

**99TH GENERAL ASSEMBLY****State of Illinois****2015 and 2016****SB0850**

Introduced 2/11/2015, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

20 ILCS 505/5.40 new

Amends the Children and Family Services Act. Requires the Department of Children and Family Services to develop, by rule, criteria for determining when a child may be voluntarily placed in out-of-home care funded by the Department for the purpose of obtaining mental health treatment for the child or treatment for the child's developmental disability. Provides that relinquishment of custody of a child shall not be a condition for receipt of services or care delivered or funded by the Department. Provides that a child voluntarily placed in out-of-home care shall be placed pursuant to a voluntary placement agreement voluntarily entered into by the parent or legal guardian of the child. Provides that for a child to remain in out-of-home care for longer than 180 days, a juvenile court must make a judicial determination within the first 180 days of the placement that the placement is in the best interests of the child. Provides that the inability of a parent or legal guardian to care for a child with a serious mental illness, serious emotional disturbance, or developmental disability shall not in itself be the basis for a finding of abuse or neglect of the child. Effective immediately.

LRB099 08054 KTG 28199 b

1 AN ACT concerning State government.

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 adding Section 5.40 as follows:

6 (20 ILCS 505/5.40 new)

7 Sec. 5.40. Voluntary placement agreement.

8 (a) The Department of Children and Family Services shall
9 develop, by rule, criteria for determining when a child may be
10 voluntarily placed in out-of-home care funded by the Department
11 for the purpose of obtaining mental health treatment for the
12 child or treatment for the child's developmental disability.
13 Relinquishment of custody of a child shall not be a condition
14 for receipt of services or care delivered or funded by the
15 Department under this Section. The criteria shall include the
16 following:

17 (1) The ability of the child's parent or legal guardian
18 to pay for services.

19 (2) The child's access to services.

20 (3) The severity of the child's mental illness or
21 developmental disability.

22 (4) The danger the child poses to other residents of
23 the home.

1 (b) A child voluntarily placed shall be placed in an
2 out-of-home placement pursuant to a voluntary placement
3 agreement voluntarily entered into by the parent or legal
4 guardian of the child. The agreement must contain, at a
5 minimum, the following:

6 (1) A statement that the parent or legal guardian of
7 the child is not transferring legal custody of the child to
8 the Department or terminating his or her parental rights.

9 (2) A statement specifying the legal status of the
10 child.

11 (3) A statement specifying the rights and obligations
12 of the parent of the child and the child's legal guardian
13 or custodian, if any.

14 (c) When a child is voluntarily placed, the Department is
15 responsible for the child's placement and care. For a child to
16 remain in out-of-home care for longer than 180 days, a juvenile
17 court must make a judicial determination within the first 180
18 days of the placement that the placement is in the best
19 interests of the child. In addition, the juvenile court shall
20 hold a permanency hearing as provided under Section 2-28 of the
21 Juvenile Court Act of 1987 no later than 12 months after the
22 child's original voluntary placement and not less frequently
23 than once every 6 months thereafter during the continuation of
24 the child's original voluntary placement, to determine the
25 future placement of the child.

26 (d) The inability of a parent or legal guardian to care for

1 a child with a serious mental illness, serious emotional
2 disturbance, or developmental disability shall not in itself be
3 the basis for a finding of abuse or neglect of the child. A
4 planned abandonment or relinquishment of custody of a child at
5 a hospital or similar facility shall not be the basis for a
6 finding of abuse or neglect of the child if the Department
7 determines that the parent or legal guardian was reasonable in
8 his or her belief that taking the child home would endanger the
9 child or other family members.

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