



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0529

Introduced 2/4/2009, 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, the Abused and Neglected Child Reporting Act, and the Juvenile Court Act of 1987. Makes changes concerning (i) services to facilitate the achievement of permanency goals for children subject to certain juvenile court actions and (ii) the conditions under which continuing foster care may be selected by the court as a child's permanency goal. Effective immediately.

LRB096 04768 JAM 14832 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 services to

1 facilitate achievement of the permanency goal, the court
2 hearing the action under Article II of the Juvenile Court Act
3 of 1987 may order the Department to provide the services set
4 out in the plan, if those services are not provided with
5 reasonable 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 (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.

24 The Department shall set up and administer no-cost,
25 interest-bearing accounts in appropriate financial
26 institutions for children for whom the Department is legally

1 responsible and who have been determined eligible for Veterans'
2 Benefits, Social Security benefits, assistance allotments from
3 the armed forces, court ordered payments, parental voluntary
4 payments, Supplemental Security Income, Railroad Retirement
5 payments, Black Lung benefits, or other miscellaneous
6 payments. Interest earned by each account shall be credited to
7 the account, unless disbursed in accordance with this
8 subsection.

9 In disbursing funds from children's accounts, the
10 Department shall:

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

19 (2) Calculate on a monthly basis the amounts paid from
20 State funds for the child's board and care, medical care
21 not covered under Medicaid, and social services; and
22 utilize funds from the child's account, as covered by
23 regulation, to reimburse those costs. Monthly,
24 disbursements from all children's accounts, up to 1/12 of
25 \$13,000,000, shall be deposited by the Department into the
26 General Revenue Fund and the balance over 1/12 of

1 \$13,000,000 into the DCFS Children's Services Fund.

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

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

22 (s) The Department of Children and Family Services may
23 establish and implement a program to reimburse Department and
24 private child welfare agency foster parents licensed by the
25 Department of Children and Family Services for damages
26 sustained by the foster parents as a result of the malicious or

1 negligent acts of foster children, as well as providing third
2 party coverage for such foster parents with regard to actions
3 of foster children to other individuals. Such coverage will be
4 secondary to the foster parent liability insurance policy, if
5 applicable. The program shall be funded through appropriations
6 from the General Revenue Fund, specifically designated for such
7 purposes.

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

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

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

19 The Department shall provide written notification to the
20 court of the specific arrangements for supervised visitation
21 and projected monthly costs within 60 days of the court order.
22 The Department shall send to the court information related to
23 the costs incurred except in cases where the court has
24 determined the parties are financially unable to pay. The court
25 may order additional periodic reports as appropriate.

26 (u) In addition to other information that must be provided,

1 whenever the Department places a child with a prospective
2 adoptive parent or parents or in a licensed foster home, group
3 home, child care institution, or in a relative home, the
4 Department shall provide to the prospective adoptive parent or
5 parents or other caretaker:

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

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

16 (3) information containing details of the child's
17 individualized educational plan when the child is
18 receiving special education services.

19 The caretaker shall be informed of any known social or
20 behavioral information (including, but not limited to,
21 criminal background, fire setting, perpetuation of sexual
22 abuse, destructive behavior, and substance abuse) necessary to
23 care for and safeguard the children to be placed or currently
24 in the home. The Department may prepare a written summary of
25 the information required by this paragraph, which may be
26 provided to the foster or prospective adoptive parent in

1 advance of a placement. The foster or prospective adoptive
2 parent may review the supporting documents in the child's file
3 in the presence of casework staff. In the case of an emergency
4 placement, casework staff shall at least provide known
5 information verbally, if necessary, and must subsequently
6 provide the information in writing as required by this
7 subsection.

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

23 (u-5) Effective July 1, 1995, only foster care placements
24 licensed as foster family homes pursuant to the Child Care Act
25 of 1969 shall be eligible to receive foster care payments from
26 the Department. Relative caregivers who, as of July 1, 1995,

1 were approved pursuant to approved relative placement rules
2 previously promulgated by the Department at 89 Ill. Adm. Code
3 335 and had submitted an application for licensure as a foster
4 family home may continue to receive foster care payments only
5 until the Department determines that they may be licensed as a
6 foster family home or that their application for licensure is
7 denied or until September 30, 1995, whichever occurs first.

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

1 shall abide by rules and regulations established by the
2 Department of State Police relating to the access and
3 dissemination of this information.

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

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

24 (w) Within 120 days of August 20, 1995 (the effective date
25 of Public Act 89-392), the Department shall prepare and submit
26 to the Governor and the General Assembly, a written plan for

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

19 (x) Rulemaking authority to implement this amendatory Act
20 of the 96th General Assembly, if any, is conditioned on the
21 rules being adopted in accordance with all provisions of the
22 Illinois Administrative Procedure Act and all rules and
23 procedures of the Joint Committee on Administrative Rules; any
24 purported rule not so adopted, for whatever reason, is
25 unauthorized.

26 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;

1 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;
2 95-876, eff. 8-21-08.)

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

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

6 Sec. 8.2. If the Child Protective Service Unit determines,
7 following an investigation made pursuant to Section 7.4 of this
8 Act, that there is credible evidence that the child is abused
9 or neglected, the Department shall assess the family's need for
10 services, and, as necessary, develop, with the family, an
11 appropriate service plan for the family's voluntary acceptance
12 or refusal. In any case where there is evidence that the
13 perpetrator of the abuse or neglect is an addict or alcoholic
14 as defined in the Alcoholism and Other Drug Abuse and
15 Dependency Act, the Department, when making referrals for drug
16 or alcohol abuse services, shall make such referrals to
17 facilities licensed by the Department of Human Services or the
18 Department of Public Health. The Department shall comply with
19 Section 8.1 by explaining its lack of legal authority to compel
20 the acceptance of services and may explain its concomitant
21 authority to petition the Circuit court under the Juvenile
22 Court Act of 1987 or refer the case to the local law
23 enforcement authority or State's attorney for criminal
24 prosecution.

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

22 Before July 1, 2000, appropriate family preservation
23 services shall, subject to appropriation, be included in the
24 service plan if the Department has determined that those
25 services will ensure the child's health and safety, are in the
26 child's best interests, and will not place the child in

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

21 Rulemaking authority to implement this amendatory Act of
22 the 96th General Assembly, if any, is conditioned on the rules
23 being adopted in accordance with all provisions of the Illinois
24 Administrative Procedure Act and all rules and procedures of
25 the Joint Committee on Administrative Rules; any purported rule
26 not so adopted, for whatever reason, is unauthorized.

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

5 (a) the number of families and children served, by type
6 of services;

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

10 (c) the number of families which have been subjects of
11 founded reports of abuse following the termination of
12 services;

13 (d) an analysis of general family circumstances in
14 which family preservation services have been determined to
15 be an effective intervention;

16 (e) information regarding the number of families in
17 need of services but unserved due to budget or program
18 criteria guidelines;

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

21 (g) an estimate of the length of time before expansion
22 of these services will be made to include families with
23 children over the age of 6; and

24 (h) recommendations regarding any proposed legislative
25 changes to this program.

26 Each Department field office shall maintain on a local

1 basis directories of services available to children and
2 families in the local area where the Department office is
3 located.

4 The Department shall refer children and families served
5 pursuant to this Section to private agencies and governmental
6 agencies, where available.

7 Where there are 2 equal proposals from both a
8 not-for-profit and a for-profit agency to provide services, the
9 Department shall give preference to the proposal from the
10 not-for-profit agency.

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

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

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

20 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

24 (a) A minor under 18 years of age found to be neglected

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

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

25 (b) A minor under 18 years of age found to be dependent
26 under Section 2-4 may be (1) placed in accordance with

1 Section 2-27 or (2) ordered partially or completely
2 emancipated in accordance with the provisions of the
3 Emancipation of Minors Act.

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

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

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

26 Unless the order of disposition expressly so provides, it

1 does not operate to close proceedings on the pending petition,
2 but is subject to modification, not inconsistent with Section
3 2-28, until final closing and discharge of the proceedings
4 under Section 2-31.

5 (3) The court also shall enter any other orders necessary
6 to fulfill the service plan, including, but not limited to, (i)
7 orders requiring parties to cooperate with services, (ii)
8 restraining orders controlling the conduct of any party likely
9 to frustrate the achievement of the goal, and (iii) visiting
10 orders. Unless otherwise specifically authorized by law, the
11 court is not empowered under this subsection (3) to order
12 specific placements, specific services, or specific service
13 providers to be included in the plan. If, after receiving
14 evidence, the court determines that the services contained in
15 the plan are not reasonably calculated to facilitate
16 achievement of the permanency goal, the court shall put in
17 writing the factual basis supporting the determination and
18 enter specific findings based on the evidence. The court also
19 shall enter an order for the Department to develop and
20 implement a new service plan or to implement changes to the
21 current service plan consistent with the court's findings. The
22 new service plan shall be filed with the court and served on
23 all parties within 45 days after the date of the order. The
24 court shall continue the matter until the new service plan is
25 filed. Unless otherwise specifically authorized by law, the
26 court is not empowered under this subsection (3) or under

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

18 (4) In addition to any other order of disposition, the
19 court may order any minor adjudicated neglected with respect to
20 his or her own injurious behavior to make restitution, in
21 monetary or non-monetary form, under the terms and conditions
22 of Section 5-5-6 of the Unified Code of Corrections, except
23 that the "presentence hearing" referred to therein shall be the
24 dispositional hearing for purposes of this Section. The parent,
25 guardian or legal custodian of the minor may pay some or all of
26 such restitution on the minor's behalf.

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

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

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

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

18 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

19 Sec. 2-28. Court review.

20 (1) The court may require any legal custodian or guardian
21 of the person appointed under this Act to report periodically
22 to the court or may cite him into court and require him or his
23 agency, to make a full and accurate report of his or its doings
24 in behalf of the minor. The custodian or guardian, within 10
25 days after such citation, shall make the report, either in

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

21 (2) The first permanency hearing shall be conducted by the
22 judge. Subsequent permanency hearings may be heard by a judge
23 or by hearing officers appointed or approved by the court in
24 the manner set forth in Section 2-28.1 of this Act. The initial
25 hearing shall be held (a) within 12 months from the date
26 temporary custody was taken, (b) if the parental rights of both

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

24 The public agency that is the custodian or guardian of the
25 minor, or another agency responsible for the minor's care,
26 shall ensure that all parties to the permanency hearings are

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

22 At the permanency hearing, the court shall determine the
23 future status of the child. The court shall set one of the
24 following permanency goals:

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

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

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

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

19 (D) Adoption, provided that parental rights have been
20 terminated or relinquished.

21 (E) The guardianship of the minor will be transferred
22 to an individual or couple on a permanent basis provided
23 that goals (A) through (D) have been ruled out.

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

26 (G) The minor will be in substitute care because he or

1 she cannot be provided for in a home environment due to
2 developmental disabilities or mental illness or because he
3 or she is a danger to self or others, provided that goals
4 (A) through (D) have been ruled out.

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

12 Notwithstanding any other provision in this Section, the
13 court may select the goal of continuing foster care as a
14 permanency goal if all of the following items (1) through (6)
15 apply:

16 (1) The Department of Children and Family Services has
17 custody and guardianship of the minor.

18 (2) The court has ruled out all other permanency goals
19 based on the child's best interest.

20 (3) The Department, the child's attorney, or the
21 child's Guardian Ad Litem recommends the goal of continuing
22 foster care.

23 (4) Any of the following (a) through (c) applies to the
24 child:

25 (a) the child does not wish to be adopted or to be
26 placed in the guardianship of his or her relative or

1 foster care placement;

2 (b) the child exhibits an extreme level of need
3 such that the removal of the child from his or her
4 placement would be detrimental to the child; or

5 (c) the child has existing close and strong bonds
6 with a sibling, and achievement of another permanency
7 goal would substantially interfere with the child's
8 sibling relationship, taking into consideration the
9 nature and extent of the sibling relationship and
10 whether ongoing contact is in the child's best
11 interest, including long-term emotional interest as
12 compared with the legal and emotional benefit of
13 permanence.

14 (5) The child has lived with the relative or foster
15 parent for at least 2 years.

16 (6) The relative or foster parent currently caring for
17 the child is willing and capable of providing the child
18 with a stable and permanent environment.

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

25 (1) Age of the child.

26 (2) Options available for permanence, including both

1 out-of-State and in-State placement options.

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

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

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

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

11 (7) Status of siblings of the minor.

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

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

1 abuse or neglect.

2 If the permanency goal is to return home, the court shall
3 make findings that identify any problems that are causing
4 continued placement of the children away from the home and
5 identify what outcomes would be considered a resolution to
6 these problems. The court shall explain to the parents that
7 these findings are based on the information that the court has
8 at that time and may be revised, should additional evidence be
9 presented to the court.

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

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

1 service providers to be included in the plan.

2 A guardian or custodian appointed by the court pursuant to
3 this Act shall file updated case plans with the court every 6
4 months.

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

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

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

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

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

25 (i) (Blank).

26 (ii) Whether the services required by the court and

1 by any service plan prepared within the prior 6 months
2 have been provided and (A) if so, whether the services
3 were reasonably calculated to facilitate the
4 achievement of the permanency goal or (B) if not
5 provided, why the services were not provided.

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

16 (iv) (Blank).

17 (v) (Blank).

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

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

24 (a) The Department, the minor, or the current foster
25 parent or relative caregiver seeking private guardianship
26 may file a motion for private guardianship of the minor.

1 Appointment of a guardian under this Section requires
2 approval of the court.

3 (b) The State's Attorney may file a motion to terminate
4 parental rights of any parent who has failed to make
5 reasonable efforts to correct the conditions which led to
6 the removal of the child or reasonable progress toward the
7 return of the child, as defined in subdivision (D)(m) of
8 Section 1 of the Adoption Act or for whom any other
9 unfitness ground for terminating parental rights as
10 defined in subdivision (D) of Section 1 of the Adoption Act
11 exists.

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

1 the event that the minor has attained 18 years of age and the
2 guardian or custodian petitions the court for an order
3 terminating his guardianship or custody, guardianship or
4 custody shall terminate automatically 30 days after the receipt
5 of the petition unless the court orders otherwise. No legal
6 custodian or guardian of the person may be removed without his
7 consent until given notice and an opportunity to be heard by
8 the court.

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

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

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

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

11 (c) All information obtained from any investigation
12 shall be confidential as provided in Section 5-150 of this
13 Act.

14 (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;
15 95-876, eff. 8-21-08.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.