code, or

6 (iii) who are female children who are  
7 pregnant, pregnant and parenting or parenting, or

8 (iv) who are siblings, in facilities that  
9 provide separate living quarters for children 18  
10 years of age and older and for children under 18  
11 years of age.

12 (b) Nothing in this Section shall be construed to authorize  
13 the expenditure of public funds for the purpose of performing  
14 abortions.

15 (c) The Department shall establish and maintain  
16 tax-supported child welfare services and extend and seek to  
17 improve voluntary services throughout the State, to the end  
18 that services and care shall be available on an equal basis  
19 throughout the State to children requiring such services.

20 (d) The Director may authorize advance disbursements for  
21 any new program initiative to any agency contracting with the  
22 Department. As a prerequisite for an advance disbursement, the  
23 contractor must post a surety bond in the amount of the advance  
24 disbursement and have a purchase of service contract approved  
25 by the Department. The Department may pay up to 2 months  
26 operational expenses in advance. The amount of the advance

1 disbursement shall be prorated over the life of the contract or  
2 the remaining months of the fiscal year, whichever is less, and  
3 the installment amount shall then be deducted from future  
4 bills. Advance disbursement authorizations for new initiatives  
5 shall not be made to any agency after that agency has operated  
6 during 2 consecutive fiscal years. The requirements of this  
7 Section concerning advance disbursements shall not apply with  
8 respect to the following: payments to local public agencies for  
9 child day care services as authorized by Section 5a of this  
10 Act; and youth service programs receiving grant funds under  
11 Section 17a-4.

12 (e) (Blank).

13 (f) (Blank).

14 (g) The Department shall establish rules and regulations  
15 concerning its operation of programs designed to meet the goals  
16 of child safety and protection, family preservation, family  
17 reunification, and adoption, including but not limited to:

18 (1) adoption;

19 (2) foster care;

20 (3) family counseling;

21 (4) protective services;

22 (5) (blank);

23 (6) homemaker service;

24 (7) return of runaway children;

25 (8) (blank);

26 (9) placement under Section 5-7 of the Juvenile Court

1 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile  
2 Court Act of 1987 in accordance with the federal Adoption  
3 Assistance and Child Welfare Act of 1980; and

4 (10) interstate services.

5 Rules and regulations established by the Department shall  
6 include provisions for training Department staff and the staff  
7 of Department grantees, through contracts with other agencies  
8 or resources, in alcohol and drug abuse screening techniques  
9 approved by the Department of Human Services, as a successor to  
10 the Department of Alcoholism and Substance Abuse, for the  
11 purpose of identifying children and adults who should be  
12 referred to an alcohol and drug abuse treatment program for  
13 professional evaluation.

14 (h) If the Department finds that there is no appropriate  
15 program or facility within or available to the Department for a  
16 ward and that no licensed private facility has an adequate and  
17 appropriate program or none agrees to accept the ward, the  
18 Department shall create an appropriate individualized,  
19 program-oriented plan for such ward. The plan may be developed  
20 within the Department or through purchase of services by the  
21 Department to the extent that it is within its statutory  
22 authority to do.

23 (i) Service programs shall be available throughout the  
24 State and shall include but not be limited to the following  
25 services:

26 (1) case management;

- 1 (2) homemakers;
- 2 (3) counseling;
- 3 (4) parent education;
- 4 (5) day care; and
- 5 (6) emergency assistance and advocacy.

6 In addition, the following services may be made available  
7 to assess and meet the needs of children and families:

- 8 (1) comprehensive family-based services;
- 9 (2) assessments;
- 10 (3) respite care; and
- 11 (4) in-home health services.

12 The Department shall provide transportation for any of the  
13 services it makes available to children or families or for  
14 which it refers children or families.

15 (j) The Department may provide categories of financial  
16 assistance and education assistance grants, and shall  
17 establish rules and regulations concerning the assistance and  
18 grants, to persons who adopt physically or mentally  
19 handicapped, older and other hard-to-place children who (i)  
20 immediately prior to their adoption were legal wards of the  
21 Department or (ii) were determined eligible for financial  
22 assistance with respect to a prior adoption and who become  
23 available for adoption because the prior adoption has been  
24 dissolved and the parental rights of the adoptive parents have  
25 been terminated or because the child's adoptive parents have  
26 died. The Department may continue to provide financial



1 assistance and education assistance grants for a child who was  
2 determined eligible for financial assistance under this  
3 subsection (j) in the interim period beginning when the child's  
4 adoptive parents died and ending with the finalization of the  
5 new adoption of the child by another adoptive parent or  
6 parents. The Department may also provide categories of  
7 financial assistance and education assistance grants, and  
8 shall establish rules and regulations for the assistance and  
9 grants, to persons appointed guardian of the person under  
10 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,  
11 4-25 or 5-740 of the Juvenile Court Act of 1987 for children  
12 who were wards of the Department for 12 months immediately  
13 prior to the appointment of the guardian.

14 The amount of assistance may vary, depending upon the needs  
15 of the child and the adoptive parents, as set forth in the  
16 annual assistance agreement. Special purpose grants are  
17 allowed where the child requires special service but such costs  
18 may not exceed the amounts which similar services would cost  
19 the Department if it were to provide or secure them as guardian  
20 of the child.

21 Any financial assistance provided under this subsection is  
22 inalienable by assignment, sale, execution, attachment,  
23 garnishment, or any other remedy for recovery or collection of  
24 a judgment or debt.

25 (j-5) The Department shall not deny or delay the placement  
26 of a child for adoption if an approved family is available

1 either outside of the Department region handling the case, or  
2 outside of the State of Illinois.

3 (k) The Department shall accept for care and training any  
4 child who has been adjudicated neglected or abused, or  
5 dependent committed to it pursuant to the Juvenile Court Act or  
6 the Juvenile Court Act of 1987.

7 (l) ~~The~~ ~~Before July 1, 2000, the Department may provide,~~  
8 ~~and beginning July 1, 2000, the~~ Department shall offer family  
9 preservation services, as defined in Section 8.2 of the Abused  
10 and Neglected Child Reporting Act, to help families, including  
11 adoptive and extended families. Family preservation services  
12 shall be offered (i) to prevent the placement of children in  
13 substitute care when the children can be cared for at home or  
14 in the custody of the person responsible for the children's  
15 welfare, (ii) to reunite children with their families, or (iii)  
16 to maintain an adoptive placement. Family preservation  
17 services shall only be offered when doing so will not endanger  
18 the children's health or safety. With respect to children who  
19 are in substitute care pursuant to the Juvenile Court Act of  
20 1987, family preservation services shall not be offered if a  
21 goal other than those of subdivisions (A), (B), or (B-1) of  
22 subsection (2) of Section 2-28 of that Act has been set.  
23 Nothing in this paragraph shall be construed to create a  
24 private right of action or claim on the part of any individual  
25 or child welfare agency, except that when a child is the  
26 subject of an action under Article II of the Juvenile Court Act

1 of 1987 and the child's service plan calls for certain family  
2 preservation services, the court hearing the action under  
3 Article II of the Juvenile Court Act of 1987 may order the  
4 Department to provide the family preservation services set out  
5 in the plan, if those services are not provided with reasonable  
6 promptness and if those services are available.

7       The Department shall notify the child and his family of the  
8 Department's responsibility to offer and provide family  
9 preservation services as identified in the service plan. The  
10 child and his family shall be eligible for services as soon as  
11 the report is determined to be "indicated". The Department may  
12 offer services to any child or family with respect to whom a  
13 report of suspected child abuse or neglect has been filed,  
14 prior to concluding its investigation under Section 7.12 of the  
15 Abused and Neglected Child Reporting Act. However, the child's  
16 or family's willingness to accept services shall not be  
17 considered in the investigation. The Department may also  
18 provide services to any child or family who is the subject of  
19 any report of suspected child abuse or neglect or may refer  
20 such child or family to services available from other agencies  
21 in the community, even if the report is determined to be  
22 unfounded, if the conditions in the child's or family's home  
23 are reasonably likely to subject the child or family to future  
24 reports of suspected child abuse or neglect. Acceptance of such  
25 services shall be voluntary.

26       The Department may, at its discretion except for those

1 children also adjudicated neglected or dependent, accept for  
2 care and training any child who has been adjudicated addicted,  
3 as a truant minor in need of supervision or as a minor  
4 requiring authoritative intervention, under the Juvenile Court  
5 Act or the Juvenile Court Act of 1987, but no such child shall  
6 be committed to the Department by any court without the  
7 approval of the Department. A minor charged with a criminal  
8 offense under the Criminal Code of 1961 or adjudicated  
9 delinquent shall not be placed in the custody of or committed  
10 to the Department by any court, except a minor less than 13  
11 years of age committed to the Department under Section 5-710 of  
12 the Juvenile Court Act of 1987.

13 As soon as is possible after the effective date of this  
14 amendatory Act of the 95th General Assembly, the Department  
15 shall enhance its program of family preservation services,  
16 including, but not limited to, respite care, to support intact,  
17 foster, and adoptive families when (i) the family is eligible  
18 for services from the Department pursuant to the Department's  
19 rules, (ii) the family is experiencing extreme hardships due to  
20 the difficulty and stress of caring for a child who has been  
21 diagnosed with a pervasive developmental disorder, and (iii)  
22 the Department determines that those services are necessary to  
23 ensure the health and safety of the child. "Respite care" shall  
24 be defined in the Department's amended rules and regulations.  
25 The Department may refer the child or family to services  
26 available from other agencies in the community. Acceptance of

1 these services shall be voluntary. The Department may develop  
2 and implement a public information campaign to alert health and  
3 social service providers and the general public about these  
4 special family preservation services. The nature and scope of  
5 the services offered and the number of families served under  
6 the special program implemented under this paragraph shall be  
7 determined by the level of funding that the Department annually  
8 allocates for this purpose. The term "pervasive developmental  
9 disorder" under this paragraph means a neurological condition,  
10 Asperger's Syndrome, and autism, as defined in the most recent  
11 edition of the Diagnostic and Statistical Manual of Mental  
12 Disorders of the American Psychiatric Association.

13 (1-1) The legislature recognizes that the best interests of  
14 the child require that the child be placed in the most  
15 permanent living arrangement as soon as is practically  
16 possible. To achieve this goal, the legislature directs the  
17 Department of Children and Family Services to conduct  
18 concurrent planning so that permanency may occur at the  
19 earliest opportunity. Permanent living arrangements may  
20 include prevention of placement of a child outside the home of  
21 the family when the child can be cared for at home without  
22 endangering the child's health or safety; reunification with  
23 the family, when safe and appropriate, if temporary placement  
24 is necessary; or movement of the child toward the most  
25 permanent living arrangement and permanent legal status.

26 When determining reasonable efforts to be made with respect

1 to a child, as described in this subsection, and in making such  
2 reasonable efforts, the child's health and safety shall be the  
3 paramount concern.

4 When a child is placed in foster care, the Department shall  
5 ensure and document that reasonable efforts were made to  
6 prevent or eliminate the need to remove the child from the  
7 child's home. The Department must make reasonable efforts to  
8 reunify the family when temporary placement of the child occurs  
9 unless otherwise required, pursuant to the Juvenile Court Act  
10 of 1987. At any time after the dispositional hearing where the  
11 Department believes that further reunification services would  
12 be ineffective, it may request a finding from the court that  
13 reasonable efforts are no longer appropriate. The Department is  
14 not required to provide further reunification services after  
15 such a finding.

16 A decision to place a child in substitute care shall be  
17 made with considerations of the child's health, safety, and  
18 best interests. At the time of placement, consideration should  
19 also be given so that if reunification fails or is delayed, the  
20 placement made is the best available placement to provide  
21 permanency for the child.

22 The Department shall adopt rules addressing concurrent  
23 planning for reunification and permanency. The Department  
24 shall consider the following factors when determining  
25 appropriateness of concurrent planning:

26 (1) the likelihood of prompt reunification;

- 1 (2) the past history of the family;
- 2 (3) the barriers to reunification being addressed by
- 3 the family;
- 4 (4) the level of cooperation of the family;
- 5 (5) the foster parents' willingness to work with the
- 6 family to reunite;
- 7 (6) the willingness and ability of the foster family to
- 8 provide an adoptive home or long-term placement;
- 9 (7) the age of the child;
- 10 (8) placement of siblings.

11 (m) The Department may assume temporary custody of any  
12 child if:

13 (1) it has received a written consent to such temporary  
14 custody signed by the parents of the child or by the parent  
15 having custody of the child if the parents are not living  
16 together or by the guardian or custodian of the child if  
17 the child is not in the custody of either parent, or

18 (2) the child is found in the State and neither a  
19 parent, guardian nor custodian of the child can be located.

20 If the child is found in his or her residence without a parent,  
21 guardian, custodian or responsible caretaker, the Department  
22 may, instead of removing the child and assuming temporary  
23 custody, place an authorized representative of the Department  
24 in that residence until such time as a parent, guardian or  
25 custodian enters the home and expresses a willingness and  
26 apparent ability to ensure the child's health and safety and

1 resume permanent charge of the child, or until a relative  
2 enters the home and is willing and able to ensure the child's  
3 health and safety and assume charge of the child until a  
4 parent, guardian or custodian enters the home and expresses  
5 such willingness and ability to ensure the child's safety and  
6 resume permanent charge. After a caretaker has remained in the  
7 home for a period not to exceed 12 hours, the Department must  
8 follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
9 5-415 of the Juvenile Court Act of 1987.

10 The Department shall have the authority, responsibilities  
11 and duties that a legal custodian of the child would have  
12 pursuant to subsection (9) of Section 1-3 of the Juvenile Court  
13 Act of 1987. Whenever a child is taken into temporary custody  
14 pursuant to an investigation under the Abused and Neglected  
15 Child Reporting Act, or pursuant to a referral and acceptance  
16 under the Juvenile Court Act of 1987 of a minor in limited  
17 custody, the Department, during the period of temporary custody  
18 and before the child is brought before a judicial officer as  
19 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile  
20 Court Act of 1987, shall have the authority, responsibilities  
21 and duties that a legal custodian of the child would have under  
22 subsection (9) of Section 1-3 of the Juvenile Court Act of  
23 1987.

24 The Department shall ensure that any child taken into  
25 custody is scheduled for an appointment for a medical  
26 examination.



1           A parent, guardian or custodian of a child in the temporary  
2 custody of the Department who would have custody of the child  
3 if he were not in the temporary custody of the Department may  
4 deliver to the Department a signed request that the Department  
5 surrender the temporary custody of the child. The Department  
6 may retain temporary custody of the child for 10 days after the  
7 receipt of the request, during which period the Department may  
8 cause to be filed a petition pursuant to the Juvenile Court Act  
9 of 1987. If a petition is so filed, the Department shall retain  
10 temporary custody of the child until the court orders  
11 otherwise. If a petition is not filed within the 10 day period,  
12 the child shall be surrendered to the custody of the requesting  
13 parent, guardian or custodian not later than the expiration of  
14 the 10 day period, at which time the authority and duties of  
15 the Department with respect to the temporary custody of the  
16 child shall terminate.

17           (m-1) The Department may place children under 18 years of  
18 age in a secure child care facility licensed by the Department  
19 that cares for children who are in need of secure living  
20 arrangements for their health, safety, and well-being after a  
21 determination is made by the facility director and the Director  
22 or the Director's designate prior to admission to the facility  
23 subject to Section 2-27.1 of the Juvenile Court Act of 1987.  
24 This subsection (m-1) does not apply to a child who is subject  
25 to placement in a correctional facility operated pursuant to  
26 Section 3-15-2 of the Unified Code of Corrections, unless the

1 child is a ward who was placed under the care of the Department  
2 before being subject to placement in a correctional facility  
3 and a court of competent jurisdiction has ordered placement of  
4 the child in a secure care facility.

5 (n) The Department may place children under 18 years of age  
6 in licensed child care facilities when in the opinion of the  
7 Department, appropriate services aimed at family preservation  
8 have been unsuccessful and cannot ensure the child's health and  
9 safety or are unavailable and such placement would be for their  
10 best interest. Payment for board, clothing, care, training and  
11 supervision of any child placed in a licensed child care  
12 facility may be made by the Department, by the parents or  
13 guardians of the estates of those children, or by both the  
14 Department and the parents or guardians, except that no  
15 payments shall be made by the Department for any child placed  
16 in a licensed child care facility for board, clothing, care,  
17 training and supervision of such a child that exceed the  
18 average per capita cost of maintaining and of caring for a  
19 child in institutions for dependent or neglected children  
20 operated by the Department. However, such restriction on  
21 payments does not apply in cases where children require  
22 specialized care and treatment for problems of severe emotional  
23 disturbance, physical disability, social adjustment, or any  
24 combination thereof and suitable facilities for the placement  
25 of such children are not available at payment rates within the  
26 limitations set forth in this Section. All reimbursements for

1 services delivered shall be absolutely inalienable by  
2 assignment, sale, attachment, garnishment or otherwise.

3 (o) The Department shall establish an administrative  
4 review and appeal process for children and families who request  
5 or receive child welfare services from the Department. Children  
6 who are wards of the Department and are placed by private child  
7 welfare agencies, and foster families with whom those children  
8 are placed, shall be afforded the same procedural and appeal  
9 rights as children and families in the case of placement by the  
10 Department, including the right to an initial review of a  
11 private agency decision by that agency. The Department shall  
12 insure that any private child welfare agency, which accepts  
13 wards of the Department for placement, affords those rights to  
14 children and foster families. The Department shall accept for  
15 administrative review and an appeal hearing a complaint made by  
16 (i) a child or foster family concerning a decision following an  
17 initial review by a private child welfare agency or (ii) a  
18 prospective adoptive parent who alleges a violation of  
19 subsection (j-5) of this Section. An appeal of a decision  
20 concerning a change in the placement of a child shall be  
21 conducted in an expedited manner.

22 (p) There is hereby created the Department of Children and  
23 Family Services Emergency Assistance Fund from which the  
24 Department may provide special financial assistance to  
25 families which are in economic crisis when such assistance is  
26 not available through other public or private sources and the

1 assistance is deemed necessary to prevent dissolution of the  
2 family unit or to reunite families which have been separated  
3 due to child abuse and neglect. The Department shall establish  
4 administrative rules specifying the criteria for determining  
5 eligibility for and the amount and nature of assistance to be  
6 provided. The Department may also enter into written agreements  
7 with private and public social service agencies to provide  
8 emergency financial services to families referred by the  
9 Department. Special financial assistance payments shall be  
10 available to a family no more than once during each fiscal year  
11 and the total payments to a family may not exceed \$500 during a  
12 fiscal year.

13 (q) The Department may receive and use, in their entirety,  
14 for the benefit of children any gift, donation or bequest of  
15 money or other property which is received on behalf of such  
16 children, or any financial benefits to which such children are  
17 or may become entitled while under the jurisdiction or care of  
18 the Department. If the person who gives, donates, or bequeaths  
19 money or other property that is received by the Department for  
20 the benefit of children provides in writing that the money or  
21 other property is for a specific purpose, the Department shall  
22 use the money or other property only for that purpose.

23 The Department shall set up and administer no-cost,  
24 interest-bearing accounts in appropriate financial  
25 institutions for children for whom the Department is legally  
26 responsible and who have been determined eligible for Veterans'

1 Benefits, Social Security benefits, assistance allotments from  
2 the armed forces, court ordered payments, parental voluntary  
3 payments, Supplemental Security Income, Railroad Retirement  
4 payments, Black Lung benefits, or other miscellaneous  
5 payments. Interest earned by each account shall be credited to  
6 the account, unless disbursed in accordance with this  
7 subsection.

8 In disbursing funds from children's accounts, the  
9 Department shall:

10 (1) Establish standards in accordance with State and  
11 federal laws for disbursing money from children's  
12 accounts. In all circumstances, the Department's  
13 "Guardianship Administrator" or his or her designee must  
14 approve disbursements from children's accounts. The  
15 Department shall be responsible for keeping complete  
16 records of all disbursements for each account for any  
17 purpose.

18 (2) Calculate on a monthly basis the amounts paid from  
19 State funds for the child's board and care, medical care  
20 not covered under Medicaid, and social services; and  
21 utilize funds from the child's account, as covered by  
22 regulation, to reimburse those costs. Monthly,  
23 disbursements from all children's accounts, up to 1/12 of  
24 \$13,000,000, shall be deposited by the Department into the  
25 General Revenue Fund and the balance over 1/12 of  
26 \$13,000,000 into the DCFS Children's Services Fund.

1           (3) Maintain any balance remaining after reimbursing  
2           for the child's costs of care, as specified in item (2).  
3           The balance shall accumulate in accordance with relevant  
4           State and federal laws and shall be disbursed to the child  
5           or his or her guardian, or to the issuing agency.

6           Subject to appropriation, the Department shall provide a  
7           stipend in the amount of up to \$1,500 to youths who, on or  
8           after January 1, 2009, cease to be wards of the Department  
9           pursuant to Section 2-31 of the Juvenile Court Act of 1987 and  
10           who meet the qualifications set out in this paragraph. The  
11           stipend shall be paid by voucher to promote successful  
12           transition outcomes by supporting training, housing, and  
13           living expenses. All or part of the stipend may also be used to  
14           pay the fee for drivers education to prepare the youth to take  
15           an examination given by the Secretary of State for a drivers  
16           license or permit. In order to be eligible for this benefit, a  
17           youth must have: (A) at the time wardship terminated, reached  
18           the age of 18 years or older; and (B) either (i) at the time  
19           wardship terminated, obtained a certificate of graduation from  
20           a high school or the recognized equivalent of such a  
21           certificate; (ii) within one year after wardship terminated,  
22           obtained a certificate of graduation from a high school or the  
23           recognized equivalent of such a certificate, or (iii) within  
24           one year after wardship terminated, been determined by DCFS to  
25           lack the ability to obtain a certificate of graduation from a  
26           high school, or the recognized equivalent of such a

1 certificate, due to an impairment or disability. The Department  
2 shall establish by rule (i) procedures for verifying  
3 eligibility for the receipt of funds under this paragraph and  
4 for determining the amount of the stipend to be awarded and  
5 (ii) a process for disseminating the payments.

6 (r) The Department shall promulgate regulations  
7 encouraging all adoption agencies to voluntarily forward to the  
8 Department or its agent names and addresses of all persons who  
9 have applied for and have been approved for adoption of a  
10 hard-to-place or handicapped child and the names of such  
11 children who have not been placed for adoption. A list of such  
12 names and addresses shall be maintained by the Department or  
13 its agent, and coded lists which maintain the confidentiality  
14 of the person seeking to adopt the child and of the child shall  
15 be made available, without charge, to every adoption agency in  
16 the State to assist the agencies in placing such children for  
17 adoption. The Department may delegate to an agent its duty to  
18 maintain and make available such lists. The Department shall  
19 ensure that such agent maintains the confidentiality of the  
20 person seeking to adopt the child and of the child.

21 (s) The Department of Children and Family Services may  
22 establish and implement a program to reimburse Department and  
23 private child welfare agency foster parents licensed by the  
24 Department of Children and Family Services for damages  
25 sustained by the foster parents as a result of the malicious or  
26 negligent acts of foster children, as well as providing third

1 party coverage for such foster parents with regard to actions  
2 of foster children to other individuals. Such coverage will be  
3 secondary to the foster parent liability insurance policy, if  
4 applicable. The program shall be funded through appropriations  
5 from the General Revenue Fund, specifically designated for such  
6 purposes.

7 (t) The Department shall perform home studies and  
8 investigations and shall exercise supervision over visitation  
9 as ordered by a court pursuant to the Illinois Marriage and  
10 Dissolution of Marriage Act or the Adoption Act only if:

11 (1) an order entered by an Illinois court specifically  
12 directs the Department to perform such services; and

13 (2) the court has ordered one or both of the parties to  
14 the proceeding to reimburse the Department for its  
15 reasonable costs for providing such services in accordance  
16 with Department rules, or has determined that neither party  
17 is financially able to pay.

18 The Department shall provide written notification to the  
19 court of the specific arrangements for supervised visitation  
20 and projected monthly costs within 60 days of the court order.  
21 The Department shall send to the court information related to  
22 the costs incurred except in cases where the court has  
23 determined the parties are financially unable to pay. The court  
24 may order additional periodic reports as appropriate.

25 (u) In addition to other information that must be provided,  
26 whenever the Department places a child with a prospective



1 adoptive parent or parents or in a licensed foster home, group  
2 home, child care institution, or in a relative home, the  
3 Department shall provide to the prospective adoptive parent or  
4 parents or other caretaker:

5 (1) available detailed information concerning the  
6 child's educational and health history, copies of  
7 immunization records (including insurance and medical card  
8 information), a history of the child's previous  
9 placements, if any, and reasons for placement changes  
10 excluding any information that identifies or reveals the  
11 location of any previous caretaker;

12 (2) a copy of the child's portion of the client service  
13 plan, including any visitation arrangement, and all  
14 amendments or revisions to it as related to the child; and

15 (3) information containing details of the child's  
16 individualized educational plan when the child is  
17 receiving special education services.

18 The caretaker shall be informed of any known social or  
19 behavioral information (including, but not limited to,  
20 criminal background, fire setting, perpetuation of sexual  
21 abuse, destructive behavior, and substance abuse) necessary to  
22 care for and safeguard the children to be placed or currently  
23 in the home. The Department may prepare a written summary of  
24 the information required by this paragraph, which may be  
25 provided to the foster or prospective adoptive parent in  
26 advance of a placement. The foster or prospective adoptive

1 parent may review the supporting documents in the child's file  
2 in the presence of casework staff. In the case of an emergency  
3 placement, casework staff shall at least provide known  
4 information verbally, if necessary, and must subsequently  
5 provide the information in writing as required by this  
6 subsection.

7 The information described in this subsection shall be  
8 provided in writing. In the case of emergency placements when  
9 time does not allow prior review, preparation, and collection  
10 of written information, the Department shall provide such  
11 information as it becomes available. Within 10 business days  
12 after placement, the Department shall obtain from the  
13 prospective adoptive parent or parents or other caretaker a  
14 signed verification of receipt of the information provided.  
15 Within 10 business days after placement, the Department shall  
16 provide to the child's guardian ad litem a copy of the  
17 information provided to the prospective adoptive parent or  
18 parents or other caretaker. The information provided to the  
19 prospective adoptive parent or parents or other caretaker shall  
20 be reviewed and approved regarding accuracy at the supervisory  
21 level.

22 (u-5) Effective July 1, 1995, only foster care placements  
23 licensed as foster family homes pursuant to the Child Care Act  
24 of 1969 shall be eligible to receive foster care payments from  
25 the Department. Relative caregivers who, as of July 1, 1995,  
26 were approved pursuant to approved relative placement rules

1 previously promulgated by the Department at 89 Ill. Adm. Code  
2 335 and had submitted an application for licensure as a foster  
3 family home may continue to receive foster care payments only  
4 until the Department determines that they may be licensed as a  
5 foster family home or that their application for licensure is  
6 denied or until September 30, 1995, whichever occurs first.

7 (v) The Department shall access criminal history record  
8 information as defined in the Illinois Uniform Conviction  
9 Information Act and information maintained in the adjudicatory  
10 and dispositional record system as defined in Section 2605-355  
11 of the Department of State Police Law (20 ILCS 2605/2605-355)  
12 if the Department determines the information is necessary to  
13 perform its duties under the Abused and Neglected Child  
14 Reporting Act, the Child Care Act of 1969, and the Children and  
15 Family Services Act. The Department shall provide for  
16 interactive computerized communication and processing  
17 equipment that permits direct on-line communication with the  
18 Department of State Police's central criminal history data  
19 repository. The Department shall comply with all certification  
20 requirements and provide certified operators who have been  
21 trained by personnel from the Department of State Police. In  
22 addition, one Office of the Inspector General investigator  
23 shall have training in the use of the criminal history  
24 information access system and have access to the terminal. The  
25 Department of Children and Family Services and its employees  
26 shall abide by rules and regulations established by the

1 Department of State Police relating to the access and  
2 dissemination of this information.

3 (v-1) Prior to final approval for placement of a child, the  
4 Department shall conduct a criminal records background check of  
5 the prospective foster or adoptive parent, including  
6 fingerprint-based checks of national crime information  
7 databases. Final approval for placement shall not be granted if  
8 the record check reveals a felony conviction for child abuse or  
9 neglect, for spousal abuse, for a crime against children, or  
10 for a crime involving violence, including rape, sexual assault,  
11 or homicide, but not including other physical assault or  
12 battery, or if there is a felony conviction for physical  
13 assault, battery, or a drug-related offense committed within  
14 the past 5 years.

15 (v-2) Prior to final approval for placement of a child, the  
16 Department shall check its child abuse and neglect registry for  
17 information concerning prospective foster and adoptive  
18 parents, and any adult living in the home. If any prospective  
19 foster or adoptive parent or other adult living in the home has  
20 resided in another state in the preceding 5 years, the  
21 Department shall request a check of that other state's child  
22 abuse and neglect registry.

23 (w) Within 120 days of August 20, 1995 (the effective date  
24 of Public Act 89-392), the Department shall prepare and submit  
25 to the Governor and the General Assembly, a written plan for  
26 the development of in-state licensed secure child care

1 facilities that care for children who are in need of secure  
2 living arrangements for their health, safety, and well-being.  
3 For purposes of this subsection, secure care facility shall  
4 mean a facility that is designed and operated to ensure that  
5 all entrances and exits from the facility, a building or a  
6 distinct part of the building, are under the exclusive control  
7 of the staff of the facility, whether or not the child has the  
8 freedom of movement within the perimeter of the facility,  
9 building, or distinct part of the building. The plan shall  
10 include descriptions of the types of facilities that are needed  
11 in Illinois; the cost of developing these secure care  
12 facilities; the estimated number of placements; the potential  
13 cost savings resulting from the movement of children currently  
14 out-of-state who are projected to be returned to Illinois; the  
15 necessary geographic distribution of these facilities in  
16 Illinois; and a proposed timetable for development of such  
17 facilities.

18 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;  
19 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; revised 10-30-07.)

20 (Text of Section after amendment by P.A. 95-642)

21 Sec. 5. Direct child welfare services; Department of  
22 Children and Family Services. To provide direct child welfare  
23 services when not available through other public or private  
24 child care or program facilities.

25 (a) For purposes of this Section:

1           (1) "Children" means persons found within the State who  
2           are under the age of 18 years. The term also includes  
3           persons under age 19 who:

4                   (A) were committed to the Department pursuant to  
5                   the Juvenile Court Act or the Juvenile Court Act of  
6                   1987, as amended, prior to the age of 18 and who  
7                   continue under the jurisdiction of the court; or

8                   (B) were accepted for care, service and training by  
9                   the Department prior to the age of 18 and whose best  
10                  interest in the discretion of the Department would be  
11                  served by continuing that care, service and training  
12                  because of severe emotional disturbances, physical  
13                  disability, social adjustment or any combination  
14                  thereof, or because of the need to complete an  
15                  educational or vocational training program.

16           (2) "Homeless youth" means persons found within the  
17           State who are under the age of 19, are not in a safe and  
18           stable living situation and cannot be reunited with their  
19           families.

20           (3) "Child welfare services" means public social  
21           services which are directed toward the accomplishment of  
22           the following purposes:

23                   (A) protecting and promoting the health, safety  
24                   and welfare of children, including homeless, dependent  
25                   or neglected children;

26                   (B) remedying, or assisting in the solution of

1 problems which may result in, the neglect, abuse,  
2 exploitation or delinquency of children;

3 (C) preventing the unnecessary separation of  
4 children from their families by identifying family  
5 problems, assisting families in resolving their  
6 problems, and preventing the breakup of the family  
7 where the prevention of child removal is desirable and  
8 possible when the child can be cared for at home  
9 without endangering the child's health and safety;

10 (D) restoring to their families children who have  
11 been removed, by the provision of services to the child  
12 and the families when the child can be cared for at  
13 home without endangering the child's health and  
14 safety;

15 (E) placing children in suitable adoptive homes,  
16 in cases where restoration to the biological family is  
17 not safe, possible or appropriate;

18 (F) assuring safe and adequate care of children  
19 away from their homes, in cases where the child cannot  
20 be returned home or cannot be placed for adoption. At  
21 the time of placement, the Department shall consider  
22 concurrent planning, as described in subsection (1-1)  
23 of this Section so that permanency may occur at the  
24 earliest opportunity. Consideration should be given so  
25 that if reunification fails or is delayed, the  
26 placement made is the best available placement to

1 provide permanency for the child;

2 (G) (blank);

3 (H) (blank); and

4 (I) placing and maintaining children in facilities  
5 that provide separate living quarters for children  
6 under the age of 18 and for children 18 years of age  
7 and older, unless a child 18 years of age is in the  
8 last year of high school education or vocational  
9 training, in an approved individual or group treatment  
10 program, in a licensed shelter facility, or secure  
11 child care facility. The Department is not required to  
12 place or maintain children:

13 (i) who are in a foster home, or

14 (ii) who are persons with a developmental  
15 disability, as defined in the Mental Health and  
16 Developmental Disabilities Code, or

17 (iii) who are female children who are  
18 pregnant, pregnant and parenting or parenting, or

19 (iv) who are siblings, in facilities that  
20 provide separate living quarters for children 18  
21 years of age and older and for children under 18  
22 years of age.

23 (b) Nothing in this Section shall be construed to authorize  
24 the expenditure of public funds for the purpose of performing  
25 abortions.

26 (c) The Department shall establish and maintain



1 tax-supported child welfare services and extend and seek to  
2 improve voluntary services throughout the State, to the end  
3 that services and care shall be available on an equal basis  
4 throughout the State to children requiring such services.

5 (d) The Director may authorize advance disbursements for  
6 any new program initiative to any agency contracting with the  
7 Department. As a prerequisite for an advance disbursement, the  
8 contractor must post a surety bond in the amount of the advance  
9 disbursement and have a purchase of service contract approved  
10 by the Department. The Department may pay up to 2 months  
11 operational expenses in advance. The amount of the advance  
12 disbursement shall be prorated over the life of the contract or  
13 the remaining months of the fiscal year, whichever is less, and  
14 the installment amount shall then be deducted from future  
15 bills. Advance disbursement authorizations for new initiatives  
16 shall not be made to any agency after that agency has operated  
17 during 2 consecutive fiscal years. The requirements of this  
18 Section concerning advance disbursements shall not apply with  
19 respect to the following: payments to local public agencies for  
20 child day care services as authorized by Section 5a of this  
21 Act; and youth service programs receiving grant funds under  
22 Section 17a-4.

23 (e) (Blank).

24 (f) (Blank).

25 (g) The Department shall establish rules and regulations  
26 concerning its operation of programs designed to meet the goals

1 of child safety and protection, family preservation, family  
2 reunification, and adoption, including but not limited to:

3 (1) adoption;

4 (2) foster care;

5 (3) family counseling;

6 (4) protective services;

7 (5) (blank);

8 (6) homemaker service;

9 (7) return of runaway children;

10 (8) (blank);

11 (9) placement under Section 5-7 of the Juvenile Court  
12 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile  
13 Court Act of 1987 in accordance with the federal Adoption  
14 Assistance and Child Welfare Act of 1980; and

15 (10) interstate services.

16 Rules and regulations established by the Department shall  
17 include provisions for training Department staff and the staff  
18 of Department grantees, through contracts with other agencies  
19 or resources, in alcohol and drug abuse screening techniques  
20 approved by the Department of Human Services, as a successor to  
21 the Department of Alcoholism and Substance Abuse, for the  
22 purpose of identifying children and adults who should be  
23 referred to an alcohol and drug abuse treatment program for  
24 professional evaluation.

25 (h) If the Department finds that there is no appropriate  
26 program or facility within or available to the Department for a

1 ward and that no licensed private facility has an adequate and  
2 appropriate program or none agrees to accept the ward, the  
3 Department shall create an appropriate individualized,  
4 program-oriented plan for such ward. The plan may be developed  
5 within the Department or through purchase of services by the  
6 Department to the extent that it is within its statutory  
7 authority to do.

8 (i) Service programs shall be available throughout the  
9 State and shall include but not be limited to the following  
10 services:

- 11 (1) case management;
- 12 (2) homemakers;
- 13 (3) counseling;
- 14 (4) parent education;
- 15 (5) day care; and
- 16 (6) emergency assistance and advocacy.

17 In addition, the following services may be made available  
18 to assess and meet the needs of children and families:

- 19 (1) comprehensive family-based services;
- 20 (2) assessments;
- 21 (3) respite care; and
- 22 (4) in-home health services.

23 The Department shall provide transportation for any of the  
24 services it makes available to children or families or for  
25 which it refers children or families.

26 (j) The Department may provide categories of financial

1 assistance and education assistance grants, and shall  
2 establish rules and regulations concerning the assistance and  
3 grants, to persons who adopt physically or mentally  
4 handicapped, older and other hard-to-place children who (i)  
5 immediately prior to their adoption were legal wards of the  
6 Department or (ii) were determined eligible for financial  
7 assistance with respect to a prior adoption and who become  
8 available for adoption because the prior adoption has been  
9 dissolved and the parental rights of the adoptive parents have  
10 been terminated or because the child's adoptive parents have  
11 died. The Department may continue to provide financial  
12 assistance and education assistance grants for a child who was  
13 determined eligible for financial assistance under this  
14 subsection (j) in the interim period beginning when the child's  
15 adoptive parents died and ending with the finalization of the  
16 new adoption of the child by another adoptive parent or  
17 parents. The Department may also provide categories of  
18 financial assistance and education assistance grants, and  
19 shall establish rules and regulations for the assistance and  
20 grants, to persons appointed guardian of the person under  
21 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,  
22 4-25 or 5-740 of the Juvenile Court Act of 1987 for children  
23 who were wards of the Department for 12 months immediately  
24 prior to the appointment of the guardian.

25 The amount of assistance may vary, depending upon the needs  
26 of the child and the adoptive parents, as set forth in the

1 annual assistance agreement. Special purpose grants are  
2 allowed where the child requires special service but such costs  
3 may not exceed the amounts which similar services would cost  
4 the Department if it were to provide or secure them as guardian  
5 of the child.

6 Any financial assistance provided under this subsection is  
7 inalienable by assignment, sale, execution, attachment,  
8 garnishment, or any other remedy for recovery or collection of  
9 a judgment or debt.

10 (j-5) The Department shall not deny or delay the placement  
11 of a child for adoption if an approved family is available  
12 either outside of the Department region handling the case, or  
13 outside of the State of Illinois.

14 (k) The Department shall accept for care and training any  
15 child who has been adjudicated neglected or abused, or  
16 dependent committed to it pursuant to the Juvenile Court Act or  
17 the Juvenile Court Act of 1987.

18 (l) ~~The~~ ~~Before July 1, 2000,~~ ~~the Department may provide,~~  
19 ~~and beginning July 1, 2000,~~ the Department shall offer family  
20 preservation services, as defined in Section 8.2 of the Abused  
21 and Neglected Child Reporting Act, to help families, including  
22 adoptive and extended families. Family preservation services  
23 shall be offered (i) to prevent the placement of children in  
24 substitute care when the children can be cared for at home or  
25 in the custody of the person responsible for the children's  
26 welfare, (ii) to reunite children with their families, or (iii)

1 to maintain an adoptive placement. Family preservation  
2 services shall only be offered when doing so will not endanger  
3 the children's health or safety. With respect to children who  
4 are in substitute care pursuant to the Juvenile Court Act of  
5 1987, family preservation services shall not be offered if a  
6 goal other than those of subdivisions (A), (B), or (B-1) of  
7 subsection (2) of Section 2-28 of that Act has been set.  
8 Nothing in this paragraph shall be construed to create a  
9 private right of action or claim on the part of any individual  
10 or child welfare agency, except that when a child is the  
11 subject of an action under Article II of the Juvenile Court Act  
12 of 1987 and the child's service plan calls for certain family  
13 preservation services, the court hearing the action under  
14 Article II of the Juvenile Court Act of 1987 may order the  
15 Department to provide the family preservation services set out  
16 in the plan, if those services are not provided with reasonable  
17 promptness and if those services are available.

18 The Department shall notify the child and his family of the  
19 Department's responsibility to offer and provide family  
20 preservation services as identified in the service plan. The  
21 child and his family shall be eligible for services as soon as  
22 the report is determined to be "indicated". The Department may  
23 offer services to any child or family with respect to whom a  
24 report of suspected child abuse or neglect has been filed,  
25 prior to concluding its investigation under Section 7.12 of the  
26 Abused and Neglected Child Reporting Act. However, the child's

1 or family's willingness to accept services shall not be  
2 considered in the investigation. The Department may also  
3 provide services to any child or family who is the subject of  
4 any report of suspected child abuse or neglect or may refer  
5 such child or family to services available from other agencies  
6 in the community, even if the report is determined to be  
7 unfounded, if the conditions in the child's or family's home  
8 are reasonably likely to subject the child or family to future  
9 reports of suspected child abuse or neglect. Acceptance of such  
10 services shall be voluntary.

11 The Department may, at its discretion except for those  
12 children also adjudicated neglected or dependent, accept for  
13 care and training any child who has been adjudicated addicted,  
14 as a truant minor in need of supervision or as a minor  
15 requiring authoritative intervention, under the Juvenile Court  
16 Act or the Juvenile Court Act of 1987, but no such child shall  
17 be committed to the Department by any court without the  
18 approval of the Department. A minor charged with a criminal  
19 offense under the Criminal Code of 1961 or adjudicated  
20 delinquent shall not be placed in the custody of or committed  
21 to the Department by any court, except a minor less than 15  
22 years of age committed to the Department under Section 5-710 of  
23 the Juvenile Court Act of 1987 or a minor for whom an  
24 independent basis of abuse, neglect, or dependency exists,  
25 which must be defined by departmental rule. An independent  
26 basis exists when the allegations or adjudication of abuse,

1 neglect, or dependency do not arise from the same facts,  
2 incident, or circumstances which give rise to a charge or  
3 adjudication of delinquency.

4 As soon as is possible after the effective date of this  
5 amendatory Act of the 95th General Assembly, the Department  
6 shall enhance its program of family preservation services,  
7 including, but not limited to, respite care, to support intact,  
8 foster, and adoptive families when (i) the family is eligible  
9 for services from the Department pursuant to the Department's  
10 rules, (ii) the family is experiencing extreme hardships due to  
11 the difficulty and stress of caring for a child who has been  
12 diagnosed with a pervasive developmental disorder, and (iii)  
13 the Department determines that those services are necessary to  
14 ensure the health and safety of the child. "Respite care" shall  
15 be defined in the Department's amended rules and regulations.  
16 The Department may refer the child or family to services  
17 available from other agencies in the community. Acceptance of  
18 these services shall be voluntary. The Department may develop  
19 and implement a public information campaign to alert health and  
20 social service providers and the general public about these  
21 special family preservation services. The nature and scope of  
22 the services offered and the number of families served under  
23 the special program implemented under this paragraph shall be  
24 determined by the level of funding that the Department annually  
25 allocates for this purpose. The term "pervasive developmental  
26 disorder" under this paragraph means a neurological condition,



1 Asperger's Syndrome, and autism, as defined in the most recent  
2 edition of the Diagnostic and Statistical Manual of Mental  
3 Disorders of the American Psychiatric Association.

4 (1-1) The legislature recognizes that the best interests of  
5 the child require that the child be placed in the most  
6 permanent living arrangement as soon as is practically  
7 possible. To achieve this goal, the legislature directs the  
8 Department of Children and Family Services to conduct  
9 concurrent planning so that permanency may occur at the  
10 earliest opportunity. Permanent living arrangements may  
11 include prevention of placement of a child outside the home of  
12 the family when the child can be cared for at home without  
13 endangering the child's health or safety; reunification with  
14 the family, when safe and appropriate, if temporary placement  
15 is necessary; or movement of the child toward the most  
16 permanent living arrangement and permanent legal status.

17 When determining reasonable efforts to be made with respect  
18 to a child, as described in this subsection, and in making such  
19 reasonable efforts, the child's health and safety shall be the  
20 paramount concern.

21 When a child is placed in foster care, the Department shall  
22 ensure and document that reasonable efforts were made to  
23 prevent or eliminate the need to remove the child from the  
24 child's home. The Department must make reasonable efforts to  
25 reunify the family when temporary placement of the child occurs  
26 unless otherwise required, pursuant to the Juvenile Court Act

1 of 1987. At any time after the dispositional hearing where the  
2 Department believes that further reunification services would  
3 be ineffective, it may request a finding from the court that  
4 reasonable efforts are no longer appropriate. The Department is  
5 not required to provide further reunification services after  
6 such a finding.

7 A decision to place a child in substitute care shall be  
8 made with considerations of the child's health, safety, and  
9 best interests. At the time of placement, consideration should  
10 also be given so that if reunification fails or is delayed, the  
11 placement made is the best available placement to provide  
12 permanency for the child.

13 The Department shall adopt rules addressing concurrent  
14 planning for reunification and permanency. The Department  
15 shall consider the following factors when determining  
16 appropriateness of concurrent planning:

- 17 (1) the likelihood of prompt reunification;
- 18 (2) the past history of the family;
- 19 (3) the barriers to reunification being addressed by  
20 the family;
- 21 (4) the level of cooperation of the family;
- 22 (5) the foster parents' willingness to work with the  
23 family to reunite;
- 24 (6) the willingness and ability of the foster family to  
25 provide an adoptive home or long-term placement;
- 26 (7) the age of the child;

1 (8) placement of siblings.

2 (m) The Department may assume temporary custody of any  
3 child if:

4 (1) it has received a written consent to such temporary  
5 custody signed by the parents of the child or by the parent  
6 having custody of the child if the parents are not living  
7 together or by the guardian or custodian of the child if  
8 the child is not in the custody of either parent, or

9 (2) the child is found in the State and neither a  
10 parent, guardian nor custodian of the child can be located.

11 If the child is found in his or her residence without a parent,  
12 guardian, custodian or responsible caretaker, the Department  
13 may, instead of removing the child and assuming temporary  
14 custody, place an authorized representative of the Department  
15 in that residence until such time as a parent, guardian or  
16 custodian enters the home and expresses a willingness and  
17 apparent ability to ensure the child's health and safety and  
18 resume permanent charge of the child, or until a relative  
19 enters the home and is willing and able to ensure the child's  
20 health and safety and assume charge of the child until a  
21 parent, guardian or custodian enters the home and expresses  
22 such willingness and ability to ensure the child's safety and  
23 resume permanent charge. After a caretaker has remained in the  
24 home for a period not to exceed 12 hours, the Department must  
25 follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
26 5-415 of the Juvenile Court Act of 1987.

1           The Department shall have the authority, responsibilities  
2 and duties that a legal custodian of the child would have  
3 pursuant to subsection (9) of Section 1-3 of the Juvenile Court  
4 Act of 1987. Whenever a child is taken into temporary custody  
5 pursuant to an investigation under the Abused and Neglected  
6 Child Reporting Act, or pursuant to a referral and acceptance  
7 under the Juvenile Court Act of 1987 of a minor in limited  
8 custody, the Department, during the period of temporary custody  
9 and before the child is brought before a judicial officer as  
10 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile  
11 Court Act of 1987, shall have the authority, responsibilities  
12 and duties that a legal custodian of the child would have under  
13 subsection (9) of Section 1-3 of the Juvenile Court Act of  
14 1987.

15           The Department shall ensure that any child taken into  
16 custody is scheduled for an appointment for a medical  
17 examination.

18           A parent, guardian or custodian of a child in the temporary  
19 custody of the Department who would have custody of the child  
20 if he were not in the temporary custody of the Department may  
21 deliver to the Department a signed request that the Department  
22 surrender the temporary custody of the child. The Department  
23 may retain temporary custody of the child for 10 days after the  
24 receipt of the request, during which period the Department may  
25 cause to be filed a petition pursuant to the Juvenile Court Act  
26 of 1987. If a petition is so filed, the Department shall retain

1 temporary custody of the child until the court orders  
2 otherwise. If a petition is not filed within the 10 day period,  
3 the child shall be surrendered to the custody of the requesting  
4 parent, guardian or custodian not later than the expiration of  
5 the 10 day period, at which time the authority and duties of  
6 the Department with respect to the temporary custody of the  
7 child shall terminate.

8 (m-1) The Department may place children under 18 years of  
9 age in a secure child care facility licensed by the Department  
10 that cares for children who are in need of secure living  
11 arrangements for their health, safety, and well-being after a  
12 determination is made by the facility director and the Director  
13 or the Director's designate prior to admission to the facility  
14 subject to Section 2-27.1 of the Juvenile Court Act of 1987.  
15 This subsection (m-1) does not apply to a child who is subject  
16 to placement in a correctional facility operated pursuant to  
17 Section 3-15-2 of the Unified Code of Corrections, unless the  
18 child is a ward who was placed under the care of the Department  
19 before being subject to placement in a correctional facility  
20 and a court of competent jurisdiction has ordered placement of  
21 the child in a secure care facility.

22 (n) The Department may place children under 18 years of age  
23 in licensed child care facilities when in the opinion of the  
24 Department, appropriate services aimed at family preservation  
25 have been unsuccessful and cannot ensure the child's health and  
26 safety or are unavailable and such placement would be for their

1 best interest. Payment for board, clothing, care, training and  
2 supervision of any child placed in a licensed child care  
3 facility may be made by the Department, by the parents or  
4 guardians of the estates of those children, or by both the  
5 Department and the parents or guardians, except that no  
6 payments shall be made by the Department for any child placed  
7 in a licensed child care facility for board, clothing, care,  
8 training and supervision of such a child that exceed the  
9 average per capita cost of maintaining and of caring for a  
10 child in institutions for dependent or neglected children  
11 operated by the Department. However, such restriction on  
12 payments does not apply in cases where children require  
13 specialized care and treatment for problems of severe emotional  
14 disturbance, physical disability, social adjustment, or any  
15 combination thereof and suitable facilities for the placement  
16 of such children are not available at payment rates within the  
17 limitations set forth in this Section. All reimbursements for  
18 services delivered shall be absolutely inalienable by  
19 assignment, sale, attachment, garnishment or otherwise.

20 (o) The Department shall establish an administrative  
21 review and appeal process for children and families who request  
22 or receive child welfare services from the Department. Children  
23 who are wards of the Department and are placed by private child  
24 welfare agencies, and foster families with whom those children  
25 are placed, shall be afforded the same procedural and appeal  
26 rights as children and families in the case of placement by the

1 Department, including the right to an initial review of a  
2 private agency decision by that agency. The Department shall  
3 insure that any private child welfare agency, which accepts  
4 wards of the Department for placement, affords those rights to  
5 children and foster families. The Department shall accept for  
6 administrative review and an appeal hearing a complaint made by  
7 (i) a child or foster family concerning a decision following an  
8 initial review by a private child welfare agency or (ii) a  
9 prospective adoptive parent who alleges a violation of  
10 subsection (j-5) of this Section. An appeal of a decision  
11 concerning a change in the placement of a child shall be  
12 conducted in an expedited manner.

13 (p) There is hereby created the Department of Children and  
14 Family Services Emergency Assistance Fund from which the  
15 Department may provide special financial assistance to  
16 families which are in economic crisis when such assistance is  
17 not available through other public or private sources and the  
18 assistance is deemed necessary to prevent dissolution of the  
19 family unit or to reunite families which have been separated  
20 due to child abuse and neglect. The Department shall establish  
21 administrative rules specifying the criteria for determining  
22 eligibility for and the amount and nature of assistance to be  
23 provided. The Department may also enter into written agreements  
24 with private and public social service agencies to provide  
25 emergency financial services to families referred by the  
26 Department. Special financial assistance payments shall be

1 available to a family no more than once during each fiscal year  
2 and the total payments to a family may not exceed \$500 during a  
3 fiscal year.

4 (q) The Department may receive and use, in their entirety,  
5 for the benefit of children any gift, donation or bequest of  
6 money or other property which is received on behalf of such  
7 children, or any financial benefits to which such children are  
8 or may become entitled while under the jurisdiction or care of  
9 the Department. If the person who gives, donates, or bequeaths  
10 money or other property that is received by the Department for  
11 the benefit of children provides in writing that the money or  
12 other property is for a specific purpose, the Department shall  
13 use the money or other property only for that purpose.

14 The Department shall set up and administer no-cost,  
15 interest-bearing accounts in appropriate financial  
16 institutions for children for whom the Department is legally  
17 responsible and who have been determined eligible for Veterans'  
18 Benefits, Social Security benefits, assistance allotments from  
19 the armed forces, court ordered payments, parental voluntary  
20 payments, Supplemental Security Income, Railroad Retirement  
21 payments, Black Lung benefits, or other miscellaneous  
22 payments. Interest earned by each account shall be credited to  
23 the account, unless disbursed in accordance with this  
24 subsection.

25 In disbursing funds from children's accounts, the  
26 Department shall:



1           (1) Establish standards in accordance with State and  
2 federal laws for disbursing money from children's  
3 accounts. In all circumstances, the Department's  
4 "Guardianship Administrator" or his or her designee must  
5 approve disbursements from children's accounts. The  
6 Department shall be responsible for keeping complete  
7 records of all disbursements for each account for any  
8 purpose.

9           (2) Calculate on a monthly basis the amounts paid from  
10 State funds for the child's board and care, medical care  
11 not covered under Medicaid, and social services; and  
12 utilize funds from the child's account, as covered by  
13 regulation, to reimburse those costs. Monthly,  
14 disbursements from all children's accounts, up to 1/12 of  
15 \$13,000,000, shall be deposited by the Department into the  
16 General Revenue Fund and the balance over 1/12 of  
17 \$13,000,000 into the DCFS Children's Services Fund.

18           (3) Maintain any balance remaining after reimbursing  
19 for the child's costs of care, as specified in item (2).  
20 The balance shall accumulate in accordance with relevant  
21 State and federal laws and shall be disbursed to the child  
22 or his or her guardian, or to the issuing agency.

23           Subject to appropriation, the Department shall provide a  
24 stipend in the amount of up to \$1,500 to youths who, on or  
25 after January 1, 2009, cease to be wards of the Department  
26 pursuant to Section 2-31 of the Juvenile Court Act of 1987 and

1 who meet the qualifications set out in this paragraph. The  
2 stipend shall be paid by voucher to promote successful  
3 transition outcomes by supporting training, housing, and  
4 living expenses. All or part of the stipend may also be used to  
5 pay the fee for drivers education to prepare the youth to take  
6 an examination given by the Secretary of State for a drivers  
7 license or permit. In order to be eligible for this benefit, a  
8 youth must have: (A) at the time wardship terminated, reached  
9 the age of 18 years or older; and (B) either (i) at the time  
10 wardship terminated, obtained a certificate of graduation from  
11 a high school or the recognized equivalent of such a  
12 certificate; (ii) within one year after wardship terminated,  
13 obtained a certificate of graduation from a high school or the  
14 recognized equivalent of such a certificate, or (iii) within  
15 one year after wardship terminated, been determined by DCFS to  
16 lack the ability to obtain a certificate of graduation from a  
17 high school, or the recognized equivalent of such a  
18 certificate, due to an impairment or disability. The Department  
19 shall establish by rule (i) procedures for verifying  
20 eligibility for the receipt of funds under this paragraph and  
21 for determining the amount of the stipend to be awarded and  
22 (ii) a process for disseminating the payments.

23 (r) The Department shall promulgate regulations  
24 encouraging all adoption agencies to voluntarily forward to the  
25 Department or its agent names and addresses of all persons who  
26 have applied for and have been approved for adoption of a

1 hard-to-place or handicapped child and the names of such  
2 children who have not been placed for adoption. A list of such  
3 names and addresses shall be maintained by the Department or  
4 its agent, and coded lists which maintain the confidentiality  
5 of the person seeking to adopt the child and of the child shall  
6 be made available, without charge, to every adoption agency in  
7 the State to assist the agencies in placing such children for  
8 adoption. The Department may delegate to an agent its duty to  
9 maintain and make available such lists. The Department shall  
10 ensure that such agent maintains the confidentiality of the  
11 person seeking to adopt the child and of the child.

12 (s) The Department of Children and Family Services may  
13 establish and implement a program to reimburse Department and  
14 private child welfare agency foster parents licensed by the  
15 Department of Children and Family Services for damages  
16 sustained by the foster parents as a result of the malicious or  
17 negligent acts of foster children, as well as providing third  
18 party coverage for such foster parents with regard to actions  
19 of foster children to other individuals. Such coverage will be  
20 secondary to the foster parent liability insurance policy, if  
21 applicable. The program shall be funded through appropriations  
22 from the General Revenue Fund, specifically designated for such  
23 purposes.

24 (t) The Department shall perform home studies and  
25 investigations and shall exercise supervision over visitation  
26 as ordered by a court pursuant to the Illinois Marriage and

1 Dissolution of Marriage Act or the Adoption Act only if:

2 (1) an order entered by an Illinois court specifically  
3 directs the Department to perform such services; and

4 (2) the court has ordered one or both of the parties to  
5 the proceeding to reimburse the Department for its  
6 reasonable costs for providing such services in accordance  
7 with Department rules, or has determined that neither party  
8 is financially able to pay.

9 The Department shall provide written notification to the  
10 court of the specific arrangements for supervised visitation  
11 and projected monthly costs within 60 days of the court order.  
12 The Department shall send to the court information related to  
13 the costs incurred except in cases where the court has  
14 determined the parties are financially unable to pay. The court  
15 may order additional periodic reports as appropriate.

16 (u) In addition to other information that must be provided,  
17 whenever the Department places a child with a prospective  
18 adoptive parent or parents or in a licensed foster home, group  
19 home, child care institution, or in a relative home, the  
20 Department shall provide to the prospective adoptive parent or  
21 parents or other caretaker:

22 (1) available detailed information concerning the  
23 child's educational and health history, copies of  
24 immunization records (including insurance and medical card  
25 information), a history of the child's previous  
26 placements, if any, and reasons for placement changes

1 excluding any information that identifies or reveals the  
2 location of any previous caretaker;

3 (2) a copy of the child's portion of the client service  
4 plan, including any visitation arrangement, and all  
5 amendments or revisions to it as related to the child; and

6 (3) information containing details of the child's  
7 individualized educational plan when the child is  
8 receiving special education services.

9 The caretaker shall be informed of any known social or  
10 behavioral information (including, but not limited to,  
11 criminal background, fire setting, perpetuation of sexual  
12 abuse, destructive behavior, and substance abuse) necessary to  
13 care for and safeguard the children to be placed or currently  
14 in the home. The Department may prepare a written summary of  
15 the information required by this paragraph, which may be  
16 provided to the foster or prospective adoptive parent in  
17 advance of a placement. The foster or prospective adoptive  
18 parent may review the supporting documents in the child's file  
19 in the presence of casework staff. In the case of an emergency  
20 placement, casework staff shall at least provide known  
21 information verbally, if necessary, and must subsequently  
22 provide the information in writing as required by this  
23 subsection.

24 The information described in this subsection shall be  
25 provided in writing. In the case of emergency placements when  
26 time does not allow prior review, preparation, and collection

1 of written information, the Department shall provide such  
2 information as it becomes available. Within 10 business days  
3 after placement, the Department shall obtain from the  
4 prospective adoptive parent or parents or other caretaker a  
5 signed verification of receipt of the information provided.  
6 Within 10 business days after placement, the Department shall  
7 provide to the child's guardian ad litem a copy of the  
8 information provided to the prospective adoptive parent or  
9 parents or other caretaker. The information provided to the  
10 prospective adoptive parent or parents or other caretaker shall  
11 be reviewed and approved regarding accuracy at the supervisory  
12 level.

13 (u-5) Effective July 1, 1995, only foster care placements  
14 licensed as foster family homes pursuant to the Child Care Act  
15 of 1969 shall be eligible to receive foster care payments from  
16 the Department. Relative caregivers who, as of July 1, 1995,  
17 were approved pursuant to approved relative placement rules  
18 previously promulgated by the Department at 89 Ill. Adm. Code  
19 335 and had submitted an application for licensure as a foster  
20 family home may continue to receive foster care payments only  
21 until the Department determines that they may be licensed as a  
22 foster family home or that their application for licensure is  
23 denied or until September 30, 1995, whichever occurs first.

24 (v) The Department shall access criminal history record  
25 information as defined in the Illinois Uniform Conviction  
26 Information Act and information maintained in the adjudicatory

1 and dispositional record system as defined in Section 2605-355  
2 of the Department of State Police Law (20 ILCS 2605/2605-355)  
3 if the Department determines the information is necessary to  
4 perform its duties under the Abused and Neglected Child  
5 Reporting Act, the Child Care Act of 1969, and the Children and  
6 Family Services Act. The Department shall provide for  
7 interactive computerized communication and processing  
8 equipment that permits direct on-line communication with the  
9 Department of State Police's central criminal history data  
10 repository. The Department shall comply with all certification  
11 requirements and provide certified operators who have been  
12 trained by personnel from the Department of State Police. In  
13 addition, one Office of the Inspector General investigator  
14 shall have training in the use of the criminal history  
15 information access system and have access to the terminal. The  
16 Department of Children and Family Services and its employees  
17 shall abide by rules and regulations established by the  
18 Department of State Police relating to the access and  
19 dissemination of this information.

20 (v-1) Prior to final approval for placement of a child, the  
21 Department shall conduct a criminal records background check of  
22 the prospective foster or adoptive parent, including  
23 fingerprint-based checks of national crime information  
24 databases. Final approval for placement shall not be granted if  
25 the record check reveals a felony conviction for child abuse or  
26 neglect, for spousal abuse, for a crime against children, or

1 for a crime involving violence, including rape, sexual assault,  
2 or homicide, but not including other physical assault or  
3 battery, or if there is a felony conviction for physical  
4 assault, battery, or a drug-related offense committed within  
5 the past 5 years.

6 (v-2) Prior to final approval for placement of a child, the  
7 Department shall check its child abuse and neglect registry for  
8 information concerning prospective foster and adoptive  
9 parents, and any adult living in the home. If any prospective  
10 foster or adoptive parent or other adult living in the home has  
11 resided in another state in the preceding 5 years, the  
12 Department shall request a check of that other state's child  
13 abuse and neglect registry.

14 (w) Within 120 days of August 20, 1995 (the effective date  
15 of Public Act 89-392), the Department shall prepare and submit  
16 to the Governor and the General Assembly, a written plan for  
17 the development of in-state licensed secure child care  
18 facilities that care for children who are in need of secure  
19 living arrangements for their health, safety, and well-being.  
20 For purposes of this subsection, secure care facility shall  
21 mean a facility that is designed and operated to ensure that  
22 all entrances and exits from the facility, a building or a  
23 distinct part of the building, are under the exclusive control  
24 of the staff of the facility, whether or not the child has the  
25 freedom of movement within the perimeter of the facility,  
26 building, or distinct part of the building. The plan shall



1 include descriptions of the types of facilities that are needed  
2 in Illinois; the cost of developing these secure care  
3 facilities; the estimated number of placements; the potential  
4 cost savings resulting from the movement of children currently  
5 out-of-state who are projected to be returned to Illinois; the  
6 necessary geographic distribution of these facilities in  
7 Illinois; and a proposed timetable for development of such  
8 facilities.

9 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;  
10 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;  
11 revised 10-30-07.)

12 Section 10. The Abused and Neglected Child Reporting Act is  
13 amended by changing Section 8.2 as follows:

14 (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

15 Sec. 8.2. If the Child Protective Service Unit determines,  
16 following an investigation made pursuant to Section 7.4 of this  
17 Act, that there is credible evidence that the child is abused  
18 or neglected, the Department shall assess the family's need for  
19 services, and, as necessary, develop, with the family, an  
20 appropriate service plan for the family's voluntary acceptance  
21 or refusal. In any case where there is evidence that the  
22 perpetrator of the abuse or neglect is an addict or alcoholic  
23 as defined in the Alcoholism and Other Drug Abuse and  
24 Dependency Act, the Department, when making referrals for drug

1 or alcohol abuse services, shall make such referrals to  
2 facilities licensed by the Department of Human Services or the  
3 Department of Public Health. The Department shall comply with  
4 Section 8.1 by explaining its lack of legal authority to compel  
5 the acceptance of services and may explain its concomitant  
6 authority to petition the Circuit court under the Juvenile  
7 Court Act of 1987 or refer the case to the local law  
8 enforcement authority or State's attorney for criminal  
9 prosecution.

10 For purposes of this Act, the term "family preservation  
11 services" refers to all services to help families, including  
12 adoptive and extended families. Family preservation services  
13 shall be offered, where safe and appropriate, to prevent the  
14 placement of children in substitute care when the children can  
15 be cared for at home or in the custody of the person  
16 responsible for the children's welfare without endangering the  
17 children's health or safety, to reunite them with their  
18 families if so placed when reunification is an appropriate  
19 goal, or to maintain an adoptive placement. The term  
20 "homemaker" includes emergency caretakers, homemakers,  
21 caretakers, housekeepers and chore services. The term  
22 "counseling" includes individual therapy, infant stimulation  
23 therapy, family therapy, group therapy, self-help groups, drug  
24 and alcohol abuse counseling, vocational counseling and  
25 post-adoptive services. The term "day care" includes  
26 protective day care and day care to meet educational,

1 prevocational or vocational needs. The term "emergency  
2 assistance and advocacy" includes coordinated services to  
3 secure emergency cash, food, housing and medical assistance or  
4 advocacy for other subsistence and family protective needs.

5 Before July 1, 2000, appropriate family preservation  
6 services shall, subject to appropriation, be included in the  
7 service plan if the Department has determined that those  
8 services will ensure the child's health and safety, are in the  
9 child's best interests, and will not place the child in  
10 imminent risk of harm. Beginning July 1, 2000, appropriate  
11 family preservation services shall be uniformly available  
12 throughout the State. The Department shall promptly notify  
13 children and families of the Department's responsibility to  
14 offer and provide family preservation services as identified in  
15 the service plan. Such plans may include but are not limited  
16 to: case management services; homemakers; counseling; parent  
17 education; day care; emergency assistance and advocacy  
18 assessments; respite care; in-home health care; transportation  
19 to obtain any of the above services; and medical assistance.  
20 Nothing in this paragraph shall be construed to create a  
21 private right of action or claim on the part of any individual  
22 or child welfare agency, except that when a child is the  
23 subject of an action under Article II of the Juvenile Court Act  
24 of 1987 and the child's service plan calls for certain family  
25 preservation services, the court hearing the action under  
26 Article II of the Juvenile Court Act of 1987 may order the

1 Department to provide the family preservation services set out  
2 in the plan, if those services are not provided with reasonable  
3 promptness and if those services are available.

4 The Department shall provide a preliminary report to the  
5 General Assembly no later than January 1, 1991, in regard to  
6 the provision of services authorized pursuant to this Section.  
7 The report shall include:

8 (a) the number of families and children served, by type  
9 of services;

10 (b) the outcome from the provision of such services,  
11 including the number of families which remained intact at  
12 least 6 months following the termination of services;

13 (c) the number of families which have been subjects of  
14 founded reports of abuse following the termination of  
15 services;

16 (d) an analysis of general family circumstances in  
17 which family preservation services have been determined to  
18 be an effective intervention;

19 (e) information regarding the number of families in  
20 need of services but unserved due to budget or program  
21 criteria guidelines;

22 (f) an estimate of the time necessary for and the  
23 annual cost of statewide implementation of such services;

24 (g) an estimate of the length of time before expansion  
25 of these services will be made to include families with  
26 children over the age of 6; and

1 (h) recommendations regarding any proposed legislative  
2 changes to this program.

3 Each Department field office shall maintain on a local  
4 basis directories of services available to children and  
5 families in the local area where the Department office is  
6 located.

7 The Department shall refer children and families served  
8 pursuant to this Section to private agencies and governmental  
9 agencies, where available.

10 Where there are 2 equal proposals from both a  
11 not-for-profit and a for-profit agency to provide services, the  
12 Department shall give preference to the proposal from the  
13 not-for-profit agency.

14 No service plan shall compel any child or parent to engage  
15 in any activity or refrain from any activity which is not  
16 reasonably related to remedying a condition or conditions that  
17 gave rise or which could give rise to any finding of child  
18 abuse or neglect.

19 (Source: P.A. 89-21, eff. 6-6-95; 89-507, eff. 7-1-97; 90-14,  
20 eff. 7-1-97; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98.)

21 Section 15. The Juvenile Court Act of 1987 is amended by  
22 changing Sections 2-23 and 2-28 as follows:

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

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

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

3           (a) A minor under 18 years of age found to be neglected  
4 or abused under Section 2-3 or dependent under Section 2-4  
5 may be (1) continued in the custody of his or her parents,  
6 guardian or legal custodian; (2) placed in accordance with  
7 Section 2-27; (3) restored to the custody of the parent,  
8 parents, guardian, or legal custodian, provided the court  
9 shall order the parent, parents, guardian, or legal  
10 custodian to cooperate with the Department of Children and  
11 Family Services and comply with the terms of an after-care  
12 plan or risk the loss of custody of the child and the  
13 possible termination of their parental rights; or (4)  
14 ordered partially or completely emancipated in accordance  
15 with the provisions of the Emancipation of Minors Act.

16           However, in any case in which a minor is found by the  
17 court to be neglected or abused under Section 2-3 of this  
18 Act, custody of the minor shall not be restored to any  
19 parent, guardian or legal custodian whose acts or omissions  
20 or both have been identified, pursuant to subsection (1) of  
21 Section 2-21, as forming the basis for the court's finding  
22 of abuse or neglect, until such time as a hearing is held  
23 on the issue of the best interests of the minor and the  
24 fitness of such parent, guardian or legal custodian to care  
25 for the minor without endangering the minor's health or  
26 safety, and the court enters an order that such parent,

1 guardian or legal custodian is fit to care for the minor.

2 (b) A minor under 18 years of age found to be dependent  
3 under Section 2-4 may be (1) placed in accordance with  
4 Section 2-27 or (2) ordered partially or completely  
5 emancipated in accordance with the provisions of the  
6 Emancipation of Minors Act.

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

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

26 (2) Any order of disposition may provide for protective

1 supervision under Section 2-24 and may include an order of  
2 protection under Section 2-25.

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

8 (3) The court also shall enter any other orders necessary  
9 to fulfill the service plan, including, but not limited to, (i)  
10 orders requiring parties to cooperate with services, (ii)  
11 restraining orders controlling the conduct of any party likely  
12 to frustrate the achievement of the goal, and (iii) visiting  
13 orders. Unless otherwise specifically authorized by law, the  
14 court is not empowered under this subsection (3) to order  
15 specific placements, specific services, or specific service  
16 providers to be included in the plan. If, after receiving  
17 evidence, the court determines that the services contained in  
18 the plan are not reasonably calculated to facilitate  
19 achievement of the permanency goal, the court shall put in  
20 writing the factual basis supporting the determination and  
21 enter specific findings based on the evidence. The court also  
22 shall enter an order for the Department to develop and  
23 implement a new service plan or to implement changes to the  
24 current service plan consistent with the court's findings. The  
25 new service plan shall be filed with the court and served on  
26 all parties within 45 days after the date of the order. The



1 court shall continue the matter until the new service plan is  
2 filed. Unless otherwise specifically authorized by law, the  
3 court is not empowered under this subsection (3) or under  
4 subsection (2) to order specific placements, specific  
5 services, or specific service providers to be included in the  
6 plan. If the court concludes that the Department of Children  
7 and Family Services has abused its discretion in setting the  
8 current service plan or permanency goal for the minor, the  
9 court shall enter specific findings in writing based on the  
10 evidence and shall enter an order for the Department to develop  
11 and implement a new permanency goal and service plan consistent  
12 with the court's findings. The new service plan shall be filed  
13 with the court and served on all parties. The court shall  
14 continue the matter until the new service plan is filed.

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

24 (5) Any order for disposition where the minor is committed  
25 or placed in accordance with Section 2-27 shall provide for the  
26 parents or guardian of the estate of such minor to pay to the

1 legal custodian or guardian of the person of the minor such  
2 sums as are determined by the custodian or guardian of the  
3 person of the minor as necessary for the minor's needs. Such  
4 payments may not exceed the maximum amounts provided for by  
5 Section 9.1 of the Children and Family Services Act.

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

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

14 (Source: P.A. 95-331, eff. 8-21-07.)

15 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

16 Sec. 2-28. Court review.

17 (1) The court may require any legal custodian or guardian  
18 of the person appointed under this Act to report periodically  
19 to the court or may cite him into court and require him or his  
20 agency, to make a full and accurate report of his or its doings  
21 in behalf of the minor. The custodian or guardian, within 10  
22 days after such citation, shall make the report, either in  
23 writing verified by affidavit or orally under oath in open  
24 court, or otherwise as the court directs. Upon the hearing of  
25 the report the court may remove the custodian or guardian and

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

18 (2) The first permanency hearing shall be conducted by the  
19 judge. Subsequent permanency hearings may be heard by a judge  
20 or by hearing officers appointed or approved by the court in  
21 the manner set forth in Section 2-28.1 of this Act. The initial  
22 hearing shall be held (a) within 12 months from the date  
23 temporary custody was taken, (b) if the parental rights of both  
24 parents have been terminated in accordance with the procedure  
25 described in subsection (5) of Section 2-21, within 30 days of  
26 the order for termination of parental rights and appointment of

1 a guardian with power to consent to adoption, or (c) in  
2 accordance with subsection (2) of Section 2-13.1. Subsequent  
3 permanency hearings shall be held every 6 months or more  
4 frequently if necessary in the court's determination following  
5 the initial permanency hearing, in accordance with the  
6 standards set forth in this Section, until the court determines  
7 that the plan and goal have been achieved. Once the plan and  
8 goal have been achieved, if the minor remains in substitute  
9 care, the case shall be reviewed at least every 6 months  
10 thereafter, subject to the provisions of this Section, unless  
11 the minor is placed in the guardianship of a suitable relative  
12 or other person and the court determines that further  
13 monitoring by the court does not further the health, safety or  
14 best interest of the child and that this is a stable permanent  
15 placement. The permanency hearings must occur within the time  
16 frames set forth in this subsection and may not be delayed in  
17 anticipation of a report from any source or due to the agency's  
18 failure to timely file its written report (this written report  
19 means the one required under the next paragraph and does not  
20 mean the service plan also referred to in that paragraph).

21 The public agency that is the custodian or guardian of the  
22 minor, or another agency responsible for the minor's care,  
23 shall ensure that all parties to the permanency hearings are  
24 provided a copy of the most recent service plan prepared within  
25 the prior 6 months at least 14 days in advance of the hearing.  
26 If not contained in the plan, the agency shall also include a

1 report setting forth (i) any special physical, psychological,  
2 educational, medical, emotional, or other needs of the minor or  
3 his or her family that are relevant to a permanency or  
4 placement determination and (ii) for any minor age 16 or over,  
5 a written description of the programs and services that will  
6 enable the minor to prepare for independent living. The  
7 agency's written report must detail what progress or lack of  
8 progress the parent has made in correcting the conditions  
9 requiring the child to be in care; whether the child can be  
10 returned home without jeopardizing the child's health, safety,  
11 and welfare, and if not, what permanency goal is recommended to  
12 be in the best interests of the child, and why the other  
13 permanency goals are not appropriate. The caseworker must  
14 appear and testify at the permanency hearing. If a permanency  
15 hearing has not previously been scheduled by the court, the  
16 moving party shall move for the setting of a permanency hearing  
17 and the entry of an order within the time frames set forth in  
18 this subsection.

19 At the permanency hearing, the court shall determine the  
20 future status of the child. The court shall set one of the  
21 following permanency goals:

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

24 (B) The minor will be in short-term care with a  
25 continued goal to return home within a period not to exceed  
26 one year, where the progress of the parent or parents is

1 substantial giving particular consideration to the age and  
2 individual needs of the minor.

3 (B-1) The minor will be in short-term care with a  
4 continued goal to return home pending a status hearing.  
5 When the court finds that a parent has not made reasonable  
6 efforts or reasonable progress to date, the court shall  
7 identify what actions the parent and the Department must  
8 take in order to justify a finding of reasonable efforts or  
9 reasonable progress and shall set a status hearing to be  
10 held not earlier than 9 months from the date of  
11 adjudication nor later than 11 months from the date of  
12 adjudication during which the parent's progress will again  
13 be reviewed.

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

16 (D) Adoption, provided that parental rights have been  
17 terminated or relinquished.

18 (E) The guardianship of the minor will be transferred  
19 to an individual or couple on a permanent basis provided  
20 that goals (A) through (D) have been ruled out.

21 (F) The minor over age 15 will be in substitute care  
22 pending independence.

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 ruled out.

2 In selecting any permanency goal, the court shall indicate  
3 in writing the reasons the goal was selected and why the  
4 preceding goals were ruled out. Where the court has selected a  
5 permanency goal other than (A), (B), or (B-1), the Department  
6 of Children and Family Services shall not provide further  
7 reunification services, but shall provide services consistent  
8 with the goal selected.

9 Notwithstanding any other provision in this Section, the  
10 court may select the goal of long-term foster care as a  
11 permanency goal if:

12 (H) the Department of Children and Family Services is  
13 the custodian or guardian of the minor; and

14 (I) the court has ruled out return home as a permanency  
15 goal; and

16 (J) the court, after receiving evidence, makes written  
17 findings that (i) the child is living with a relative or  
18 foster parent who is unable or unwilling to adopt the child  
19 or be named the child's guardian because of exceptional  
20 circumstances, but who is willing and capable of providing  
21 the child with a stable and permanent environment, and the  
22 removal of the child from the physical custody of his or  
23 her relative or foster parent would be detrimental to the  
24 emotional well-being of the child or (ii) there would be  
25 substantial interference with a child's sibling  
26 relationship, taking into consideration the nature and

1 extent of the relationship, including, but not limited to,  
2 whether the child was raised with a sibling in the same  
3 home, whether the child shared significant common  
4 experiences or has existing close and strong bonds with a  
5 sibling, and whether ongoing contact is in the child's best  
6 interest, including the child's long-term emotional  
7 interest, as compared to the benefit of legal permanence  
8 through adoption.

9 The court shall set a permanency goal that is in the best  
10 interest of the child. In determining that goal, the court  
11 shall consult with the minor in an age-appropriate manner  
12 regarding the proposed permanency or transition plan for the  
13 minor. The court's determination shall include the following  
14 factors:

15 (1) Age of the child.

16 (2) Options available for permanence, including both  
17 out-of-State and in-State placement options.

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

20 (4) Emotional, physical, and mental status or  
21 condition of the child.

22 (5) Types of services previously offered and whether or  
23 not the services were successful and, if not successful,  
24 the reasons the services failed.

25 (6) Availability of services currently needed and  
26 whether the services exist.



1 (7) Status of siblings of the minor.

2 The court shall consider (i) the permanency goal contained  
3 in the service plan, (ii) the appropriateness of the services  
4 contained in the plan and whether those services have been  
5 provided, (iii) whether reasonable efforts have been made by  
6 all the parties to the service plan to achieve the goal, and  
7 (iv) whether the plan and goal have been achieved. All evidence  
8 relevant to determining these questions, including oral and  
9 written reports, may be admitted and may be relied on to the  
10 extent of their probative value.

11 The court shall make findings as to whether, in violation  
12 of Section 8.2 of the Abused and Neglected Child Reporting Act,  
13 any portion of the service plan compels a child or parent to  
14 engage in any activity or refrain from any activity that is not  
15 reasonably related to remedying a condition or conditions that  
16 gave rise or which could give rise to any finding of child  
17 abuse or neglect.

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

26 If the goal has been achieved, the court shall enter orders

1 that are necessary to conform the minor's legal custody and  
2 status to those findings.

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

18 A guardian or custodian appointed by the court pursuant to  
19 this Act shall file updated case plans with the court every 6  
20 months.

21 Rights of wards of the court under this Act are enforceable  
22 against any public agency by complaints for relief by mandamus  
23 filed in any proceedings brought under this Act.

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

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

4           (b) If the permanency goal of the minor cannot be  
5 achieved immediately, the specific reasons for continuing  
6 the minor in the care of the Department of Children and  
7 Family Services or other agency for short term placement,  
8 and the following determinations:

9           (i) (Blank).

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

16           (iii) Whether the minor's placement is necessary,  
17 and appropriate to the plan and goal, recognizing the  
18 right of minors to the least restrictive (most  
19 family-like) setting available and in close proximity  
20 to the parents' home consistent with the health,  
21 safety, best interest and special needs of the minor  
22 and, if the minor is placed out-of-State, whether the  
23 out-of-State placement continues to be appropriate and  
24 consistent with the health, safety, and best interest  
25 of the minor.

26           (iv) (Blank).

1 (v) (Blank).

2 (4) The minor or any person interested in the minor may  
3 apply to the court for a change in custody of the minor and the  
4 appointment of a new custodian or guardian of the person or for  
5 the restoration of the minor to the custody of his parents or  
6 former guardian or custodian.

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

8 (a) The Department, the minor, or the current foster  
9 parent or relative caregiver seeking private guardianship  
10 may file a motion for private guardianship of the minor.  
11 Appointment of a guardian under this Section requires  
12 approval of the court.

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

22 Custody of the minor shall not be restored to any parent,  
23 guardian or legal custodian in any case in which the minor is  
24 found to be neglected or abused under Section 2-3 or dependent  
25 under Section 2-4 of this Act, unless the minor can be cared  
26 for at home without endangering his or her health or safety and

1 it is in the best interest of the minor, and if such neglect,  
2 abuse, or dependency is found by the court under paragraph (1)  
3 of Section 2-21 of this Act to have come about due to the acts  
4 or omissions or both of such parent, guardian or legal  
5 custodian, until such time as an investigation is made as  
6 provided in paragraph (5) and a hearing is held on the issue of  
7 the health, safety and best interest of the minor and the  
8 fitness of such parent, guardian or legal custodian to care for  
9 the minor and the court enters an order that such parent,  
10 guardian or legal custodian is fit to care for the minor. In  
11 the event that the minor has attained 18 years of age and the  
12 guardian or custodian petitions the court for an order  
13 terminating his guardianship or custody, guardianship or  
14 custody shall terminate automatically 30 days after the receipt  
15 of the petition unless the court orders otherwise. No legal  
16 custodian or guardian of the person may be removed without his  
17 consent until given notice and an opportunity to be heard by  
18 the court.

19 When the court orders a child restored to the custody of  
20 the parent or parents, the court shall order the parent or  
21 parents to cooperate with the Department of Children and Family  
22 Services and comply with the terms of an after-care plan, or  
23 risk the loss of custody of the child and possible termination  
24 of their parental rights. The court may also enter an order of  
25 protective supervision in accordance with Section 2-24.

26 (5) Whenever a parent, guardian, or legal custodian files a

1 motion for restoration of custody of the minor, and the minor  
2 was adjudicated neglected, abused, or dependent as a result of  
3 physical abuse, the court shall cause to be made an  
4 investigation as to whether the movant has ever been charged  
5 with or convicted of any criminal offense which would indicate  
6 the likelihood of any further physical abuse to the minor.  
7 Evidence of such criminal convictions shall be taken into  
8 account in determining whether the minor can be cared for at  
9 home without endangering his or her health or safety and  
10 fitness of the parent, guardian, or legal custodian.

11 (a) Any agency of this State or any subdivision thereof  
12 shall co-operate with the agent of the court in providing  
13 any information sought in the investigation.

14 (b) The information derived from the investigation and  
15 any conclusions or recommendations derived from the  
16 information shall be provided to the parent, guardian, or  
17 legal custodian seeking restoration of custody prior to the  
18 hearing on fitness and the movant shall have an opportunity  
19 at the hearing to refute the information or contest its  
20 significance.

21 (c) All information obtained from any investigation  
22 shall be confidential as provided in Section 5-150 of this  
23 Act.

24 (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;  
25 revised 11-19-07.)

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

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