



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0031

Introduced 1/14/2009, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

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

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

LRB096 03339 JAM 13360 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 19 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~~ ~~Before July 1, 2000,~~ ~~the Department may provide,~~  
7 ~~and beginning July 1, 2000,~~ the Department shall offer family  
8 preservation services, as defined in Section 8.2 of the Abused  
9 and Neglected Child Reporting Act, to help families, including  
10 adoptive and extended families. Family preservation services  
11 shall be offered (i) to prevent the placement of children in  
12 substitute care when the children can be cared for at home or  
13 in the custody of the person responsible for the children's  
14 welfare, (ii) to reunite children with their families, or (iii)  
15 to maintain an adoptive placement. Family preservation  
16 services shall only be offered when doing so will not endanger  
17 the children's health or safety. With respect to children who  
18 are in substitute care pursuant to the Juvenile Court Act of  
19 1987, family preservation services shall not be offered if a  
20 goal other than those of subdivisions (A), (B), or (B-1) of  
21 subsection (2) of Section 2-28 of that Act has been set.  
22 Nothing in this paragraph shall be construed to create a  
23 private right of action or claim on the part of any individual  
24 or child welfare agency, except that when a child is the  
25 subject of an action under Article II of the Juvenile Court Act  
26 of 1987 and the child's service plan calls for certain family

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

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

25       The Department may, at its discretion except for those  
26 children also adjudicated neglected or dependent, accept for

1 care and training any child who has been adjudicated addicted,  
2 as a truant minor in need of supervision or as a minor  
3 requiring authoritative intervention, under the Juvenile Court  
4 Act or the Juvenile Court Act of 1987, but no such child shall  
5 be committed to the Department by any court without the  
6 approval of the Department. A minor charged with a criminal  
7 offense under the Criminal Code of 1961 or adjudicated  
8 delinquent shall not be placed in the custody of or committed  
9 to the Department by any court, except a minor less than 15  
10 years of age committed to the Department under Section 5-710 of  
11 the Juvenile Court Act of 1987 or a minor for whom an  
12 independent basis of abuse, neglect, or dependency exists,  
13 which must be defined by departmental rule. An independent  
14 basis exists when the allegations or adjudication of abuse,  
15 neglect, or dependency do not arise from the same facts,  
16 incident, or circumstances which give rise to a charge or  
17 adjudication of delinquency.

18 As soon as is possible after the effective date of this  
19 amendatory Act of the 96th General Assembly, the Department  
20 shall enhance its program of family preservation services,  
21 including, but not limited to, respite care, to support intact,  
22 foster, and adoptive families when (i) the family is eligible  
23 for services from the Department pursuant to the Department's  
24 rules, (ii) the family is experiencing extreme hardships due to  
25 the difficulty and stress of caring for a child who has been  
26 diagnosed with a pervasive developmental disorder, and (iii)

1 the Department determines that those services are necessary to  
2 ensure the health and safety of the child. "Respite care" shall  
3 be defined in the Department's amended rules and regulations.  
4 The Department may refer the child or family to services  
5 available from other agencies in the community. Acceptance of  
6 these services shall be voluntary. The Department may develop  
7 and implement a public information campaign to alert health and  
8 social service providers and the general public about these  
9 special family preservation services. The nature and scope of  
10 the services offered and the number of families served under  
11 the special program implemented under this paragraph shall be  
12 determined by the level of funding that the Department annually  
13 allocates for this purpose. The term "pervasive developmental  
14 disorder" under this paragraph means a neurological condition,  
15 Asperger's Syndrome, and autism, as defined in the most recent  
16 edition of the Diagnostic and Statistical Manual of Mental  
17 Disorders of the American Psychiatric Association.

18 (1-1) The legislature recognizes that the best interests of  
19 the child require that the child be placed in the most  
20 permanent living arrangement as soon as is practically  
21 possible. To achieve this goal, the legislature directs the  
22 Department of Children and Family Services to conduct  
23 concurrent planning so that permanency may occur at the  
24 earliest opportunity. Permanent living arrangements may  
25 include prevention of placement of a child outside the home of  
26 the family when the child can be cared for at home without

1 endangering the child's health or safety; reunification with  
2 the family, when safe and appropriate, if temporary placement  
3 is necessary; or movement of the child toward the most  
4 permanent living arrangement and permanent legal status.

5 When determining reasonable efforts to be made with respect  
6 to a child, as described in this subsection, and in making such  
7 reasonable efforts, the child's health and safety shall be the  
8 paramount concern.

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

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

1           The Department shall adopt rules addressing concurrent  
2 planning for reunification and permanency. The Department  
3 shall consider the following factors when determining  
4 appropriateness of concurrent planning:

5           (1) the likelihood of prompt reunification;

6           (2) the past history of the family;

7           (3) the barriers to reunification being addressed by  
8 the family;

9           (4) the level of cooperation of the family;

10           (5) the foster parents' willingness to work with the  
11 family to reunite;

12           (6) the willingness and ability of the foster family to  
13 provide an adoptive home or long-term placement;

14           (7) the age of the child;

15           (8) placement of siblings.

16           (m) The Department may assume temporary custody of any  
17 child if:

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

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

25 If the child is found in his or her residence without a parent,  
26 guardian, custodian or responsible caretaker, the Department

1 may, instead of removing the child and assuming temporary  
2 custody, place an authorized representative of the Department  
3 in that residence until such time as a parent, guardian or  
4 custodian enters the home and expresses a willingness and  
5 apparent ability to ensure the child's health and safety and  
6 resume permanent charge of the child, or until a relative  
7 enters the home and is willing and able to ensure the child's  
8 health and safety and assume charge of the child until a  
9 parent, guardian or custodian enters the home and expresses  
10 such willingness and ability to ensure the child's safety and  
11 resume permanent charge. After a caretaker has remained in the  
12 home for a period not to exceed 12 hours, the Department must  
13 follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
14 5-415 of the Juvenile Court Act of 1987.

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



1 subsection (9) of Section 1-3 of the Juvenile Court Act of  
2 1987.

3 The Department shall ensure that any child taken into  
4 custody is scheduled for an appointment for a medical  
5 examination.

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

22 (m-1) The Department may place children under 18 years of  
23 age in a secure child care facility licensed by the Department  
24 that cares for children who are in need of secure living  
25 arrangements for their health, safety, and well-being after a  
26 determination is made by the facility director and the Director

1 or the Director's designate prior to admission to the facility  
2 subject to Section 2-27.1 of the Juvenile Court Act of 1987.  
3 This subsection (m-1) does not apply to a child who is subject  
4 to placement in a correctional facility operated pursuant to  
5 Section 3-15-2 of the Unified Code of Corrections, unless the  
6 child is a ward who was placed under the care of the Department  
7 before being subject to placement in a correctional facility  
8 and a court of competent jurisdiction has ordered placement of  
9 the child in a secure care facility.

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

1 specialized care and treatment for problems of severe emotional  
2 disturbance, physical disability, social adjustment, or any  
3 combination thereof and suitable facilities for the placement  
4 of such children are not available at payment rates within the  
5 limitations set forth in this Section. All reimbursements for  
6 services delivered shall be absolutely inalienable by  
7 assignment, sale, attachment, garnishment or otherwise.

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.

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

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

1 use the money or other property only for that purpose.

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

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

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

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

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

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

11 Subject to appropriation, the Department shall provide a  
12 stipend in the amount of up to \$1,500 to youths who, on or  
13 after January 1, 2010, cease to be wards of the Department  
14 pursuant to Section 2-31 of the Juvenile Court Act of 1987 and  
15 who meet the qualifications set out in this paragraph. The  
16 stipend shall be paid by voucher to promote successful  
17 transition outcomes by supporting training, housing, and  
18 living expenses. All or part of the stipend may also be used to  
19 pay the fee for drivers education to prepare the youth to take  
20 an examination given by the Secretary of State for a driver's  
21 license or permit. In order to be eligible for this benefit, a  
22 youth must have: (A) at the time wardship terminated, reached  
23 the age of 18 years or older; and (B) either (i) at the time  
24 wardship terminated, obtained a certificate of graduation from  
25 a high school or the recognized equivalent of such a  
26 certificate; (ii) within one year after wardship terminated,

1 obtained a certificate of graduation from a high school or the  
2 recognized equivalent of such a certificate, or (iii) within  
3 one year after wardship terminated, been determined by DCFS to  
4 lack the ability to obtain a certificate of graduation from a  
5 high school, or the recognized equivalent of such a  
6 certificate, due to an impairment or disability. The Department  
7 shall establish (i) procedures for verifying eligibility for  
8 the receipt of funds under this paragraph and for determining  
9 the amount of the stipend to be awarded and (ii) a process for  
10 disseminating the payments.

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

26 (s) The Department of Children and Family Services may

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

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

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

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

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



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

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

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

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

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

23 The caretaker shall be informed of any known social or  
24 behavioral information (including, but not limited to,  
25 criminal background, fire setting, perpetuation of sexual  
26 abuse, destructive behavior, and substance abuse) necessary to

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

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

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

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

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

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

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

1 abuse and neglect registry.

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

23 (x) Rulemaking authority to implement this amendatory Act  
24 of the 96th General Assembly, if any, is conditioned on the  
25 rules being adopted in accordance with all provisions of the  
26 Illinois Administrative Procedure Act and all rules and

1 procedures of the Joint Committee on Administrative Rules; any  
2 purported rule not so adopted, for whatever reason, is  
3 unauthorized.

4 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;  
5 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;  
6 95-876, eff. 8-21-08.)

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

9 (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

10 Sec. 8.2. If the Child Protective Service Unit determines,  
11 following an investigation made pursuant to Section 7.4 of this  
12 Act, that there is credible evidence that the child is abused  
13 or neglected, the Department shall assess the family's need for  
14 services, and, as necessary, develop, with the family, an  
15 appropriate service plan for the family's voluntary acceptance  
16 or refusal. In any case where there is evidence that the  
17 perpetrator of the abuse or neglect is an addict or alcoholic  
18 as defined in the Alcoholism and Other Drug Abuse and  
19 Dependency Act, the Department, when making referrals for drug  
20 or alcohol abuse services, shall make such referrals to  
21 facilities licensed by the Department of Human Services or the  
22 Department of Public Health. The Department shall comply with  
23 Section 8.1 by explaining its lack of legal authority to compel  
24 the acceptance of services and may explain its concomitant

1 authority to petition the Circuit court under the Juvenile  
2 Court Act of 1987 or refer the case to the local law  
3 enforcement authority or State's attorney for criminal  
4 prosecution.

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

26 Before July 1, 2000, appropriate family preservation

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

25 Rulemaking authority to implement this amendatory Act of  
26 the 96th General Assembly, if any, is conditioned on the rules



1 being adopted in accordance with all provisions of the Illinois  
2 Administrative Procedure Act and all rules and procedures of  
3 the Joint Committee on Administrative Rules; any purported rule  
4 not so adopted, for whatever reason, is unauthorized.

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

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

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

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

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

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

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

25 (g) an estimate of the length of time before expansion  
26 of these services will be made to include families with

1 children over the age of 6; and

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

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

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

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

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

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

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

24 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

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

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

1 safety, and the court enters an order that such parent,  
2 guardian or legal custodian is fit to care for the minor.

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

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

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

1           (2) Any order of disposition may provide for protective  
2 supervision under Section 2-24 and may include an order of  
3 protection under Section 2-25.

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

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

1 all parties within 45 days after the date of the order. The  
2 court shall continue the matter until the new service plan is  
3 filed. Unless otherwise specifically authorized by law, the  
4 court is not empowered under this subsection (3) or under  
5 subsection (2) to order specific placements, specific  
6 services, or specific service providers to be included in the  
7 plan. Rulemaking authority to implement this amendatory Act of  
8 the 96th General Assembly, if any, is conditioned on the rules  
9 being adopted in accordance with all provisions of the Illinois  
10 Administrative Procedure Act and all rules and procedures of  
11 the Joint Committee on Administrative Rules; any purported rule  
12 not so adopted, for whatever reason, is unauthorized. If the  
13 court concludes that the Department of Children and Family  
14 Services has abused its discretion in setting the current  
15 service plan or permanency goal for the minor, the court shall  
16 enter specific findings in writing based on the evidence and  
17 shall enter an order for the Department to develop and  
18 implement a new permanency goal and service plan consistent  
19 with the court's findings. The new service plan shall be filed  
20 with the court and served on all parties. The court shall  
21 continue the matter until the new service plan is filed.

22 (4) In addition to any other order of disposition, the  
23 court may order any minor adjudicated neglected with respect to  
24 his or her own injurious behavior to make restitution, in  
25 monetary or non-monetary form, under the terms and conditions  
26 of Section 5-5-6 of the Unified Code of Corrections, except

1 that the "presentence hearing" referred to therein shall be the  
2 dispositional hearing for purposes of this Section. The parent,  
3 guardian or legal custodian of the minor may pay some or all of  
4 such restitution on the minor's behalf.

5 (5) Any order for disposition where the minor is committed  
6 or placed in accordance with Section 2-27 shall provide for the  
7 parents or guardian of the estate of such minor to pay to the  
8 legal custodian or guardian of the person of the minor such  
9 sums as are determined by the custodian or guardian of the  
10 person of the minor as necessary for the minor's needs. Such  
11 payments may not exceed the maximum amounts provided for by  
12 Section 9.1 of the Children and Family Services Act.

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

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

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

22 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)  
23 Sec. 2-28. Court review.

24 (1) The court may require any legal custodian or guardian  
25 of the person appointed under this Act to report periodically

1 to the court or may cite him into court and require him or his  
2 agency, to make a full and accurate report of his or its doings  
3 in behalf of the minor. The custodian or guardian, within 10  
4 days after such citation, shall make the report, either in  
5 writing verified by affidavit or orally under oath in open  
6 court, or otherwise as the court directs. Upon the hearing of  
7 the report the court may remove the custodian or guardian and  
8 appoint another in his stead or restore the minor to the  
9 custody of his parents or former guardian or custodian.  
10 However, custody of the minor shall not be restored to any  
11 parent, guardian or legal custodian in any case in which the  
12 minor is found to be neglected or abused under Section 2-3 or  
13 dependent under Section 2-4 of this Act, unless the minor can  
14 be cared for at home without endangering the minor's health or  
15 safety and it is in the best interests of the minor, and if  
16 such neglect, abuse, or dependency is found by the court under  
17 paragraph (1) of Section 2-21 of this Act to have come about  
18 due to the acts or omissions or both of such parent, guardian  
19 or legal custodian, until such time as an investigation is made  
20 as provided in paragraph (5) and a hearing is held on the issue  
21 of the fitness of such parent, guardian or legal custodian to  
22 care for the minor and the court enters an order that such  
23 parent, guardian or legal custodian is fit to care for the  
24 minor.

25 (2) The first permanency hearing shall be conducted by the  
26 judge. Subsequent permanency hearings may be heard by a judge



1 or by hearing officers appointed or approved by the court in  
2 the manner set forth in Section 2-28.1 of this Act. The initial  
3 hearing shall be held (a) within 12 months from the date  
4 temporary custody was taken, (b) if the parental rights of both  
5 parents have been terminated in accordance with the procedure  
6 described in subsection (5) of Section 2-21, within 30 days of  
7 the order for termination of parental rights and appointment of  
8 a guardian with power to consent to adoption, or (c) in  
9 accordance with subsection (2) of Section 2-13.1. Subsequent  
10 permanency hearings shall be held every 6 months or more  
11 frequently if necessary in the court's determination following  
12 the initial permanency hearing, in accordance with the  
13 standards set forth in this Section, until the court determines  
14 that the plan and goal have been achieved. Once the plan and  
15 goal have been achieved, if the minor remains in substitute  
16 care, the case shall be reviewed at least every 6 months  
17 thereafter, subject to the provisions of this Section, unless  
18 the minor is placed in the guardianship of a suitable relative  
19 or other person and the court determines that further  
20 monitoring by the court does not further the health, safety or  
21 best interest of the child and that this is a stable permanent  
22 placement. The permanency hearings must occur within the time  
23 frames set forth in this subsection and may not be delayed in  
24 anticipation of a report from any source or due to the agency's  
25 failure to timely file its written report (this written report  
26 means the one required under the next paragraph and does not

1 mean the service plan also referred to in that paragraph).

2 The public agency that is the custodian or guardian of the  
3 minor, or another agency responsible for the minor's care,  
4 shall ensure that all parties to the permanency hearings are  
5 provided a copy of the most recent service plan prepared within  
6 the prior 6 months at least 14 days in advance of the hearing.  
7 If not contained in the plan, the agency shall also include a  
8 report setting forth (i) any special physical, psychological,  
9 educational, medical, emotional, or other needs of the minor or  
10 his or her family that are relevant to a permanency or  
11 placement determination and (ii) for any minor age 16 or over,  
12 a written description of the programs and services that will  
13 enable the minor to prepare for independent living. The  
14 agency's written report must detail what progress or lack of  
15 progress the parent has made in correcting the conditions  
16 requiring the child to be in care; whether the child can be  
17 returned home without jeopardizing the child's health, safety,  
18 and welfare, and if not, what permanency goal is recommended to  
19 be in the best interests of the child, and why the other  
20 permanency goals are not appropriate. The caseworker must  
21 appear and testify at the permanency hearing. If a permanency  
22 hearing has not previously been scheduled by the court, the  
23 moving party shall move for the setting of a permanency hearing  
24 and the entry of an order within the time frames set forth in  
25 this subsection.

26 At the permanency hearing, the court shall determine the

1 future status of the child. The court shall set one of the  
2 following permanency goals:

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

5 (B) The minor will be in short-term care with a  
6 continued goal to return home within a period not to exceed  
7 one year, where the progress of the parent or parents is  
8 substantial giving particular consideration to the age and  
9 individual needs of the minor.

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

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

23 (D) Adoption, provided that parental rights have been  
24 terminated or relinquished.

25 (E) The guardianship of the minor will be transferred  
26 to an individual or couple on a permanent basis provided

1 that goals (A) through (D) have been ruled out.

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

4 (G) The minor will be in substitute care because he or  
5 she cannot be provided for in a home environment due to  
6 developmental disabilities or mental illness or because he  
7 or she is a danger to self or others, provided that goals  
8 (A) through (D) have been ruled out.

9 In selecting any permanency goal, the court shall indicate  
10 in writing the reasons the goal was selected and why the  
11 preceding goals were ruled out. Where the court has selected a  
12 permanency goal other than (A), (B), or (B-1), the Department  
13 of Children and Family Services shall not provide further  
14 reunification services, but shall provide services consistent  
15 with the goal selected.

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

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

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

23 (J) the court, after receiving evidence, makes written  
24 findings that (i) the child is living with a relative or  
25 foster parent who is unable or unwilling to adopt the child  
26 or be named the child's guardian because of exceptional

1 circumstances, but who is willing and capable of providing  
2 the child with a stable and permanent environment, and the  
3 removal of the child from the physical custody of his or  
4 her relative or foster parent would be detrimental to the  
5 emotional well-being of the child or (ii) there would be  
6 substantial interference with a child's sibling  
7 relationship, taking into consideration the nature and  
8 extent of the relationship, including, but not limited to,  
9 whether the child was raised with a sibling in the same  
10 home, whether the child shared significant common  
11 experiences or has existing close and strong bonds with a  
12 sibling, and whether ongoing contact is in the child's best  
13 interest, including the child's long-term emotional  
14 interest, as compared to the benefit of legal permanence  
15 through adoption.

16 The court shall set a permanency goal that is in the best  
17 interest of the child. In determining that goal, the court  
18 shall consult with the minor in an age-appropriate manner  
19 regarding the proposed permanency or transition plan for the  
20 minor. The court's determination shall include the following  
21 factors:

22 (1) Age of the child.

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

25 (3) Current placement of the child and the intent of  
26 the family regarding adoption.

1           (4) Emotional, physical, and mental status or  
2           condition of the child.

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

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

8           (7) Status of siblings of the minor.

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

18          The court shall make findings as to whether, in violation  
19          of Section 8.2 of the Abused and Neglected Child Reporting Act,  
20          any portion of the service plan compels a child or parent to  
21          engage in any activity or refrain from any activity that is not  
22          reasonably related to remedying a condition or conditions that  
23          gave rise or which could give rise to any finding of child  
24          abuse or neglect.

25          If the permanency goal is to return home, the court shall  
26          make findings that identify any problems that are causing

1 continued placement of the children away from the home and  
2 identify what outcomes would be considered a resolution to  
3 these problems. The court shall explain to the parents that  
4 these findings are based on the information that the court has  
5 at that time and may be revised, should additional evidence be  
6 presented to the court.

7 If the goal has been achieved, the court shall enter orders  
8 that are necessary to conform the minor's legal custody and  
9 status to those findings.

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

25 A guardian or custodian appointed by the court pursuant to  
26 this Act shall file updated case plans with the court every 6

1 months.

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

5 Rulemaking authority to implement this amendatory Act of  
6 the 96th General Assembly, if any, is conditioned on the rules  
7 being adopted in accordance with all provisions of the Illinois  
8 Administrative Procedure Act and all rules and procedures of  
9 the Joint Committee on Administrative Rules; any purported rule  
10 not so adopted, for whatever reason, is unauthorized.

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

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

17 (b) If the permanency goal of the minor cannot be  
18 achieved immediately, the specific reasons for continuing  
19 the minor in the care of the Department of Children and  
20 Family Services or other agency for short term placement,  
21 and the following determinations:

22 (i) (Blank).

23 (ii) Whether the services required by the court and  
24 by any service plan prepared within the prior 6 months  
25 have been provided and (A) if so, whether the services  
26 were reasonably calculated to facilitate the



1 achievement of the permanency goal or (B) if not  
2 provided, why the services were not provided.

3 (iii) Whether the minor's placement is necessary,  
4 and appropriate to the plan and goal, recognizing the  
5 right of minors to the least restrictive (most  
6 family-like) setting available and in close proximity  
7 to the parents' home consistent with the health,  
8 safety, best interest and special needs of the minor  
9 and, if the minor is placed out-of-State, whether the  
10 out-of-State placement continues to be appropriate and  
11 consistent with the health, safety, and best interest  
12 of the minor.

13 (iv) (Blank).

14 (v) (Blank).

15 (4) The minor or any person interested in the minor may  
16 apply to the court for a change in custody of the minor and the  
17 appointment of a new custodian or guardian of the person or for  
18 the restoration of the minor to the custody of his parents or  
19 former guardian or custodian.

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

21 (a) The Department, the minor, or the current foster  
22 parent or relative caregiver seeking private guardianship  
23 may file a motion for private guardianship of the minor.  
24 Appointment of a guardian under this Section requires  
25 approval of the court.

26 (b) The State's Attorney may file a motion to terminate

1 parental rights of any parent who has failed to make  
2 reasonable efforts to correct the conditions which led to  
3 the removal of the child or reasonable progress toward the  
4 return of the child, as defined in subdivision (D)(m) of  
5 Section 1 of the Adoption Act or for whom any other  
6 unfitness ground for terminating parental rights as  
7 defined in subdivision (D) of Section 1 of the Adoption Act  
8 exists.

9 Custody of the minor shall not be restored to any parent,  
10 guardian or legal custodian in any case in which the minor is  
11 found to be neglected or abused under Section 2-3 or dependent  
12 under Section 2-4 of this Act, unless the minor can be cared  
13 for at home without endangering his or her health or safety and  
14 it is in the best interest of the minor, and if such neglect,  
15 abuse, or dependency is found by the court under paragraph (1)  
16 of Section 2-21 of this Act to have come about due to the acts  
17 or omissions or both of such parent, guardian or legal  
18 custodian, until such time as an investigation is made as  
19 provided in paragraph (5) and a hearing is held on the issue of  
20 the health, safety and best interest of the minor and the  
21 fitness of such parent, guardian or legal custodian to care for  
22 the minor and the court enters an order that such parent,  
23 guardian or legal custodian is fit to care for the minor. In  
24 the event that the minor has attained 18 years of age and the  
25 guardian or custodian petitions the court for an order  
26 terminating his guardianship or custody, guardianship or

1 custody shall terminate automatically 30 days after the receipt  
2 of the petition unless the court orders otherwise. No legal  
3 custodian or guardian of the person may be removed without his  
4 consent until given notice and an opportunity to be heard by  
5 the court.

6 When the court orders a child restored to the custody of  
7 the parent or parents, the court shall order the parent or  
8 parents to cooperate with the Department of Children and Family  
9 Services and comply with the terms of an after-care plan, or  
10 risk the loss of custody of the child and possible termination  
11 of their parental rights. The court may also enter an order of  
12 protective supervision in accordance with Section 2-24.

13 (5) Whenever a parent, guardian, or legal custodian files a  
14 motion for restoration of custody of the minor, and the minor  
15 was adjudicated neglected, abused, or dependent as a result of  
16 physical abuse, the court shall cause to be made an  
17 investigation as to whether the movant has ever been charged  
18 with or convicted of any criminal offense which would indicate  
19 the likelihood of any further physical abuse to the minor.  
20 Evidence of such criminal convictions shall be taken into  
21 account in determining whether the minor can be cared for at  
22 home without endangering his or her health or safety and  
23 fitness of the parent, guardian, or legal custodian.

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

1           (b) The information derived from the investigation and  
2           any conclusions or recommendations derived from the  
3           information shall be provided to the parent, guardian, or  
4           legal custodian seeking restoration of custody prior to the  
5           hearing on fitness and the movant shall have an opportunity  
6           at the hearing to refute the information or contest its  
7           significance.

8           (c) All information obtained from any investigation  
9           shall be confidential as provided in Section 5-150 of this  
10          Act.

11         (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;  
12         95-876, eff. 8-21-08.)

13           Section 99. Effective date. This Act takes effect upon  
14         becoming law.