



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3693

Introduced 2/9/2024, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7
225 ILCS 10/4

from Ch. 23, par. 5007
from Ch. 23, par. 2214

Amends the Children and Family Services Act. Provides that if a child is placed with a relative or fictive kin, then the relative or fictive kin must apply for licensure under the Child Care Act of 1969 within 3 months after the child is placed with the relative or fictive kin. Provides that foster care payments shall be made only to: (i) licensed foster family homes; and (ii) a relative or fictive kin with whom the child is placed if the relative or fictive kin applied to be a licensed foster family home (rather than only licensed foster family homes). Provides that the Department of Children and Family Services shall remove a child placed with a relative or fictive kin if the relative or fictive kin does not apply for a license as a foster family home within 3 months of the child being placed with the relative or fictive kin. Provides that the Department shall remove a child placed with a relative or fictive kin if the relative's or fictive kin's application to be a licensed foster family home is declined by the Department. Provides that the Department must inform the relative or fictive kin with whom a child is placed of the reason the Department declined to grant the person a license as a foster family home. Amends the Child Care Act of 1969. Provides that for a relative or fictive kin who applies for a license as a foster family home, the Department shall: (1) require less training time than what is required for other applicants applying for a foster family license; (2) require training on child care only as it relates to the child placed with the relative or fictive kin; (3) require training that includes information about the foster system and the expectations of a foster parent; and (4) require training on trauma and how trauma presents in children. Makes other and conforming changes.

LRB103 37025 RTM 67140 b

1 AN ACT concerning regulation.

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 7 as follows:

6 (20 ILCS 505/7) (from Ch. 23, par. 5007)

7 Sec. 7. Placement of children; considerations.

8 (a) In placing any child under this Act, the Department
9 shall place the child, as far as possible, in the care and
10 custody of some individual holding the same religious belief
11 as the parents of the child, or with some child care facility
12 which is operated by persons of like religious faith as the
13 parents of such child.

14 (a-5) In placing a child under this Act, the Department
15 shall place the child with the child's sibling or siblings
16 under Section 7.4 of this Act unless the placement is not in
17 each child's best interest, or is otherwise not possible under
18 the Department's rules. If the child is not placed with a
19 sibling under the Department's rules, the Department shall
20 consider placements that are likely to develop, preserve,
21 nurture, and support sibling relationships, where doing so is
22 in each child's best interest.

23 (b) In placing a child under this Act, the Department may

1 place a child with a relative or fictive kin if the Department
2 determines that the relative or fictive kin will be able to
3 adequately provide for the child's safety and welfare based on
4 the factors set forth in the Department's rules governing
5 relative and fictive kin placements, and that the placement is
6 consistent with the child's best interests, taking into
7 consideration the factors set out in subsection (4.05) of
8 Section 1-3 of the Juvenile Court Act of 1987.

9 When the Department first assumes custody of a child, in
10 placing that child under this Act, the Department shall make
11 reasonable efforts to identify, locate, and provide notice to
12 all adult grandparents, fictive kin, and other adult relatives
13 of the child who are ready, willing, and able to care for the
14 child. At a minimum, these efforts shall be renewed each time
15 the child requires a placement change and it is appropriate
16 for the child to be cared for in a home environment. The
17 Department must document its efforts to identify, locate, and
18 provide notice to such potential relative and fictive kin
19 placements and maintain the documentation in the child's case
20 file.

21 If the Department determines that a placement with any
22 identified relative or fictive kin is not in the child's best
23 interests or that the relative or fictive kin does not meet the
24 requirements to be a relative or fictive kin caregiver, as set
25 forth in Department rules or by statute, the Department must
26 document the basis for that decision and maintain the

1 documentation in the child's case file.

2 If, pursuant to the Department's rules, any person files
3 an administrative appeal of the Department's decision not to
4 place a child with a relative or fictive kin, then it is the
5 Department's burden to prove that the decision is consistent
6 with the child's best interests.

7 When the Department determines that the child requires
8 placement in an environment, other than a home environment,
9 the Department shall continue to make reasonable efforts to
10 identify and locate relatives or fictive kin to serve as
11 visitation resources for the child and potential future
12 placement resources, except when the Department determines
13 that those efforts would be futile or inconsistent with the
14 child's best interests.

15 If the Department determines that efforts to identify and
16 locate relatives or fictive kin would be futile or
17 inconsistent with the child's best interests, then the
18 Department shall document the basis of its determination and
19 maintain the documentation in the child's case file.

20 If the Department determines that an individual, a fictive
21 kin, or a group of relatives are inappropriate to serve as
22 visitation resources or possible placement resources, then the
23 Department shall document the basis of its determination and
24 maintain the documentation in the child's case file.

25 When the Department determines that an individual, a
26 fictive kin, or a group of relatives are appropriate to serve

1 as visitation resources or possible future placement
2 resources, the Department shall document the basis of its
3 determination, maintain the documentation in the child's case
4 file, create a visitation or transition plan, or both, and
5 incorporate the visitation or transition plan, or both, into
6 the child's case plan. For the purpose of this subsection, any
7 determination as to the child's best interests shall include
8 consideration of the factors set out in subsection (4.05) of
9 Section 1-3 of the Juvenile Court Act of 1987.

10 The Department may not place a child with a relative or
11 fictive kin, with the exception of certain circumstances which
12 may be waived as defined by the Department in rules, if the
13 results of a check of the Law Enforcement Agencies Data System
14 (LEADS) identifies a prior criminal conviction of the relative
15 or fictive kin or any adult member of the relative's or fictive
16 kin's household for any of the following offenses under the
17 Criminal Code of 1961 or the Criminal Code of 2012:

18 (1) murder;

19 (1.1) solicitation of murder;

20 (1.2) solicitation of murder for hire;

21 (1.3) intentional homicide of an unborn child;

22 (1.4) voluntary manslaughter of an unborn child;

23 (1.5) involuntary manslaughter;

24 (1.6) reckless homicide;

25 (1.7) concealment of a homicidal death;

26 (1.8) involuntary manslaughter of an unborn child;

- 1 (1.9) reckless homicide of an unborn child;
- 2 (1.10) drug-induced homicide;
- 3 (2) a sex offense under Article 11, except offenses
- 4 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
- 5 11-40, and 11-45;
- 6 (3) kidnapping;
- 7 (3.1) aggravated unlawful restraint;
- 8 (3.2) forcible detention;
- 9 (3.3) aiding and abetting child abduction;
- 10 (4) aggravated kidnapping;
- 11 (5) child abduction;
- 12 (6) aggravated battery of a child as described in
- 13 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 14 (7) criminal sexual assault;
- 15 (8) aggravated criminal sexual assault;
- 16 (8.1) predatory criminal sexual assault of a child;
- 17 (9) criminal sexual abuse;
- 18 (10) aggravated sexual abuse;
- 19 (11) heinous battery as described in Section 12-4.1 or
- 20 subdivision (a) (2) of Section 12-3.05;
- 21 (12) aggravated battery with a firearm as described in
- 22 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
- 23 (e) (4) of Section 12-3.05;
- 24 (13) tampering with food, drugs, or cosmetics;
- 25 (14) drug-induced infliction of great bodily harm as
- 26 described in Section 12-4.7 or subdivision (g) (1) of

- 1 Section 12-3.05;
- 2 (15) aggravated stalking;
- 3 (16) home invasion;
- 4 (17) vehicular invasion;
- 5 (18) criminal transmission of HIV;
- 6 (19) criminal abuse or neglect of an elderly person or
- 7 person with a disability as described in Section 12-21 or
- 8 subsection (b) of Section 12-4.4a;
- 9 (20) child abandonment;
- 10 (21) endangering the life or health of a child;
- 11 (22) ritual mutilation;
- 12 (23) ritualized abuse of a child;
- 13 (24) an offense in any other state the elements of
- 14 which are similar and bear a substantial relationship to
- 15 any of the foregoing offenses.

16 For the purpose of this subsection, "relative" shall

17 include any person, 21 years of age or over, other than the

18 parent, who (i) is currently related to the child in any of the

19 following ways by blood or adoption: grandparent, sibling,

20 great-grandparent, parent's sibling, sibling's child, first

21 cousin, second cousin, godparent, or grandparent's sibling; or

22 (ii) is the spouse of such a relative; or (iii) is the child's

23 step-parent, or adult step-sibling; or (iv) is a fictive kin;

24 "relative" also includes a person related in any of the

25 foregoing ways to a sibling of a child, even though the person

26 is not related to the child, when the child and the child's

1 sibling are placed together with that person. For children who
2 have been in the guardianship of the Department, have been
3 adopted, and are subsequently returned to the temporary
4 custody or guardianship of the Department, a "relative" may
5 also include any person who would have qualified as a relative
6 under this paragraph prior to the adoption, but only if the
7 Department determines, and documents, that it would be in the
8 child's best interests to consider this person a relative,
9 based upon the factors for determining best interests set
10 forth in subsection (4.05) of Section 1-3 of the Juvenile
11 Court Act of 1987.

12 A relative or fictive kin with whom a child is placed
13 pursuant to this subsection must ~~may, but is not required to,~~
14 apply for licensure as a foster family home pursuant to the
15 Child Care Act of 1969 within 3 months after the child is
16 placed with the relative or fictive kin. Foster ~~, provided,~~
17 ~~however,~~ that as of July 1, 1995, foster care payments shall be
18 made only to (i) licensed foster family homes pursuant to the
19 terms of Section 5 of this Act, and (ii) a relative or fictive
20 kin with whom the child is placed if the relative or fictive
21 kin has submitted the application to be a licensed foster
22 family home.

23 ~~Notwithstanding any other provision under this subsection~~
24 ~~to the contrary, a fictive kin with whom a child is placed~~
25 ~~pursuant to this subsection shall apply for licensure as a~~
26 ~~foster family home pursuant to the Child Care Act of 1969~~

1 ~~within 6 months of the child's placement with the fictive kin.~~
2 ~~The Department shall not remove a child from the home of a~~
3 ~~fictive kin on the basis that the fictive kin fails to apply~~
4 ~~for licensure within 6 months of the child's placement with~~
5 ~~the fictive kin, or fails to meet the standard for licensure.~~
6 All ~~other~~ requirements established under the rules and
7 procedures of the Department concerning the placement of a
8 child, for whom the Department is legally responsible, with a
9 relative shall apply to fictive kin. ~~By June 1, 2015, the~~
10 ~~Department shall promulgate rules establishing criteria and~~
11 ~~standards for placement, identification, and licensure of~~
12 ~~fictive kin.~~

13 The Department shall remove a child placed with a relative
14 or fictive kin if the relative or fictive kin does not apply
15 for a license as a foster family home under the Child Care Act
16 of 1969 within 3 months of the child being placed with the
17 relative or fictive kin. The Department shall remove a child
18 placed with a relative or fictive kin if the relative's or
19 fictive kin's application to be a licensed foster family home
20 is declined by the Department. The Department must inform the
21 relative or fictive kin with whom a child is placed of the
22 reason the Department declined to grant the person a license
23 as a foster family home.

24 For purposes of this subsection, "fictive kin" means any
25 individual, unrelated by birth or marriage, who:

26 (i) is shown to have significant and close personal or

1 emotional ties with the child or the child's family prior
2 to the child's placement with the individual; or

3 (ii) is the current foster parent of a child in the
4 custody or guardianship of the Department pursuant to this
5 Act and the Juvenile Court Act of 1987, if the child has
6 been placed in the home for at least one year and has
7 established a significant and family-like relationship
8 with the foster parent, and the foster parent has been
9 identified by the Department as the child's permanent
10 connection, as defined by Department rule.

11 The provisions added to this subsection (b) by Public Act
12 98-846 shall become operative on and after June 1, 2015.

13 (c) In placing a child under this Act, the Department
14 shall ensure that the child's health, safety, and best
15 interests are met. In rejecting placement of a child with an
16 identified relative or fictive kin, the Department shall
17 ensure that the child's health, safety, and best interests are
18 met. In evaluating the best interests of the child, the
19 Department shall take into consideration the factors set forth
20 in subsection (4.05) of Section 1-3 of the Juvenile Court Act
21 of 1987.

22 The Department shall consider the individual needs of the
23 child and the capacity of the prospective foster or adoptive
24 parents to meet the needs of the child. When a child must be
25 placed outside the child's home and cannot be immediately
26 returned to the child's parents or guardian, a comprehensive,

1 individualized assessment shall be performed of that child at
2 which time the needs of the child shall be determined. Only if
3 race, color, or national origin is identified as a legitimate
4 factor in advancing the child's best interests shall it be
5 considered. Race, color, or national origin shall not be
6 routinely considered in making a placement decision. The
7 Department shall make special efforts for the diligent
8 recruitment of potential foster and adoptive families that
9 reflect the ethnic and racial diversity of the children for
10 whom foster and adoptive homes are needed. "Special efforts"
11 shall include contacting and working with community
12 organizations and religious organizations and may include
13 contracting with those organizations, utilizing local media
14 and other local resources, and conducting outreach activities.

15 (c-1) At the time of placement, the Department shall
16 consider concurrent planning, as described in subsection (1-1)
17 of Section 5, so that permanency may occur at the earliest
18 opportunity. Consideration should be given so that if
19 reunification fails or is delayed, the placement made is the
20 best available placement to provide permanency for the child.
21 To the extent that doing so is in the child's best interests as
22 set forth in subsection (4.05) of Section 1-3 of the Juvenile
23 Court Act of 1987, the Department should consider placements
24 that will permit the child to maintain a meaningful
25 relationship with the child's parents.

26 (d) The Department may accept gifts, grants, offers of

1 services, and other contributions to use in making special
2 recruitment efforts.

3 (e) The Department in placing children in adoptive or
4 foster care homes may not, in any policy or practice relating
5 to the placement of children for adoption or foster care,
6 discriminate against any child or prospective adoptive or
7 foster parent on the basis of race.

8 (Source: P.A. 103-22, eff. 8-8-23.)

9 Section 10. The Child Care Act of 1969 is amended by
10 changing Section 4 as follows:

11 (225 ILCS 10/4) (from Ch. 23, par. 2214)

12 Sec. 4. License requirement; application; notice.

13 (a) Any person, group of persons or corporation who or
14 which receives children or arranges for care or placement of
15 one or more children unrelated to the operator must apply for a
16 license to operate one of the types of facilities defined in
17 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
18 relative, as defined in Section 2.17 of this Act, who receives
19 a child or children for placement by the Department on a
20 full-time basis must ~~may~~ apply for a license to operate a
21 foster family home as defined in Section 2.17 of this Act.

22 (a-5) Any agency, person, group of persons, association,
23 organization, corporation, institution, center, or group
24 providing adoption services must be licensed by the Department

1 as a child welfare agency as defined in Section 2.08 of this
2 Act. "Providing adoption services" as used in this Act,
3 includes facilitating or engaging in adoption services.

4 (b) Application for a license to operate a child care
5 facility must be made to the Department in the manner and on
6 forms prescribed by it. An application to operate a foster
7 family home shall include, at a minimum: a completed written
8 form; written authorization by the applicant and all adult
9 members of the applicant's household to conduct a criminal
10 background investigation; medical evidence in the form of a
11 medical report, on forms prescribed by the Department, that
12 the applicant and all members of the household are free from
13 communicable diseases or physical and mental conditions that
14 affect their ability to provide care for the child or
15 children; the names and addresses of at least 3 persons not
16 related to the applicant who can attest to the applicant's
17 moral character; the name and address of at least one relative
18 who can attest to the applicant's capability to care for the
19 child or children; and fingerprints submitted by the applicant
20 and all adult members of the applicant's household.

21 (b-5) Prior to submitting an application for a foster
22 family home license, a quality of care concerns applicant as
23 defined in Section 2.22a of this Act must submit a preliminary
24 application to the Department in the manner and on forms
25 prescribed by it. The Department shall explain to the quality
26 of care concerns applicant the grounds for requiring a

1 preliminary application. The preliminary application shall
2 include a list of (i) all children placed in the home by the
3 Department who were removed by the Department for reasons
4 other than returning to a parent and the circumstances under
5 which they were removed and (ii) all children placed by the
6 Department who were subsequently adopted by or placed in the
7 private guardianship of the quality of care concerns applicant
8 who are currently under 18 and who no longer reside in the home
9 and the reasons why they no longer reside in the home. The
10 preliminary application shall also include, if the quality of
11 care concerns applicant chooses to submit, (1) a response to
12 the quality of care concerns, including any reason the
13 concerns are invalid, have been addressed or ameliorated, or
14 no longer apply and (2) affirmative documentation
15 demonstrating that the quality of care concerns applicant's
16 home does not pose a risk to children and that the family will
17 be able to meet the physical and emotional needs of children.
18 The Department shall verify the information in the preliminary
19 application and review (i) information regarding any prior
20 licensing complaints, (ii) information regarding any prior
21 child abuse or neglect investigations, (iii) information
22 regarding any involuntary foster home holds placed on the home
23 by the Department, and (iv) information regarding all child
24 exit interviews, as provided in Section 5.26 of the Children
25 and Family Services Act, regarding the home. Foster home
26 applicants with quality of care concerns are presumed

1 unsuitable for future licensure.

2 Notwithstanding the provisions of this subsection (b-5),
3 the Department may make an exception and issue a foster family
4 license to a quality of care concerns applicant if the
5 Department is satisfied that the foster family home does not
6 pose a risk to children and that the foster family will be able
7 to meet the physical and emotional needs of children. In
8 making this determination, the Department must obtain and
9 carefully review all relevant documents and shall obtain
10 consultation from its Clinical Division as appropriate and as
11 prescribed by Department rule and procedure. The Department
12 has the authority to deny a preliminary application based on
13 the record of quality of care concerns of the foster family
14 home. In the alternative, the Department may (i) approve the
15 preliminary application, (ii) approve the preliminary
16 application subject to obtaining additional information or
17 assessments, or (iii) approve the preliminary application for
18 purposes of placing a particular child or children only in the
19 foster family home. If the Department approves a preliminary
20 application, the foster family shall submit an application for
21 licensure as described in subsection (b) of this Section. The
22 Department shall notify the quality of care concerns applicant
23 of its decision and the basis for its decision in writing.

24 (b-10) For a relative or fictive kin who applies for a
25 license as a foster family home in accordance with subsection
26 (b) of Section 7 of the Children and Family Services Act, the

1 Department shall:

2 (1) require less training time than what is required
3 for other applicants applying for a foster family license;

4 (2) require training on child care only as it relates
5 to the child placed with the relative or fictive kin;

6 (3) require training that includes information about
7 the foster system and the expectations of a foster parent;

8 and

9 (4) require training on trauma and how trauma presents
10 in children.

11 (c) The Department shall notify the public when a child
12 care institution, maternity center, or group home licensed by
13 the Department undergoes a change in (i) the range of care or
14 services offered at the facility, (ii) the age or type of
15 children served, or (iii) the area within the facility used by
16 children. The Department shall notify the public of the change
17 in a newspaper of general circulation in the county or
18 municipality in which the applicant's facility is or is
19 proposed to be located.

20 (d) If, upon examination of the facility and investigation
21 of persons responsible for care of children and, in the case of
22 a foster home, taking into account information obtained for
23 purposes of evaluating a preliminary application, if
24 applicable, the Department is satisfied that the facility and
25 responsible persons reasonably meet standards prescribed for
26 the type of facility for which application is made, it shall

1 issue a license in proper form, designating on that license
2 the type of child care facility and, except for a child welfare
3 agency, the number of children to be served at any one time.

4 (e) The Department shall not issue or renew the license of
5 any child welfare agency providing adoption services, unless
6 the agency (i) is officially recognized by the United States
7 Internal Revenue Service as a tax-exempt organization
8 described in Section 501(c)(3) of the Internal Revenue Code of
9 1986 (or any successor provision of federal tax law) and (ii)
10 is in compliance with all of the standards necessary to
11 maintain its status as an organization described in Section
12 501(c)(3) of the Internal Revenue Code of 1986 (or any
13 successor provision of federal tax law). The Department shall
14 grant a grace period of 24 months from the effective date of
15 this amendatory Act of the 94th General Assembly for existing
16 child welfare agencies providing adoption services to obtain
17 501(c)(3) status. The Department shall permit an existing
18 child welfare agency that converts from its current structure
19 in order to be recognized as a 501(c)(3) organization as
20 required by this Section to either retain its current license
21 or transfer its current license to a newly formed entity, if
22 the creation of a new entity is required in order to comply
23 with this Section, provided that the child welfare agency
24 demonstrates that it continues to meet all other licensing
25 requirements and that the principal officers and directors and
26 programs of the converted child welfare agency or newly

1 organized child welfare agency are substantially the same as
2 the original. The Department shall have the sole discretion to
3 grant a one year extension to any agency unable to obtain
4 501(c)(3) status within the timeframe specified in this
5 subsection (e), provided that such agency has filed an
6 application for 501(c)(3) status with the Internal Revenue
7 Service within the 2-year timeframe specified in this
8 subsection (e).

9 (Source: P.A. 101-63, eff. 7-12-19; 102-763, eff. 1-1-23.)