



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB4233

Introduced 11/14/2022, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

20 ILCS 505/45 new

30 ILCS 105/5.990 new

30 ILCS 105/8.27

from Ch. 127, par. 144.27

Amends the Children and Family Services Act. Requires the Department of Children and Family Services to seek federal reimbursements under Title IV-E of the Social Security Act for administrative costs associated with the provision of independent legal representation to foster children, and children who qualify for foster care, and their parents. Requires any federal reimbursements the Department receives for the purposes of the amendatory Act to be deposited into the Due Process for Youth and Families Fund. Provides that, subject to appropriation, moneys in the Fund shall be disbursed for fees and costs incurred by law practitioners and organizations that provide services as a child's lawyer or a respondent's lawyer as those terms are defined under the amendatory Act. Provides that units of local government and public and private agencies may apply for and receive federal or State funds from the Department in accordance with the purposes of the amendatory Act. Amends the State Finance Act. Creates the Due Process for Youth and Families Fund as a special fund in the State treasury. Provides that all receipts from federal financial participation in the Foster Care and Adoption Services program under Title IV-E of the federal Social Security Act, including receipts for related indirect costs, shall be deposited into the DCFS Children's Services Fund or the Due Process for Youth and Families Fund as provided in Section 45 of the Children and Family Services Act. Effective immediately.

LRB102 29092 KTG 41025 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 45 as follows:

6 (20 ILCS 505/45 new)

7 Sec. 45. Title IV-E funds for legal services to foster
8 youth and families.

9 (a) Findings and purpose. The General Assembly finds the
10 following:

11 (1) Child welfare court proceedings are serious and
12 life changing. Children and youth are subject to court
13 decisions that may forever change their family
14 composition, as well as their connections to culture and
15 heritage.

16 (2) The gravity of child welfare proceedings and the
17 rights and liabilities at stake necessitate the provision
18 of quality legal representation for children and youth
19 throughout the duration of child welfare proceedings.

20 (3) Legal representation serves to protect and advance
21 the interests of children and youth in court and provides
22 confidential attorney-client privilege to ensure children
23 feel safe sharing with attorneys information that

1 otherwise may go unvoiced.

2 (4) As the agency responsible for administering the
3 State's approved Title IV-E State Plan, the Department of
4 Children and Family Services is the only State agency with
5 the authority to seek federal matching funds under Title
6 IV-E of the Social Security Act for children who are
7 candidates for foster care, children who are in foster
8 care, and parents who are participating in foster care
9 legal proceedings.

10 (5) It is the intent of the General Assembly to ensure
11 the Department leverages and maximizes federal resources
12 to support the provision of quality legal representation
13 to children and families to improve outcomes in the child
14 welfare system.

15 (b) Definitions. As used in this Section:

16 "Child's lawyer" means a lawyer who is appointed by the
17 court to serve as a child's lawyer in a proceeding pending
18 under Article II of the Juvenile Court Act of 1987 in
19 accordance with the duties prescribed by State statute, court
20 rules, standards of practice, and the Illinois Rules of
21 Professional Conduct, including, but not limited to,
22 diligence, communication, confidentiality, and the
23 responsibilities to zealously assert the client's position
24 under the rules of the adversary system and to abide by the
25 client's decisions concerning the objectives of
26 representation, as provided for in the Illinois Rules of

1 Professional Conduct.

2 "Respondent's lawyer" means a lawyer who provides legal
3 representation to a parent, guardian, legal custodian, or
4 responsible relative who is named as a party-respondent in a
5 proceeding pending under Article II of the Juvenile Court Act
6 of 1987 in accordance with the duties prescribed by State
7 statute, court rules, standards of practice, and the Illinois
8 Rules of Professional Conduct, including, but not limited to,
9 diligence, communication, confidentiality, and the
10 responsibilities to zealously assert the client's position
11 under the rules of the adversary system and to abide by the
12 client's decisions concerning the objectives of
13 representation, as provided for in the Illinois Rules of
14 Professional Conduct.

15 (c) The Department shall pursue claiming Title IV-E
16 administrative costs for independent legal representation by
17 an attorney for a child who is a candidate for Title IV-E
18 foster care, or who is in foster care, and the child's parent
19 to prepare for and participate in all stages of foster care
20 legal proceedings. Federal reimbursements for these
21 administrative costs must be deposited into the Due Process
22 for Youth and Families Fund created under subsection (d).

23 (d) The Due Process for Youth and Families Fund is created
24 as a special fund in the State treasury. The Fund shall consist
25 of any moneys appropriated to the Department from federal
26 Title IV-E reimbursements for administrative costs as

1 described in subsection (c) and any other moneys deposited
2 into the Fund in accordance with this Section. Subject to
3 appropriation, moneys in the Fund shall be disbursed for fees
4 and costs incurred by organizations or law practitioners that
5 provide services as a child's lawyer or respondent's lawyer as
6 those terms are defined in subsection (b) and for no other
7 purpose. All interest earned on moneys in the Fund shall be
8 deposited into the Fund. The Department and the State
9 Treasurer may accept funds as provided under Title IV-E of the
10 Social Security Act for deposit into the Fund. Annual requests
11 for appropriations for the purpose of providing independent
12 legal representation under this Section shall be made in
13 separate and distinct line-items.

14 (e) Units of local government and public and private
15 agencies may apply for and receive federal or State funds from
16 the Department in accordance with the purposes of this
17 Section.

18 Section 10. The State Finance Act is amended by changing
19 Section 8.27 and by adding Section 5.990 as follows:

20 (30 ILCS 105/5.990 new)

21 Sec. 5.990. The Due Process for Youth and Families Fund.

22 (30 ILCS 105/8.27) (from Ch. 127, par. 144.27)

23 Sec. 8.27. All receipts from federal financial

1 participation in the Foster Care and Adoption Services program
2 under Title IV-E of the federal Social Security Act, including
3 receipts for related indirect costs, shall be deposited into
4 ~~in~~ the DCFS Children's Services Fund or the Due Process for
5 Youth and Families Fund as provided in Section 45 of the
6 Children and Family Services Act.

7 Beginning on July 20, 2010 (the effective date of Public
8 Act 96-1127), any funds paid to the State by the federal
9 government under Title XIX and Title XXI of the Social
10 Security Act for child welfare services delivered by community
11 mental health providers, certified and paid as Medicaid
12 providers by the Department of Children and Family Services,
13 for child welfare services relating to Medicaid-eligible
14 clients and families served consistent with the purposes of
15 the Department of Children and Family Services, including
16 services delivered as a result of the conversion of such
17 providers from a comprehensive rate to a fee-for-service
18 payment methodology, and any subsequent revenue maximization
19 initiatives performed by such providers, and any interest
20 earned thereon, shall be deposited directly into the DCFS
21 Children's Services Fund. Such funds shall be used for the
22 provision of child welfare services provided to eligible
23 individuals identified by the Department of Children and
24 Family Services. Child welfare services are defined in Section
25 5 of the Children and Family Services Act.

26 All receipts from federal financial participation in the

1 Child Welfare Services program under Title IV-B of the federal
2 Social Security Act, including receipts for related indirect
3 costs, shall be deposited into the DCFS Children's Services
4 Fund for those moneys received as reimbursement for services
5 provided on or after July 1, 1994.

6 For services provided on or after July 1, 2007, all
7 federal funds received pursuant to the John H. Chafee Foster
8 Care Independence Program shall be deposited into the DCFS
9 Children's Services Fund.

10 Except as otherwise provided in this Section, moneys in
11 the Fund may be used by the Department, pursuant to
12 appropriation by the General Assembly, for the ordinary and
13 contingent expenses of the Department.

14 In accordance with subsection (q) of Section 5 of the
15 Children and Family Services Act, disbursements from
16 individual children's accounts shall be deposited into the
17 DCFS Children's Services Fund.

18 Receipts from public and unsolicited private grants, fees
19 for training, and royalties earned from the publication of
20 materials owned by or licensed to the Department of Children
21 and Family Services shall be deposited into the DCFS
22 Children's Services Fund.

23 (Source: P.A. 102-1071, eff. 6-10-22.)

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