



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3119

by Rep. Tom Demmer

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/5  
325 ILCS 5/5

from Ch. 23, par. 5005  
from Ch. 23, par. 2055

Amends the Children and Family Services Act and the Abused and Neglected Child Reporting Act. Adds the following instances in which the Department of Children and Family Services shall be deemed a child's legally authorized representative: (i) for purposes of consenting to emergency medical treatment for the child if the treatment itself does not involve a substantial risk of harm to the child, the failure to render such treatment will likely result in death or permanent harm to the child, and there is not time to apply for a court order under the Juvenile Court Act of 1987; and (ii) for purposes of consenting to an initial health screening for the child within 24 hours after the child is taken into temporary protective custody, or to any ordinary and routine care for the child that may be necessary and appropriate.

LRB099 09194 KTG 31404 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 Sec. 5. Direct child welfare services; Department of  
8 Children and Family Services. To provide direct child welfare  
9 services when not available through other public or private  
10 child care or program facilities.

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State who  
13 are under the age of 18 years. The term also includes  
14 persons under age 21 who:

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

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

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

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

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

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

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

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

24           (D) restoring to their families children who have  
25           been removed, by the provision of services to the child  
26           and the families when the child can be cared for at

1 home without endangering the child's health and  
2 safety;

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

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

16 (G) (blank);

17 (H) (blank); and

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

- 1 (i) who are in a foster home, or  
2 (ii) who are persons with a developmental  
3 disability, as defined in the Mental Health and  
4 Developmental Disabilities Code, or  
5 (iii) who are female children who are  
6 pregnant, pregnant and parenting or parenting, or  
7 (iv) who are siblings, in facilities that  
8 provide separate living quarters for children 18  
9 years of age and older and for children under 18  
10 years of age.

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

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

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

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

11 (e) (Blank).

12 (f) (Blank).

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

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

25 (9) placement under Section 5-7 of the Juvenile Court  
26 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

1 Court Act of 1987 in accordance with the federal Adoption  
2 Assistance and Child Welfare Act of 1980; and

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

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

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

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

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

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

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

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

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

24 (j-5) The Department shall not deny or delay the placement  
25 of a child for adoption if an approved family is available  
26 either outside of the Department region handling the case, or

1 outside of the State of Illinois.

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

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

1 hearing the action under Article II of the Juvenile Court Act  
2 of 1987 may order the Department to provide the services set  
3 out in the plan, if those services are not provided with  
4 reasonable promptness and if those services are available.

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

1 subsection (a-5) of Section 7.4 of the Abused and Neglected  
2 Child Reporting Act.

3 The Department may, at its discretion except for those  
4 children also adjudicated neglected or dependent, accept for  
5 care and training any child who has been adjudicated addicted,  
6 as a truant minor in need of supervision or as a minor  
7 requiring authoritative intervention, under the Juvenile Court  
8 Act or the Juvenile Court Act of 1987, but no such child shall  
9 be committed to the Department by any court without the  
10 approval of the Department. On and after the effective date of  
11 this amendatory Act of the 98th General Assembly and before  
12 January 1, 2017, a minor charged with a criminal offense under  
13 the Criminal Code of 1961 or the Criminal Code of 2012 or  
14 adjudicated delinquent shall not be placed in the custody of or  
15 committed to the Department by any court, except (i) a minor  
16 less than 16 years of age committed to the Department under  
17 Section 5-710 of the Juvenile Court Act of 1987, (ii) a minor  
18 for whom an independent basis of abuse, neglect, or dependency  
19 exists, which must be defined by departmental rule, or (iii) a  
20 minor for whom the court has granted a supplemental petition to  
21 reinstate wardship pursuant to subsection (2) of Section 2-33  
22 of the Juvenile Court Act of 1987. On and after January 1,  
23 2017, a minor charged with a criminal offense under the  
24 Criminal Code of 1961 or the Criminal Code of 2012 or  
25 adjudicated delinquent shall not be placed in the custody of or  
26 committed to the Department by any court, except (i) a minor

1 less than 15 years of age committed to the Department under  
2 Section 5-710 of the Juvenile Court Act of 1987, ii) a minor  
3 for whom an independent basis of abuse, neglect, or dependency  
4 exists, which must be defined by departmental rule, or (iii) a  
5 minor for whom the court has granted a supplemental petition to  
6 reinstate wardship pursuant to subsection (2) of Section 2-33  
7 of the Juvenile Court Act of 1987. An independent basis exists  
8 when the allegations or adjudication of abuse, neglect, or  
9 dependency do not arise from the same facts, incident, or  
10 circumstances which give rise to a charge or adjudication of  
11 delinquency.

12 As soon as is possible after August 7, 2009 (the effective  
13 date of Public Act 96-134), the Department shall develop and  
14 implement a special program of family preservation services to  
15 support intact, foster, and adoptive families who are  
16 experiencing extreme hardships due to the difficulty and stress  
17 of caring for a child who has been diagnosed with a pervasive  
18 developmental disorder if the Department determines that those  
19 services are necessary to ensure the health and safety of the  
20 child. The Department may offer services to any family whether  
21 or not a report has been filed under the Abused and Neglected  
22 Child Reporting Act. The Department may refer the child or  
23 family to services available from other agencies in the  
24 community if the conditions in the child's or family's home are  
25 reasonably likely to subject the child or family to future  
26 reports of suspected child abuse or neglect. Acceptance of

1 these services shall be voluntary. The Department shall 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 including but not limited to, Asperger's Syndrome and autism,  
11 as defined in the most recent edition of the Diagnostic and  
12 Statistical Manual of Mental Disorders of the American  
13 Psychiatric Association.

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

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

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

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

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

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

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

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

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

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

1     apparent ability to ensure the child's health and safety and  
2     resume permanent charge of the child, or until a relative  
3     enters the home and is willing and able to ensure the child's  
4     health and safety and assume charge of the child until a  
5     parent, guardian or custodian enters the home and expresses  
6     such willingness and ability to ensure the child's safety and  
7     resume permanent charge. After a caretaker has remained in the  
8     home for a period not to exceed 12 hours, the Department must  
9     follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
10    5-415 of the Juvenile Court Act of 1987.

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

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

1 examination.

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

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

1 Section 3-15-2 of the Unified Code of Corrections, unless the  
2 child is a ward who was placed under the care of the Department  
3 before being subject to placement in a correctional facility  
4 and a court of competent jurisdiction has ordered placement of  
5 the child in a secure care facility.

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

1 limitations set forth in this Section. All reimbursements for  
2 services delivered shall be absolutely inalienable by  
3 assignment, sale, attachment, garnishment or otherwise.

4 (n-1) The Department shall provide or authorize child  
5 welfare services, aimed at assisting minors to achieve  
6 sustainable self-sufficiency as independent adults, for any  
7 minor eligible for the reinstatement of wardship pursuant to  
8 subsection (2) of Section 2-33 of the Juvenile Court Act of  
9 1987, whether or not such reinstatement is sought or allowed,  
10 provided that the minor consents to such services and has not  
11 yet attained the age of 21. The Department shall have  
12 responsibility for the development and delivery of services  
13 under this Section. An eligible youth may access services under  
14 this Section through the Department of Children and Family  
15 Services or by referral from the Department of Human Services.  
16 Youth participating in services under this Section shall  
17 cooperate with the assigned case manager in developing an  
18 agreement identifying the services to be provided and how the  
19 youth will increase skills to achieve self-sufficiency. A  
20 homeless shelter is not considered appropriate housing for any  
21 youth receiving child welfare services under this Section. The  
22 Department shall continue child welfare services under this  
23 Section to any eligible minor until the minor becomes 21 years  
24 of age, no longer consents to participate, or achieves  
25 self-sufficiency as identified in the minor's service plan. The  
26 Department of Children and Family Services shall create clear,

1 readable notice of the rights of former foster youth to child  
2 welfare services under this Section and how such services may  
3 be obtained. The Department of Children and Family Services and  
4 the Department of Human Services shall disseminate this  
5 information statewide. The Department shall adopt regulations  
6 describing services intended to assist minors in achieving  
7 sustainable self-sufficiency as independent adults.

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

1 current foster home placement is necessary and appropriate  
2 under Section 2-28 of the Juvenile Court Act of 1987 does not  
3 constitute a judicial determination on the merits of an  
4 administrative appeal, filed by a former foster parent,  
5 involving a change of placement decision.

6 (p) There is hereby created the Department of Children and  
7 Family Services Emergency Assistance Fund from which the  
8 Department may provide special financial assistance to  
9 families which are in economic crisis when such assistance is  
10 not available through other public or private sources and the  
11 assistance is deemed necessary to prevent dissolution of the  
12 family unit or to reunite families which have been separated  
13 due to child abuse and neglect. The Department shall establish  
14 administrative rules specifying the criteria for determining  
15 eligibility for and the amount and nature of assistance to be  
16 provided. The Department may also enter into written agreements  
17 with private and public social service agencies to provide  
18 emergency financial services to families referred by the  
19 Department. Special financial assistance payments shall be  
20 available to a family no more than once during each fiscal year  
21 and the total payments to a family may not exceed \$500 during a  
22 fiscal year.

23 (q) The Department may receive and use, in their entirety,  
24 for the benefit of children any gift, donation or bequest of  
25 money or other property which is received on behalf of such  
26 children, or any financial benefits to which such children are

1 or may become entitled while under the jurisdiction or care of  
2 the Department.

3 The Department shall set up and administer no-cost,  
4 interest-bearing accounts in appropriate financial  
5 institutions for children for whom the Department is legally  
6 responsible and who have been determined eligible for Veterans'  
7 Benefits, Social Security benefits, assistance allotments from  
8 the armed forces, court ordered payments, parental voluntary  
9 payments, Supplemental Security Income, Railroad Retirement  
10 payments, Black Lung benefits, or other miscellaneous  
11 payments. Interest earned by each account shall be credited to  
12 the account, unless disbursed in accordance with this  
13 subsection.

14 In disbursing funds from children's accounts, the  
15 Department shall:

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

24 (2) Calculate on a monthly basis the amounts paid from  
25 State funds for the child's board and care, medical care  
26 not covered under Medicaid, and social services; and

1           utilize funds from the child's account, as covered by  
2           regulation, to reimburse those costs. Monthly,  
3           disbursements from all children's accounts, up to 1/12 of  
4           \$13,000,000, shall be deposited by the Department into the  
5           General Revenue Fund and the balance over 1/12 of  
6           \$13,000,000 into the DCFS Children's Services Fund.

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

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

1           (s) The Department of Children and Family Services may  
2 establish and implement a program to reimburse Department and  
3 private child welfare agency foster parents licensed by the  
4 Department of Children and Family Services for damages  
5 sustained by the foster parents as a result of the malicious or  
6 negligent acts of foster children, as well as providing third  
7 party coverage for such foster parents with regard to actions  
8 of foster children to other individuals. Such coverage will be  
9 secondary to the foster parent liability insurance policy, if  
10 applicable. The program shall be funded through appropriations  
11 from the General Revenue Fund, specifically designated for such  
12 purposes.

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

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

19                 (2) the court has ordered one or both of the parties to  
20                 the proceeding to reimburse the Department for its  
21                 reasonable costs for providing such services in accordance  
22                 with Department rules, or has determined that neither party  
23                 is financially able to pay.

24           The Department shall provide written notification to the  
25 court of the specific arrangements for supervised visitation  
26 and projected monthly costs within 60 days of the court order.

1 The Department shall send to the court information related to  
2 the costs incurred except in cases where the court has  
3 determined the parties are financially unable to pay. The court  
4 may order additional periodic reports as appropriate.

5 (u) In addition to other information that must be provided,  
6 whenever the Department places a child with a prospective  
7 adoptive parent or parents or in a licensed foster home, group  
8 home, child care institution, or in a relative home, the  
9 Department shall provide to the prospective adoptive parent or  
10 parents or other caretaker:

11 (1) available detailed information concerning the  
12 child's educational and health history, copies of  
13 immunization records (including insurance and medical card  
14 information), a history of the child's previous  
15 placements, if any, and reasons for placement changes  
16 excluding any information that identifies or reveals the  
17 location of any previous caretaker;

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

21 (3) information containing details of the child's  
22 individualized educational plan when the child is  
23 receiving special education services.

24 The caretaker shall be informed of any known social or  
25 behavioral information (including, but not limited to,  
26 criminal background, fire setting, perpetuation of sexual

1 abuse, destructive behavior, and substance abuse) necessary to  
2 care for and safeguard the children to be placed or currently  
3 in the home. The Department may prepare a written summary of  
4 the information required by this paragraph, which may be  
5 provided to the foster or prospective adoptive parent in  
6 advance of a placement. The foster or prospective adoptive  
7 parent may review the supporting documents in the child's file  
8 in the presence of casework staff. In the case of an emergency  
9 placement, casework staff shall at least provide known  
10 information verbally, if necessary, and must subsequently  
11 provide the information in writing as required by this  
12 subsection.

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

1 level.

2 (u-5) Effective July 1, 1995, only foster care placements  
3 licensed as foster family homes pursuant to the Child Care Act  
4 of 1969 shall be eligible to receive foster care payments from  
5 the Department. Relative caregivers who, as of July 1, 1995,  
6 were approved pursuant to approved relative placement rules  
7 previously promulgated by the Department at 89 Ill. Adm. Code  
8 335 and had submitted an application for licensure as a foster  
9 family home may continue to receive foster care payments only  
10 until the Department determines that they may be licensed as a  
11 foster family home or that their application for licensure is  
12 denied or until September 30, 1995, whichever occurs first.

13 (v) The Department shall access criminal history record  
14 information as defined in the Illinois Uniform Conviction  
15 Information Act and information maintained in the adjudicatory  
16 and dispositional record system as defined in Section 2605-355  
17 of the Department of State Police Law (20 ILCS 2605/2605-355)  
18 if the Department determines the information is necessary to  
19 perform its duties under the Abused and Neglected Child  
20 Reporting Act, the Child Care Act of 1969, and the Children and  
21 Family Services Act. The Department shall provide for  
22 interactive computerized communication and processing  
23 equipment that permits direct on-line communication with the  
24 Department of State Police's central criminal history data  
25 repository. The Department shall comply with all certification  
26 requirements and provide certified operators who have been

1 trained by personnel from the Department of State Police. In  
2 addition, one Office of the Inspector General investigator  
3 shall have training in the use of the criminal history  
4 information access system and have access to the terminal. The  
5 Department of Children and Family Services and its employees  
6 shall abide by rules and regulations established by the  
7 Department of State Police relating to the access and  
8 dissemination of this information.

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

21 (v-2) Prior to final approval for placement of a child, the  
22 Department shall check its child abuse and neglect registry for  
23 information concerning prospective foster and adoptive  
24 parents, and any adult living in the home. If any prospective  
25 foster or adoptive parent or other adult living in the home has  
26 resided in another state in the preceding 5 years, the

1 Department shall request a check of that other state's child  
2 abuse and neglect registry.

3 (w) Within 120 days of August 20, 1995 (the effective date  
4 of Public Act 89-392), the Department shall prepare and submit  
5 to the Governor and the General Assembly, a written plan for  
6 the development of in-state licensed secure child care  
7 facilities that care for children who are in need of secure  
8 living arrangements for their health, safety, and well-being.  
9 For purposes of this subsection, secure care facility shall  
10 mean a facility that is designed and operated to ensure that  
11 all entrances and exits from the facility, a building or a  
12 distinct part of the building, are under the exclusive control  
13 of the staff of the facility, whether or not the child has the  
14 freedom of movement within the perimeter of the facility,  
15 building, or distinct part of the building. The plan shall  
16 include descriptions of the types of facilities that are needed  
17 in Illinois; the cost of developing these secure care  
18 facilities; the estimated number of placements; the potential  
19 cost savings resulting from the movement of children currently  
20 out-of-state who are projected to be returned to Illinois; the  
21 necessary geographic distribution of these facilities in  
22 Illinois; and a proposed timetable for development of such  
23 facilities.

24 (x) The Department shall conduct annual credit history  
25 checks to determine the financial history of children placed  
26 under its guardianship pursuant to the Juvenile Court Act of

1 1987. The Department shall conduct such credit checks starting  
2 when a ward turns 12 years old and each year thereafter for the  
3 duration of the guardianship as terminated pursuant to the  
4 Juvenile Court Act of 1987. The Department shall determine if  
5 financial exploitation of the child's personal information has  
6 occurred. If financial exploitation appears to have taken place  
7 or is presently ongoing, the Department shall notify the proper  
8 law enforcement agency, the proper State's Attorney, or the  
9 Attorney General.

10 (y) Beginning on the effective date of this amendatory Act  
11 of the 96th General Assembly, a child with a disability who  
12 receives residential and educational services from the  
13 Department shall be eligible to receive transition services in  
14 accordance with Article 14 of the School Code from the age of  
15 14.5 through age 21, inclusive, notwithstanding the child's  
16 residential services arrangement. For purposes of this  
17 subsection, "child with a disability" means a child with a  
18 disability as defined by the federal Individuals with  
19 Disabilities Education Improvement Act of 2004.

20 (z) The Department shall access criminal history record  
21 information as defined as "background information" in this  
22 subsection and criminal history record information as defined  
23 in the Illinois Uniform Conviction Information Act for each  
24 Department employee or Department applicant. Each Department  
25 employee or Department applicant shall submit his or her  
26 fingerprints to the Department of State Police in the form and

1 manner prescribed by the Department of State Police. These  
2 fingerprints shall be checked against the fingerprint records  
3 now and hereafter filed in the Department of State Police and  
4 the Federal Bureau of Investigation criminal history records  
5 databases. The Department of State Police shall charge a fee  
6 for conducting the criminal history record check, which shall  
7 be deposited into the State Police Services Fund and shall not  
8 exceed the actual cost of the record check. The Department of  
9 State Police shall furnish, pursuant to positive  
10 identification, all Illinois conviction information to the  
11 Department of Children and Family Services.

12 For purposes of this subsection:

13 "Background information" means all of the following:

14 (i) Upon the request of the Department of Children and  
15 Family Services, conviction information obtained from the  
16 Department of State Police as a result of a  
17 fingerprint-based criminal history records check of the  
18 Illinois criminal history records database and the Federal  
19 Bureau of Investigation criminal history records database  
20 concerning a Department employee or Department applicant.

21 (ii) Information obtained by the Department of  
22 Children and Family Services after performing a check of  
23 the Department of State Police's Sex Offender Database, as  
24 authorized by Section 120 of the Sex Offender Community  
25 Notification Law, concerning a Department employee or  
26 Department applicant.

1 (iii) Information obtained by the Department of  
2 Children and Family Services after performing a check of  
3 the Child Abuse and Neglect Tracking System (CANTS)  
4 operated and maintained by the Department.

5 "Department employee" means a full-time or temporary  
6 employee coded or certified within the State of Illinois  
7 Personnel System.

8 "Department applicant" means an individual who has  
9 conditional Department full-time or part-time work, a  
10 contractor, an individual used to replace or supplement staff,  
11 an academic intern, a volunteer in Department offices or on  
12 Department contracts, a work-study student, an individual or  
13 entity licensed by the Department, or an unlicensed service  
14 provider who works as a condition of a contract or an agreement  
15 and whose work may bring the unlicensed service provider into  
16 contact with Department clients or client records.

17 (Source: P.A. 97-1150, eff. 1-25-13; 98-249, eff. 1-1-14;  
18 98-570, eff. 8-27-13; 98-756, eff. 7-16-14; 98-803, eff.  
19 1-1-15.)

20 Section 10. The Abused and Neglected Child Reporting Act is  
21 amended by changing Section 5 as follows:

22 (325 ILCS 5/5) (from Ch. 23, par. 2055)

23 Sec. 5. An officer of a local law enforcement agency,  
24 designated employee of the Department, or a physician treating

1 a child may take or retain temporary protective custody of the  
2 child without the consent of the person responsible for the  
3 child's welfare, if (1) he has reason to believe that the child  
4 cannot be cared for at home or in the custody of the person  
5 responsible for the child's welfare without endangering the  
6 child's health or safety; and (2) there is not time to apply  
7 for a court order under the Juvenile Court Act of 1987 for  
8 temporary custody of the child. The person taking or retaining  
9 a child in temporary protective custody shall immediately make  
10 every reasonable effort to notify the person responsible for  
11 the child's welfare and shall immediately notify the  
12 Department. The Department shall provide to the temporary  
13 caretaker of a child any information in the Department's  
14 possession concerning the positive results of a test performed  
15 on the child to determine the presence of the antibody or  
16 antigen to Human Immunodeficiency Virus (HIV), or of HIV  
17 infection, as well as any communicable diseases or communicable  
18 infections that the child has. The temporary caretaker of a  
19 child shall not disclose to another person any information  
20 received by the temporary caretaker from the Department  
21 concerning the results of a test performed on the child to  
22 determine the presence of the antibody or antigen to HIV, or of  
23 HIV infection, except pursuant to Section 9 of the AIDS  
24 Confidentiality Act, as now or hereafter amended. The  
25 Department shall promptly initiate proceedings under the  
26 Juvenile Court Act of 1987 for the continued temporary custody

1 of the child.

2 Where the physician keeping a child in his custody does so  
3 in his capacity as a member of the staff of a hospital or  
4 similar institution, he shall notify the person in charge of  
5 the institution or his designated agent, who shall then become  
6 responsible for the further care of such child in the hospital  
7 or similar institution under the direction of the Department.

8 Said care includes, but is not limited to the granting of  
9 permission to perform emergency medical treatment to a minor  
10 where the treatment itself does not involve a substantial risk  
11 of harm to the minor and the failure to render such treatment  
12 will likely result in death or permanent harm to the minor, and  
13 there is not time to apply for a court order under the Juvenile  
14 Court Act of 1987.

15 Any person authorized and acting in good faith in the  
16 removal of a child under this Section shall have immunity from  
17 any liability, civil or criminal that might otherwise be  
18 incurred or imposed as a result of such removal. Any physician  
19 authorized and acting in good faith and in accordance with  
20 acceptable medical practice in the treatment of a child under  
21 this Section shall have immunity from any liability, civil or  
22 criminal, that might otherwise be incurred or imposed as a  
23 result of granting permission for emergency treatment.

24 With respect to any child taken into temporary protective  
25 custody pursuant to this Section, the Department of Children  
26 and Family Services Guardianship Administrator or his designee

1 shall be deemed the child's legally authorized representative  
2 in the following instances: (i) for purposes of consenting to  
3 emergency medical treatment for the child if the treatment  
4 itself does not involve a substantial risk of harm to the  
5 child, the failure to render such treatment will likely result  
6 in death or permanent harm to the child, and there is not time  
7 to apply for a court order under the Juvenile Court Act of  
8 1987; (ii) for purposes of consenting to an initial health  
9 screening for the child within 24 hours after the child is  
10 taken into temporary protective custody, or to any ordinary and  
11 routine care for the child that may be necessary and  
12 appropriate, or to an HIV test if deemed necessary and  
13 appropriate by the Department's Guardianship Administrator or  
14 designee and obtaining and disclosing information concerning  
15 such test pursuant to the AIDS Confidentiality Act if deemed  
16 necessary and appropriate by the Department's Guardianship  
17 Administrator or designee; and (iii) for purposes of consenting  
18 to the release of information pursuant to the Illinois Sexually  
19 Transmissible Disease Control Act if deemed necessary and  
20 appropriate by the Department's Guardianship Administrator or  
21 designee.

22 Any person who administers an HIV test upon the consent of  
23 the Department of Children and Family Services Guardianship  
24 Administrator or his designee, or who discloses the results of  
25 such tests to the Department's Guardianship Administrator or  
26 his designee, shall have immunity from any liability, civil,

1 criminal or otherwise, that might result by reason of such  
2 actions. For the purpose of any proceedings, civil or criminal,  
3 the good faith of any persons required to administer or  
4 disclose the results of tests, or permitted to take such  
5 actions, shall be presumed.

6 (Source: P.A. 90-28, eff. 1-1-98.)