



Sen. William Delgado

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1 AMENDMENT TO HOUSE BILL 529

2 AMENDMENT NO. _____. Amend House Bill 529 by replacing
3 everything after the enacting clause with the following:

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

1 1987, as amended, prior to the age of 18 and who
2 continue under the jurisdiction of the court; or

3 (B) were accepted for care, service and training by
4 the Department prior to the age of 18 and whose best
5 interest in the discretion of the Department would be
6 served by continuing that care, service and training
7 because of severe emotional disturbances, physical
8 disability, social adjustment or any combination
9 thereof, or because of the need to complete an
10 educational or vocational training program.

11 (2) "Homeless youth" means persons found within the
12 State who are under the age of 19, are not in a safe and
13 stable living situation and cannot be reunited with their
14 families.

15 (3) "Child welfare services" means public social
16 services which are directed toward the accomplishment of
17 the following purposes:

18 (A) protecting and promoting the health, safety
19 and welfare of children, including homeless, dependent
20 or neglected children;

21 (B) remedying, or assisting in the solution of
22 problems which may result in, the neglect, abuse,
23 exploitation or delinquency of children;

24 (C) preventing the unnecessary separation of
25 children from their families by identifying family
26 problems, assisting families in resolving their

1 problems, and preventing the breakup of the family
2 where the prevention of child removal is desirable and
3 possible when the child can be cared for at home
4 without endangering the child's health and safety;

5 (D) restoring to their families children who have
6 been removed, by the provision of services to the child
7 and the families when the child can be cared for at
8 home without endangering the child's health and
9 safety;

10 (E) placing children in suitable adoptive homes,
11 in cases where restoration to the biological family is
12 not safe, possible or appropriate;

13 (F) assuring safe and adequate care of children
14 away from their homes, in cases where the child cannot
15 be returned home or cannot be placed for adoption. At
16 the time of placement, the Department shall consider
17 concurrent planning, as described in subsection (1-1)
18 of this Section so that permanency may occur at the
19 earliest opportunity. Consideration should be given so
20 that if reunification fails or is delayed, the
21 placement made is the best available placement to
22 provide permanency for the child;

23 (G) (blank);

24 (H) (blank); and

25 (I) placing and maintaining children in facilities
26 that provide separate living quarters for children

1 under the age of 18 and for children 18 years of age
2 and older, unless a child 18 years of age is in the
3 last year of high school education or vocational
4 training, in an approved individual or group treatment
5 program, in a licensed shelter facility, or secure
6 child care facility. The Department is not required to
7 place or maintain children:

8 (i) who are in a foster home, or

9 (ii) who are persons with a developmental
10 disability, as defined in the Mental Health and
11 Developmental Disabilities Code, or

12 (iii) who are female children who are
13 pregnant, pregnant and parenting or parenting, or

14 (iv) who are siblings, in facilities that
15 provide separate living quarters for children 18
16 years of age and older and for children under 18
17 years of age.

18 (b) Nothing in this Section shall be construed to authorize
19 the expenditure of public funds for the purpose of performing
20 abortions.

21 (c) The Department shall establish and maintain
22 tax-supported child welfare services and extend and seek to
23 improve voluntary services throughout the State, to the end
24 that services and care shall be available on an equal basis
25 throughout the State to children requiring such services.

26 (d) The Director may authorize advance disbursements for

1 any new program initiative to any agency contracting with the
2 Department. As a prerequisite for an advance disbursement, the
3 contractor must post a surety bond in the amount of the advance
4 disbursement and have a purchase of service contract approved
5 by the Department. The Department may pay up to 2 months
6 operational expenses in advance. The amount of the advance
7 disbursement shall be prorated over the life of the contract or
8 the remaining months of the fiscal year, whichever is less, and
9 the installment amount shall then be deducted from future
10 bills. Advance disbursement authorizations for new initiatives
11 shall not be made to any agency after that agency has operated
12 during 2 consecutive fiscal years. The requirements of this
13 Section concerning advance disbursements shall not apply with
14 respect to the following: payments to local public agencies for
15 child day care services as authorized by Section 5a of this
16 Act; and youth service programs receiving grant funds under
17 Section 17a-4.

18 (e) (Blank).

19 (f) (Blank).

20 (g) The Department shall establish rules and regulations
21 concerning its operation of programs designed to meet the goals
22 of child safety and protection, family preservation, family
23 reunification, and adoption, including but not limited to:

24 (1) adoption;

25 (2) foster care;

26 (3) family counseling;

- 1 (4) protective services;
- 2 (5) (blank);
- 3 (6) homemaker service;
- 4 (7) return of runaway children;
- 5 (8) (blank);
- 6 (9) placement under Section 5-7 of the Juvenile Court
- 7 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
- 8 Court Act of 1987 in accordance with the federal Adoption
- 9 Assistance and Child Welfare Act of 1980; and
- 10 (10) interstate services.

11 Rules and regulations established by the Department shall
12 include provisions for training Department staff and the staff
13 of Department grantees, through contracts with other agencies
14 or resources, in alcohol and drug abuse screening techniques
15 approved by the Department of Human Services, as a successor to
16 the Department of Alcoholism and Substance Abuse, for the
17 purpose of identifying children and adults who should be
18 referred to an alcohol and drug abuse treatment program for
19 professional evaluation.

20 (h) If the Department finds that there is no appropriate
21 program or facility within or available to the Department for a
22 ward and that no licensed private facility has an adequate and
23 appropriate program or none agrees to accept the ward, the
24 Department shall create an appropriate individualized,
25 program-oriented plan for such ward. The plan may be developed
26 within the Department or through purchase of services by the

1 Department to the extent that it is within its statutory
2 authority to do.

3 (i) Service programs shall be available throughout the
4 State and shall include but not be limited to the following
5 services:

6 (1) case management;

7 (2) homemakers;

8 (3) counseling;

9 (4) parent education;

10 (5) day care; and

11 (6) emergency assistance and advocacy.

12 In addition, the following services may be made available
13 to assess and meet the needs of children and families:

14 (1) comprehensive family-based services;

15 (2) assessments;

16 (3) respite care; and

17 (4) in-home health services.

18 The Department shall provide transportation for any of the
19 services it makes available to children or families or for
20 which it refers children or families.

21 (j) The Department may provide categories of financial
22 assistance and education assistance grants, and shall
23 establish rules and regulations concerning the assistance and
24 grants, to persons who adopt physically or mentally
25 handicapped, older and other hard-to-place children who (i)
26 immediately prior to their adoption were legal wards of the

1 Department or (ii) were determined eligible for financial
2 assistance with respect to a prior adoption and who become
3 available for adoption because the prior adoption has been
4 dissolved and the parental rights of the adoptive parents have
5 been terminated or because the child's adoptive parents have
6 died. The Department may continue to provide financial
7 assistance and education assistance grants for a child who was
8 determined eligible for financial assistance under this
9 subsection (j) in the interim period beginning when the child's
10 adoptive parents died and ending with the finalization of the
11 new adoption of the child by another adoptive parent or
12 parents. The Department may also provide categories of
13 financial assistance and education assistance grants, and
14 shall establish rules and regulations for the assistance and
15 grants, to persons appointed guardian of the person under
16 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
17 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
18 who were wards of the Department for 12 months immediately
19 prior to the appointment of the guardian.

20 The amount of assistance may vary, depending upon the needs
21 of the child and the adoptive parents, as set forth in the
22 annual assistance agreement. Special purpose grants are
23 allowed where the child requires special service but such costs
24 may not exceed the amounts which similar services would cost
25 the Department if it were to provide or secure them as guardian
26 of the child.

1 Any financial assistance provided under this subsection is
2 inalienable by assignment, sale, execution, attachment,
3 garnishment, or any other remedy for recovery or collection of
4 a judgment or debt.

5 (j-5) The Department shall not deny or delay the placement
6 of a child for adoption if an approved family is available
7 either outside of the Department region handling the case, or
8 outside of the State of Illinois.

9 (k) The Department shall accept for care and training any
10 child who has been adjudicated neglected or abused, or
11 dependent committed to it pursuant to the Juvenile Court Act or
12 the Juvenile Court Act of 1987.

13 (l) ~~The~~ ~~Before July 1, 2000, the Department may provide,~~
14 ~~and beginning July 1, 2000, the~~ Department shall offer family
15 preservation services, as defined in Section 8.2 of the Abused
16 and Neglected Child Reporting Act, to help families, including
17 adoptive and extended families. Family preservation services
18 shall be offered (i) to prevent the placement of children in
19 substitute care when the children can be cared for at home or
20 in the custody of the person responsible for the children's
21 welfare, (ii) to reunite children with their families, or (iii)
22 to maintain an adoptive placement. Family preservation
23 services shall only be offered when doing so will not endanger
24 the children's health or safety. With respect to children who
25 are in substitute care pursuant to the Juvenile Court Act of
26 1987, family preservation services shall not be offered if a

1 goal other than those of subdivisions (A), (B), or (B-1) of
2 subsection (2) of Section 2-28 of that Act has been set.
3 Nothing in this paragraph shall be construed to create a
4 private right of action or claim on the part of any individual
5 or child welfare agency, except that when a child is the
6 subject of an action under Article II of the Juvenile Court Act
7 of 1987 and the child's service plan calls for services to
8 facilitate achievement of the permanency goal, the court
9 hearing the action under Article II of the Juvenile Court Act
10 of 1987 may order the Department to provide the services set
11 out in the plan, if those services are not provided with
12 reasonable promptness and if those services are available.

13 The Department shall notify the child and his family of the
14 Department's responsibility to offer and provide family
15 preservation services as identified in the service plan. The
16 child and his family shall be eligible for services as soon as
17 the report is determined to be "indicated". The Department may
18 offer services to any child or family with respect to whom a
19 report of suspected child abuse or neglect has been filed,
20 prior to concluding its investigation under Section 7.12 of the
21 Abused and Neglected Child Reporting Act. However, the child's
22 or family's willingness to accept services shall not be
23 considered in the investigation. The Department may also
24 provide services to any child or family who is the subject of
25 any report of suspected child abuse or neglect or may refer
26 such child or family to services available from other agencies

1 in the community, even if the report is determined to be
2 unfounded, if the conditions in the child's or family's home
3 are reasonably likely to subject the child or family to future
4 reports of suspected child abuse or neglect. Acceptance of such
5 services shall be voluntary.

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

25 (1-1) The legislature recognizes that the best interests of
26 the child require that the child be placed in the most

1 permanent living arrangement as soon as is practically
2 possible. To achieve this goal, the legislature directs the
3 Department of Children and Family Services to conduct
4 concurrent planning so that permanency may occur at the
5 earliest opportunity. Permanent living arrangements may
6 include prevention of placement of a child outside the home of
7 the family when the child can be cared for at home without
8 endangering the child's health or safety; reunification with
9 the family, when safe and appropriate, if temporary placement
10 is necessary; or movement of the child toward the most
11 permanent living arrangement and permanent legal status.

12 When determining reasonable efforts to be made with respect
13 to a child, as described in this subsection, and in making such
14 reasonable efforts, the child's health and safety shall be the
15 paramount concern.

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

1 such a finding.

2 A decision to place a child in substitute care shall be
3 made with considerations of the child's health, safety, and
4 best interests. At the time of placement, consideration should
5 also be given so that if reunification fails or is delayed, the
6 placement made is the best available placement to provide
7 permanency for the child.

8 The Department shall adopt rules addressing concurrent
9 planning for reunification and permanency. The Department
10 shall consider the following factors when determining
11 appropriateness of concurrent planning:

- 12 (1) the likelihood of prompt reunification;
- 13 (2) the past history of the family;
- 14 (3) the barriers to reunification being addressed by
15 the family;
- 16 (4) the level of cooperation of the family;
- 17 (5) the foster parents' willingness to work with the
18 family to reunite;
- 19 (6) the willingness and ability of the foster family to
20 provide an adoptive home or long-term placement;
- 21 (7) the age of the child;
- 22 (8) placement of siblings.

23 (m) The Department may assume temporary custody of any
24 child if:

- 25 (1) it has received a written consent to such temporary
26 custody signed by the parents of the child or by the parent

1 having custody of the child if the parents are not living
2 together or by the guardian or custodian of the child if
3 the child is not in the custody of either parent, or

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

6 If the child is found in his or her residence without a parent,
7 guardian, custodian or responsible caretaker, the Department
8 may, instead of removing the child and assuming temporary
9 custody, place an authorized representative of the Department
10 in that residence until such time as a parent, guardian or
11 custodian enters the home and expresses a willingness and
12 apparent ability to ensure the child's health and safety and
13 resume permanent charge of the child, or until a relative
14 enters the home and is willing and able to ensure the child's
15 health and safety and assume charge of the child until a
16 parent, guardian or custodian enters the home and expresses
17 such willingness and ability to ensure the child's safety and
18 resume permanent charge. After a caretaker has remained in the
19 home for a period not to exceed 12 hours, the Department must
20 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
21 5-415 of the Juvenile Court Act of 1987.

22 The Department shall have the authority, responsibilities
23 and duties that a legal custodian of the child would have
24 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
25 Act of 1987. Whenever a child is taken into temporary custody
26 pursuant to an investigation under the Abused and Neglected

1 Child Reporting Act, or pursuant to a referral and acceptance
2 under the Juvenile Court Act of 1987 of a minor in limited
3 custody, the Department, during the period of temporary custody
4 and before the child is brought before a judicial officer as
5 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
6 Court Act of 1987, shall have the authority, responsibilities
7 and duties that a legal custodian of the child would have under
8 subsection (9) of Section 1-3 of the Juvenile Court Act of
9 1987.

10 The Department shall ensure that any child taken into
11 custody is scheduled for an appointment for a medical
12 examination.

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

1 the Department with respect to the temporary custody of the
2 child shall terminate.

3 (m-1) The Department may place children under 18 years of
4 age in a secure child care facility licensed by the Department
5 that cares for children who are in need of secure living
6 arrangements for their health, safety, and well-being after a
7 determination is made by the facility director and the Director
8 or the Director's designate prior to admission to the facility
9 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
10 This subsection (m-1) does not apply to a child who is subject
11 to placement in a correctional facility operated pursuant to
12 Section 3-15-2 of the Unified Code of Corrections, unless the
13 child is a ward who was placed under the care of the Department
14 before being subject to placement in a correctional facility
15 and a court of competent jurisdiction has ordered placement of
16 the child in a secure care facility.

17 (n) The Department may place children under 18 years of age
18 in licensed child care facilities when in the opinion of the
19 Department, appropriate services aimed at family preservation
20 have been unsuccessful and cannot ensure the child's health and
21 safety or are unavailable and such placement would be for their
22 best interest. Payment for board, clothing, care, training and
23 supervision of any child placed in a licensed child care
24 facility may be made by the Department, by the parents or
25 guardians of the estates of those children, or by both the
26 Department and the parents or guardians, except that no

1 payments shall be made by the Department for any child placed
2 in a licensed child care facility for board, clothing, care,
3 training and supervision of such a child that exceed the
4 average per capita cost of maintaining and of caring for a
5 child in institutions for dependent or neglected children
6 operated by the Department. However, such restriction on
7 payments does not apply in cases where children require
8 specialized care and treatment for problems of severe emotional
9 disturbance, physical disability, social adjustment, or any
10 combination thereof and suitable facilities for the placement
11 of such children are not available at payment rates within the
12 limitations set forth in this Section. All reimbursements for
13 services delivered shall be absolutely inalienable by
14 assignment, sale, attachment, garnishment or otherwise.

15 (o) The Department shall establish an administrative
16 review and appeal process for children and families who request
17 or receive child welfare services from the Department. Children
18 who are wards of the Department and are placed by private child
19 welfare agencies, and foster families with whom those children
20 are placed, shall be afforded the same procedural and appeal
21 rights as children and families in the case of placement by the
22 Department, including the right to an initial review of a
23 private agency decision by that agency. The Department shall
24 insure that any private child welfare agency, which accepts
25 wards of the Department for placement, affords those rights to
26 children and foster families. The Department shall accept for

1 administrative review and an appeal hearing a complaint made by
2 (i) a child or foster family concerning a decision following an
3 initial review by a private child welfare agency or (ii) a
4 prospective adoptive parent who alleges a violation of
5 subsection (j-5) of this Section. An appeal of a decision
6 concerning a change in the placement of a child shall be
7 conducted in an expedited manner.

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

25 (q) The Department may receive and use, in their entirety,
26 for the benefit of children any gift, donation or bequest of

1 money or other property which is received on behalf of such
2 children, or any financial benefits to which such children are
3 or may become entitled while under the jurisdiction or care of
4 the Department.

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

16 In disbursing funds from children's accounts, the
17 Department shall:

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

26 (2) Calculate on a monthly basis the amounts paid from

1 State funds for the child's board and care, medical care
2 not covered under Medicaid, and social services; and
3 utilize funds from the child's account, as covered by
4 regulation, to reimburse those costs. Monthly,
5 disbursements from all children's accounts, up to 1/12 of
6 \$13,000,000, shall be deposited by the Department into the
7 General Revenue Fund and the balance over 1/12 of
8 \$13,000,000 into the DCFS Children's Services Fund.

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

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

1 ensure that such agent maintains the confidentiality of the
2 person seeking to adopt the child and of the child.

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

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

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

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

26 The Department shall provide written notification to the

1 court of the specific arrangements for supervised visitation
2 and projected monthly costs within 60 days of the court order.
3 The Department shall send to the court information related to
4 the costs incurred except in cases where the court has
5 determined the parties are financially unable to pay. The court
6 may order additional periodic reports as appropriate.

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

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

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

23 (3) information containing details of the child's
24 individualized educational plan when the child is
25 receiving special education services.

26 The caretaker shall be informed of any known social or

1 behavioral information (including, but not limited to,
2 criminal background, fire setting, perpetuation of sexual
3 abuse, destructive behavior, and substance abuse) necessary to
4 care for and safeguard the children to be placed or currently
5 in the home. The Department may prepare a written summary of
6 the information required by this paragraph, which may be
7 provided to the foster or prospective adoptive parent in
8 advance of a placement. The foster or prospective adoptive
9 parent may review the supporting documents in the child's file
10 in the presence of casework staff. In the case of an emergency
11 placement, casework staff shall at least provide known
12 information verbally, if necessary, and must subsequently
13 provide the information in writing as required by this
14 subsection.

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

1 prospective adoptive parent or parents or other caretaker shall
2 be reviewed and approved regarding accuracy at the supervisory
3 level.

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

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

1 repository. The Department shall comply with all certification
2 requirements and provide certified operators who have been
3 trained by personnel from the Department of State Police. In
4 addition, one Office of the Inspector General investigator
5 shall have training in the use of the criminal history
6 information access system and have access to the terminal. The
7 Department of Children and Family Services and its employees
8 shall abide by rules and regulations established by the
9 Department of State Police relating to the access and
10 dissemination of this information.

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

23 (v-2) Prior to final approval for placement of a child, the
24 Department shall check its child abuse and neglect registry for
25 information concerning prospective foster and adoptive
26 parents, and any adult living in the home. If any prospective

1 foster or adoptive parent or other adult living in the home has
2 resided in another state in the preceding 5 years, the
3 Department shall request a check of that other state's child
4 abuse and neglect registry.

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

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

- 25 (a) the number of families and children served, by type
26 of services;

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

4 (c) the number of families which have been subjects of
5 founded reports of abuse following the termination of
6 services;

7 (d) an analysis of general family circumstances in
8 which family preservation services have been determined to
9 be an effective intervention;

10 (e) information regarding the number of families in
11 need of services but unserved due to budget or program
12 criteria guidelines;

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

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

18 (h) recommendations regarding any proposed legislative
19 changes to this program.

20 Each Department field office shall maintain on a local
21 basis directories of services available to children and
22 families in the local area where the Department office is
23 located.

24 The Department shall refer children and families served
25 pursuant to this Section to private agencies and governmental
26 agencies, where available.

1 Where there are 2 equal proposals from both a
2 not-for-profit and a for-profit agency to provide services, the
3 Department shall give preference to the proposal from the
4 not-for-profit agency.

5 No service plan shall compel any child or parent to engage
6 in any activity or refrain from any activity which is not
7 reasonably related to remedying a condition or conditions that
8 gave rise or which could give rise to any finding of child
9 abuse or neglect.

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

12 Section 15. The Juvenile Court Act of 1987 is amended by
13 changing Sections 2-23 and 2-28 and by adding Section 2-34 as
14 follows:

15 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

19 (a) A minor under 18 years of age found to be neglected
20 or abused under Section 2-3 or dependent under Section 2-4
21 may be (1) continued in the custody of his or her parents,
22 guardian or legal custodian; (2) placed in accordance with
23 Section 2-27; (3) restored to the custody of the parent,
24 parents, guardian, or legal custodian, provided the court

1 shall order the parent, parents, guardian, or legal
2 custodian to cooperate with the Department of Children and
3 Family Services and comply with the terms of an after-care
4 plan or risk the loss of custody of the child and the
5 possible termination of their parental rights; or (4)
6 ordered partially or completely emancipated in accordance
7 with the provisions of the Emancipation of Minors Act.

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

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

25 However, in any case in which a minor is found by the
26 court to be dependent under Section 2-4 of this Act,

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

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

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

21 Unless the order of disposition expressly so provides, it
22 does not operate to close proceedings on the pending petition,
23 but is subject to modification, not inconsistent with Section
24 2-28, until final closing and discharge of the proceedings
25 under Section 2-31.

26 (3) The court also shall enter any other orders necessary

1 to fulfill the service plan, including, but not limited to, (i)
2 orders requiring parties to cooperate with services, (ii)
3 restraining orders controlling the conduct of any party likely
4 to frustrate the achievement of the goal, and (iii) visiting
5 orders. Unless otherwise specifically authorized by law, the
6 court is not empowered under this subsection (3) to order
7 specific placements, specific services, or specific service
8 providers to be included in the plan. If, after receiving
9 evidence, the court determines that the services contained in
10 the plan are not reasonably calculated to facilitate
11 achievement of the permanency goal, the court shall put in
12 writing the factual basis supporting the determination and
13 enter specific findings based on the evidence. The court also
14 shall enter an order for the Department to develop and
15 implement a new service plan or to implement changes to the
16 current service plan consistent with the court's findings. The
17 new service plan shall be filed with the court and served on
18 all parties within 45 days after the date of the order. The
19 court shall continue the matter until the new service plan is
20 filed. Unless otherwise specifically authorized by law, the
21 court is not empowered under this subsection (3) or under
22 subsection (2) to order specific placements, specific
23 services, or specific service providers to be included in the
24 plan. ~~If the court concludes that the Department of Children~~
25 ~~and Family Services has abused its discretion in setting the~~
26 ~~current service plan or permanency goal for the minor, the~~

1 ~~court shall enter specific findings in writing based on the~~
2 ~~evidence and shall enter an order for the Department to develop~~
3 ~~and implement a new permanency goal and service plan consistent~~
4 ~~with the court's findings. The new service plan shall be filed~~
5 ~~with the court and served on all parties. The court shall~~
6 ~~continue the matter until the new service plan is filed.~~

7 (4) In addition to any other order of disposition, the
8 court may order any minor adjudicated neglected with respect to
9 his or her own injurious behavior to make restitution, in
10 monetary or non-monetary form, under the terms and conditions
11 of Section 5-5-6 of the Unified Code of Corrections, except
12 that the "presentence hearing" referred to therein shall be the
13 dispositional hearing for purposes of this Section. The parent,
14 guardian or legal custodian of the minor may pay some or all of
15 such restitution on the minor's behalf.

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

24 (6) Whenever the order of disposition requires the minor to
25 attend school or participate in a program of training, the
26 truant officer or designated school official shall regularly

1 report to the court if the minor is a chronic or habitual
2 truant under Section 26-2a of the School Code.

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

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

7 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

8 Sec. 2-28. Court review.

9 (1) The court may require any legal custodian or guardian
10 of the person appointed under this Act to report periodically
11 to the court or may cite him into court and require him or his
12 agency, to make a full and accurate report of his or its doings
13 in behalf of the minor. The custodian or guardian, within 10
14 days after such citation, shall make the report, either in
15 writing verified by affidavit or orally under oath in open
16 court, or otherwise as the court directs. Upon the hearing of
17 the report the court may remove the custodian or guardian and
18 appoint another in his stead or restore the minor to the
19 custody of his parents or former guardian or custodian.
20 However, custody of the minor shall not be restored to any
21 parent, guardian or legal custodian in any case in which the
22 minor is found to be neglected or abused under Section 2-3 or
23 dependent under Section 2-4 of this Act, unless the minor can
24 be cared for at home without endangering the minor's health or
25 safety and it is in the best interests of the minor, and if

1 such neglect, abuse, or dependency is found by the court under
2 paragraph (1) of Section 2-21 of this Act to have come about
3 due to the acts or omissions or both of such parent, guardian
4 or legal custodian, until such time as an investigation is made
5 as provided in paragraph (5) and a hearing is held on the issue
6 of the fitness of such parent, guardian or legal custodian to
7 care for the minor and the court enters an order that such
8 parent, guardian or legal custodian is fit to care for the
9 minor.

10 (2) The first permanency hearing shall be conducted by the
11 judge. Subsequent permanency hearings may be heard by a judge
12 or by hearing officers appointed or approved by the court in
13 the manner set forth in Section 2-28.1 of this Act. The initial
14 hearing shall be held (a) within 12 months from the date
15 temporary custody was taken, (b) if the parental rights of both
16 parents have been terminated in accordance with the procedure
17 described in subsection (5) of Section 2-21, within 30 days of
18 the order for termination of parental rights and appointment of
19 a guardian with power to consent to adoption, or (c) in
20 accordance with subsection (2) of Section 2-13.1. Subsequent
21 permanency hearings shall be held every 6 months or more
22 frequently if necessary in the court's determination following
23 the initial permanency hearing, in accordance with the
24 standards set forth in this Section, until the court determines
25 that the plan and goal have been achieved. Once the plan and
26 goal have been achieved, if the minor remains in substitute

1 care, the case shall be reviewed at least every 6 months
2 thereafter, subject to the provisions of this Section, unless
3 the minor is placed in the guardianship of a suitable relative
4 or other person and the court determines that further
5 monitoring by the court does not further the health, safety or
6 best interest of the child and that this is a stable permanent
7 placement. The permanency hearings must occur within the time
8 frames set forth in this subsection and may not be delayed in
9 anticipation of a report from any source or due to the agency's
10 failure to timely file its written report (this written report
11 means the one required under the next paragraph and does not
12 mean the service plan also referred to in that paragraph).

13 The public agency that is the custodian or guardian of the
14 minor, or another agency responsible for the minor's care,
15 shall ensure that all parties to the permanency hearings are
16 provided a copy of the most recent service plan prepared within
17 the prior 6 months at least 14 days in advance of the hearing.
18 If not contained in the plan, the agency shall also include a
19 report setting forth (i) any special physical, psychological,
20 educational, medical, emotional, or other needs of the minor or
21 his or her family that are relevant to a permanency or
22 placement determination and (ii) for any minor age 16 or over,
23 a written description of the programs and services that will
24 enable the minor to prepare for independent living. The
25 agency's written report must detail what progress or lack of
26 progress the parent has made in correcting the conditions

1 requiring the child to be in care; whether the child can be
2 returned home without jeopardizing the child's health, safety,
3 and welfare, and if not, what permanency goal is recommended to
4 be in the best interests of the child, and why the other
5 permanency goals are not appropriate. The caseworker must
6 appear and testify at the permanency hearing. If a permanency
7 hearing has not previously been scheduled by the court, the
8 moving party shall move for the setting of a permanency hearing
9 and the entry of an order within the time frames set forth in
10 this subsection.

11 At the permanency hearing, the court shall determine the
12 future status of the child. The court shall set one of the
13 following permanency goals:

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

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

21 (B-1) The minor will be in short-term care with a
22 continued goal to return home pending a status hearing.
23 When the court finds that a parent has not made reasonable
24 efforts or reasonable progress to date, the court shall
25 identify what actions the parent and the Department must
26 take in order to justify a finding of reasonable efforts or

1 reasonable progress and shall set a status hearing to be
2 held not earlier than 9 months from the date of
3 adjudication nor later than 11 months from the date of
4 adjudication during which the parent's progress will again
5 be reviewed.

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

8 (D) Adoption, provided that parental rights have been
9 terminated or relinquished.

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

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

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

20 In selecting any permanency goal, the court shall indicate
21 in writing the reasons the goal was selected and why the
22 preceding goals were ruled out. Where the court has selected a
23 permanency goal other than (A), (B), or (B-1), the Department
24 of Children and Family Services shall not provide further
25 reunification services, but shall provide services consistent
26 with the goal selected.

1 (H) Notwithstanding any other provision in this
2 Section, the court may select the goal of continuing foster
3 care as a permanency goal if:

4 (1) The Department of Children and Family Services
5 has custody and guardianship of the minor;

6 (2) The court has ruled out all other permanency
7 goals based on the child's best interest;

8 (3) The court has found compelling reasons, based
9 on written documentation reviewed by the court, to
10 place the minor in continuing foster care. Compelling
11 reasons include:

12 (a) the child does not wish to be adopted or to
13 be placed in the guardianship of his or her
14 relative or foster care placement;

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

18 (c) the child who is the subject of the
19 permanency hearing has existing close and strong
20 bonds with a sibling, and achievement of another
21 permanency goal would substantially interfere with
22 the subject child's sibling relationship, taking
23 into consideration the nature and extent of the
24 relationship, and whether ongoing contact is in
25 the subject child's best interest, including
26 long-term emotional interest, as compared with the

1 legal and emotional benefit of permanence;

2 (4) The child has lived with the relative or foster
3 parent for at least one year; and

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

7 The court shall set a permanency goal that is in the best
8 interest of the child. In determining that goal, the court
9 shall consult with the minor in an age-appropriate manner
10 regarding the proposed permanency or transition plan for the
11 minor. The court's determination shall include the following
12 factors:

13 (1) Age of the child.

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

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

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

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

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

25 (7) Status of siblings of the minor.

26 The court shall consider (i) the permanency goal contained

1 in the service plan, (ii) the appropriateness of the services
2 contained in the plan and whether those services have been
3 provided, (iii) whether reasonable efforts have been made by
4 all the parties to the service plan to achieve the goal, and
5 (iv) whether the plan and goal have been achieved. All evidence
6 relevant to determining these questions, including oral and
7 written reports, may be admitted and may be relied on to the
8 extent of their probative value.

9 The court shall make findings as to whether, in violation
10 of Section 8.2 of the Abused and Neglected Child Reporting Act,
11 any portion of the service plan compels a child or parent to
12 engage in any activity or refrain from any activity that 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 If the permanency goal is to return home, the court shall
17 make findings that identify any problems that are causing
18 continued placement of the children away from the home and
19 identify what outcomes would be considered a resolution to
20 these problems. The court shall explain to the parents that
21 these findings are based on the information that the court has
22 at that time and may be revised, should additional evidence be
23 presented to the court.

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

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

16 A guardian or custodian appointed by the court pursuant to
17 this Act shall file updated case plans with the court every 6
18 months.

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

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

25 (a) The future status of the minor, including the
26 permanency goal, and any order necessary to conform the

1 minor's legal custody and status to such determination; or

2 (b) If the permanency goal of the minor cannot be
3 achieved immediately, the specific reasons for continuing
4 the minor in the care of the Department of Children and
5 Family Services or other agency for short term placement,
6 and the following determinations:

7 (i) (Blank).

8 (ii) Whether the services required by the court and
9 by any service plan prepared within the prior 6 months
10 have been provided and (A) if so, whether the services
11 were reasonably calculated to facilitate the
12 achievement of the permanency goal or (B) if not
13 provided, why the services were not provided.

14 (iii) Whether the minor's placement is necessary,
15 and appropriate to the plan and goal, recognizing the
16 right of minors to the least restrictive (most
17 family-like) setting available and in close proximity
18 to the parents' home consistent with the health,
19 safety, best interest and special needs of the minor
20 and, if the minor is placed out-of-State, whether the
21 out-of-State placement continues to be appropriate and
22 consistent with the health, safety, and best interest
23 of the minor.

24 (iv) (Blank).

25 (v) (Blank).

26 (4) The minor or any person interested in the minor may

1 apply to the court for a change in custody of the minor and the
2 appointment of a new custodian or guardian of the person or for
3 the restoration of the minor to the custody of his parents or
4 former guardian or custodian.

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

6 (a) The Department, the minor, or the current foster
7 parent or relative caregiver seeking private guardianship
8 may file a motion for private guardianship of the minor.
9 Appointment of a guardian under this Section requires
10 approval of the court.

11 (b) The State's Attorney may file a motion to terminate
12 parental rights of any parent who has failed to make
13 reasonable efforts to correct the conditions which led to
14 the removal of the child or reasonable progress toward the
15 return of the child, as defined in subdivision (D)(m) of
16 Section 1 of the Adoption Act or for whom any other
17 unfitness ground for terminating parental rights as
18 defined in subdivision (D) of Section 1 of the Adoption Act
19 exists.

20 When parental rights have been terminated for a minimum
21 of 3 years and the child who is the subject of the
22 permanency hearing is 13 years old or older and is not
23 currently placed in a placement likely to achieve
24 permanency, the Department of Children and Family Services
25 shall make reasonable efforts to locate parents whose
26 rights have been terminated, except when the Court

1 determines that those efforts would be futile or
2 inconsistent with the subject child's best interests. The
3 Department of Children and Family Services shall assess the
4 appropriateness of the parent whose rights have been
5 terminated, and shall, as appropriate, foster and support
6 connections between the parent whose rights have been
7 terminated and the youth. The Department of Children and
8 Family Services shall document its determinations and
9 efforts to foster connections in the child's case plan.

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

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

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

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

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

1 any information sought in the investigation.

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

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

12 (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;
13 95-876, eff. 8-21-08.)

14 (705 ILCS 405/2-34 new)

15 Sec. 2-34. Motion to reinstate parental rights.

16 (1) For purposes of this subsection (1), the term "parent"
17 refers to the person or persons whose rights were terminated as
18 described in paragraph (a) of this subsection; and the term
19 "minor" means a person under the age of 21 years subject to
20 this Act for whom the Department of Children and Family
21 Services Guardianship Administrator is appointed the temporary
22 custodian or guardian.

23 A motion to reinstate parental rights may be filed only by
24 the Department of Children and Family Services regarding any
25 minor who is presently a ward of the court under Article II of

1 this Act when all the conditions set out in paragraphs (a),
2 (b), (c), (d), (e), (f), and (g) of this subsection (1) are
3 met:

4 (a) while the minor was under the jurisdiction of the
5 court under Article II of this Act, the minor's parent or
6 parents surrendered the minor for adoption to an agency
7 legally authorized to place children for adoption, or the
8 minor's parent or parents consented to his or her adoption,
9 or the minor's parent or parents consented to his or her
10 adoption by a specified person or persons, or the parent or
11 parents' rights were terminated pursuant to a finding of
12 unfitness pursuant to Section 2-29 of this Act and a
13 guardian was appointed with the power to consent to
14 adoption pursuant to Section 2-29 of this Act; and

15 (b) (i) since the signing of the surrender, the signing
16 of the consent, or the unfitness finding, the minor has
17 remained a ward of the Court under Article II of this Act;
18 or

19 (ii) the minor was made a ward of the Court, the
20 minor was placed in the private guardianship of an
21 individual or individuals, and after the appointment
22 of a private guardian, the minor was again brought to
23 the attention of the Juvenile Court and the private
24 guardianship was vacated; or

25 (iii) the minor was made a ward of the Court,
26 wardship was terminated after the minor was adopted,

1 after the adoption the minor was again brought to the
2 attention of the Juvenile Court and made a ward of the
3 Court under Article II of this Act, and either (i) the
4 adoptive parent or parents are deceased, (ii) the
5 adoptive parent or parents signed a surrender of
6 parental rights, or (iii) the parental rights of the
7 adoptive parent or parents were terminated;

8 (c) the minor is not currently in a placement likely to
9 achieve permanency;

10 (d) it is in the minor's best interest that parental
11 rights be reinstated;

12 (e) the parent named in the motion wishes parental
13 rights to be reinstated and is currently appropriate to
14 have rights reinstated;

15 (f) more than 3 years have lapsed since the signing of
16 the consent or surrender, or the entry of the order
17 appointing a guardian with the power to consent to
18 adoption;

19 (g) (i) the child is 13 years of age or older or (ii)
20 the child is the younger sibling of such child, 13 years of
21 age or older, for whom reinstatement of parental rights is
22 being sought and the younger sibling independently meets
23 the criteria set forth in paragraphs (a) through (h) of
24 this subsection; and

25 (h) if the court has previously denied a motion to
26 reinstate parental rights filed by the Department, there

1 has been a substantial change in circumstances following
2 the denial of the earlier motion.

3 (2) The motion may be filed only by the Department of
4 Children and Family Services. Unless excused by the court for
5 good cause shown, the movant shall give notice of the time and
6 place of the hearing on the motion, in person or by mail, to
7 the parties to the juvenile court proceeding. Notice shall be
8 provided at least 14 days in advance of the hearing date. The
9 motion shall include the allegations required in subsection (1)
10 of this Section.

11 (3) Any party may file a motion to dismiss the motion with
12 prejudice on the basis that the parent has intentionally acted
13 to prevent the child from being adopted, after parental rights
14 were terminated or the parent intentionally acted to disrupt
15 the child's adoption. If the court finds by a preponderance of
16 the evidence that the parent has intentionally acted to prevent
17 the child from being adopted, after parental rights were
18 terminated or that the parent intentionally acted to disrupt
19 the child's adoption, the court shall dismiss the petition with
20 prejudice.

21 (4) The court shall not grant a motion for reinstatement of
22 parental rights unless the court finds that the motion is
23 supported by clear and convincing evidence. In ruling on a
24 motion to reinstate parental rights, the court shall make
25 findings consistent with the requirements in subsection (1) of
26 this Section. The court shall consider the reasons why the

1 child was initially brought to the attention of the court, the
2 history of the child's case as it relates to the parent seeking
3 reinstatement, and the current circumstances of the parent for
4 whom reinstatement of rights is sought. If reinstatement is
5 being considered subsequent to a finding of unfitness pursuant
6 to Section 2-29 of this Act having been entered with respect to
7 the parent whose rights are being restored, the court in
8 determining the minor's best interest shall consider, in
9 addition to the factors set forth in paragraph (4.05) of
10 Section 1-3 of this Act, the specific grounds upon which the
11 unfitness findings were made. Upon the entry of an order
12 granting a motion to reinstate parental rights, parental rights
13 of the parent named in the order shall be reinstated, any
14 previous order appointing a guardian with the power to consent
15 to adoption shall be void and with respect to the parent named
16 in the order, any consent shall be void.

17 (5) If the case is post-disposition, the court, upon the
18 entry of an order granting a motion to reinstate parental
19 rights, shall schedule the matter for a permanency hearing
20 pursuant to Section 2-28 of this Act within 45 days.

21 (6) Custody of the minor shall not be restored to the
22 parent, except by order of court pursuant to subsection (4) of
23 Section 2-28 of this Act.

24 (7) In any case involving a child over the age of 13 who
25 meets the criteria established in this Section for
26 reinstatement of parental rights, the Department of Children

1 and Family Services shall conduct an assessment of the child's
2 circumstances to assist in future planning for the child,
3 including, but not limited to a determination regarding the
4 appropriateness of filing a motion to reinstate parental
5 rights.

6 (8) This Section is repealed 4 years after the effective
7 date of this amendatory Act of the 96th General Assembly.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".