

AN ACT concerning children.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Children and Family Services Act is amended by changing Sections 5, 5a, and 9.9 as follows:

(20 ILCS 505/5) (from Ch. 23, par. 5005)

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years. The term also includes persons under age 19 who:

(A) were committed to the Department pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987, as amended, prior to the age of 18 and who continue under the jurisdiction of the court; or

(B) were accepted for care, service and training by the Department prior to the age of 18 and whose best interest in the discretion of the Department would be served by continuing that care, service and training because of severe emotional disturbances, physical

disability, social adjustment or any combination thereof, or because of the need to complete an educational or vocational training program.

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

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

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

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

(C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

(D) restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at

home without endangering the child's health and safety;

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

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

(G) (blank);

(H) (blank); and

(I) placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:

- (i) who are in a foster home, or
- (ii) who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code, or
- (iii) who are female children who are pregnant, pregnant and parenting or parenting, or
- (iv) who are siblings, in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age.

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

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

(d) The Director may authorize advance disbursements for any new program initiative to any agency contracting with the Department. As a prerequisite for an advance disbursement, the contractor must post a surety bond in the amount of the advance disbursement and have a purchase of service contract approved by the Department. The Department may pay up to 2 months operational expenses in advance. The amount of the advance disbursement shall be prorated over the life of the contract or

the remaining months of the fiscal year, whichever is less, and the installment amount shall then be deducted from future bills. Advance disbursement authorizations for new initiatives shall not be made to any agency after that agency has operated during 2 consecutive fiscal years. The requirements of this Section concerning advance disbursements shall not apply with respect to the following: payments to local public agencies for child day care services as authorized by Section 5a of this Act; and youth service programs receiving grant funds under Section 17a-4.

(e) (Blank).

(f) (Blank).

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

(1) adoption;

(2) foster care;

(3) family counseling;

(4) protective services;

(5) (blank);

(6) homemaker service;

(7) return of runaway children;

(8) (blank);

(9) placement under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

Court Act of 1987 in accordance with the federal Adoption Assistance and Child Welfare Act of 1980; and

(10) interstate services.

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

(h) If the Department finds that there is no appropriate program or facility within or available to the Department for a ward and that no licensed private facility has an adequate and appropriate program or none agrees to accept the ward, the Department shall create an appropriate individualized, program-oriented plan for such ward. The plan may be developed within the Department or through purchase of services by the Department to the extent that it is within its statutory authority to do.

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

- (1) case management;
- (2) homemakers;

- (3) counseling;
- (4) parent education;
- (5) day care; and
- (6) emergency assistance and advocacy.

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

- (1) comprehensive family-based services;
- (2) assessments;
- (3) respite care; and
- (4) in-home health services.

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

(j) The Department may provide categories of financial assistance and education assistance grants, and shall establish rules and regulations concerning the assistance and grants, to persons who adopt physically or mentally handicapped, older and other hard-to-place children who (i) immediately prior to their adoption were legal wards of the Department or (ii) were determined eligible for financial assistance with respect to a prior adoption and who become available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died. The Department may continue to provide financial assistance and education assistance grants for a child who was

determined eligible for financial assistance under this subsection (j) in the interim period beginning when the child's adoptive parents died and ending with the finalization of the new adoption of the child by another adoptive parent or parents. The Department may also provide categories of financial assistance and education assistance grants, and shall establish rules and regulations for the assistance and grants, to persons appointed guardian of the person under Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile Court Act of 1987 for children who were wards of the Department for 12 months immediately prior to the appointment of the guardian.

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

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

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



outside of the State of Illinois.

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

(l) Before July 1, 2000, the Department may provide, and beginning July 1, 2000, the Department shall offer family preservation services, as defined in Section 8.2 of the Abused and Neglected Child Reporting Act, to help families, including adoptive and extended families. Family preservation services shall be offered (i) to prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare, (ii) to reunite children with their families, or (iii) to maintain an adoptive placement. Family preservation services shall only be offered when doing so will not endanger the children's health or safety. With respect to children who are in substitute care pursuant to the Juvenile Court Act of 1987, family preservation services shall not be offered if a goal other than those of subdivisions (A), (B), or (B-1) of subsection (2) of Section 2-28 of that Act has been set. Nothing in this paragraph shall be construed to create a private right of action or claim on the part of any individual or child welfare agency.

The Department shall notify the child and his family of the Department's responsibility to offer and provide family

preservation services as identified in the service plan. The child and his family shall be eligible for services as soon as the report is determined to be "indicated". The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been filed, prior to concluding its investigation under Section 7.12 of the Abused and Neglected Child Reporting Act. However, the child's or family's willingness to accept services shall not be considered in the investigation. The Department may also provide services to any child or family who is the subject of any report of suspected child abuse or neglect or may refer such child or family to services available from other agencies in the community, even if the report is determined to be unfounded, if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary. The Department may also provide services to any child or family after completion of a family assessment, as an alternative to an investigation, as provided under the "differential response program" provided for in subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act.

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor

requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except a minor less than 15 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987 or a minor for whom an independent basis of abuse, neglect, or dependency exists, which must be defined by departmental rule. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency.

(1-1) The legislature recognizes that the best interests of the child require that the child be placed in the most permanent living arrangement as soon as is practically possible. To achieve this goal, the legislature directs the Department of Children and Family Services to conduct concurrent planning so that permanency may occur at the earliest opportunity. Permanent living arrangements may include prevention of placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety; reunification with the family, when safe and appropriate, if temporary placement

is necessary; or movement of the child toward the most permanent living arrangement and permanent legal status.

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

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

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

The Department shall adopt rules addressing concurrent planning for reunification and permanency. The Department

shall consider the following factors when determining appropriateness of concurrent planning:

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

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

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

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

If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department

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

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

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

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

(m-1) The Department may place children under 18 years of age in a secure child care facility licensed by the Department that cares for children who are in need of secure living arrangements for their health, safety, and well-being after a determination is made by the facility director and the Director or the Director's designate prior to admission to the facility subject to Section 2-27.1 of the Juvenile Court Act of 1987.

This subsection (m-1) does not apply to a child who is subject to placement in a correctional facility operated pursuant to Section 3-15-2 of the Unified Code of Corrections, unless the child is a ward who was placed under the care of the Department before being subject to placement in a correctional facility and a court of competent jurisdiction has ordered placement of the child in a secure care facility.

(n) The Department may place children under 18 years of age in licensed child care facilities when in the opinion of the Department, appropriate services aimed at family preservation have been unsuccessful and cannot ensure the child's health and safety or are unavailable and such placement would be for their best interest. Payment for board, clothing, care, training and supervision of any child placed in a licensed child care facility may be made by the Department, by the parents or guardians of the estates of those children, or by both the Department and the parents or guardians, except that no payments shall be made by the Department for any child placed in a licensed child care facility for board, clothing, care, training and supervision of such a child that exceed the average per capita cost of maintaining and of caring for a child in institutions for dependent or neglected children operated by the Department. However, such restriction on payments does not apply in cases where children require specialized care and treatment for problems of severe emotional disturbance, physical disability, social adjustment, or any



combination thereof and suitable facilities for the placement of such children are not available at payment rates within the limitations set forth in this Section. All reimbursements for services delivered shall be absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.

(o) The Department shall establish an administrative review and appeal process for children and families who request or receive child welfare services from the Department. Children who are wards of the Department and are placed by private child welfare agencies, and foster families with whom those children are placed, shall be afforded the same procedural and appeal rights as children and families in the case of placement by the Department, including the right to an initial review of a private agency decision by that agency. The Department shall insure that any private child welfare agency, which accepts wards of the Department for placement, affords those rights to children and foster families. The Department shall accept for administrative review and an appeal hearing a complaint made by (i) a child or foster family concerning a decision following an initial review by a private child welfare agency or (ii) a prospective adoptive parent who alleges a violation of subsection (j-5) of this Section. An appeal of a decision concerning a change in the placement of a child shall be conducted in an expedited manner.

(p) There is hereby created the Department of Children and Family Services Emergency Assistance Fund from which the

Department may provide special financial assistance to families which are in economic crisis when such assistance is not available through other public or private sources and the assistance is deemed necessary to prevent dissolution of the family unit or to reunite families which have been separated due to child abuse and neglect. The Department shall establish administrative rules specifying the criteria for determining eligibility for and the amount and nature of assistance to be provided. The Department may also enter into written agreements with private and public social service agencies to provide emergency financial services to families referred by the Department. Special financial assistance payments shall be available to a family no more than once during each fiscal year and the total payments to a family may not exceed \$500 during a fiscal year.

(q) The Department may receive and use, in their entirety, for the benefit of children any gift, donation or bequest of money or other property which is received on behalf of such children, or any financial benefits to which such children are or may become entitled while under the jurisdiction or care of the Department.

The Department shall set up and administer no-cost, interest-bearing accounts in appropriate financial institutions for children for whom the Department is legally responsible and who have been determined eligible for Veterans' Benefits, Social Security benefits, assistance allotments from

the armed forces, court ordered payments, parental voluntary payments, Supplemental Security Income, Railroad Retirement payments, Black Lung benefits, or other miscellaneous payments. Interest earned by each account shall be credited to the account, unless disbursed in accordance with this subsection.

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

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

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

(3) Maintain any balance remaining after reimbursing

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

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

(s) The Department of Children and Family Services may establish and implement a program to reimburse Department and private child welfare agency foster parents licensed by the Department of Children and Family Services for damages sustained by the foster parents as a result of the malicious or negligent acts of foster children, as well as providing third party coverage for such foster parents with regard to actions

of foster children to other individuals. Such coverage will be secondary to the foster parent liability insurance policy, if applicable. The program shall be funded through appropriations from the General Revenue Fund, specifically designated for such purposes.

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

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

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

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

(u) In addition to other information that must be provided, whenever the Department places a child with a prospective adoptive parent or parents or in a licensed foster home, group

home, child care institution, or in a relative home, the Department shall provide to the prospective adoptive parent or parents or other caretaker:

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

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

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

The caretaker shall be informed of any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetuation of sexual abuse, destructive behavior, and substance abuse) necessary to care for and safeguard the children to be placed or currently in the home. The Department may prepare a written summary of the information required by this paragraph, which may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file

in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide known information verbally, if necessary, and must subsequently provide the information in writing as required by this subsection.

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

(u-5) Effective July 1, 1995, only foster care placements licensed as foster family homes pursuant to the Child Care Act of 1969 shall be eligible to receive foster care payments from the Department. Relative caregivers who, as of July 1, 1995, were approved pursuant to approved relative placement rules previously promulgated by the Department at 89 Ill. Adm. Code

335 and had submitted an application for licensure as a foster family home may continue to receive foster care payments only until the Department determines that they may be licensed as a foster family home or that their application for licensure is denied or until September 30, 1995, whichever occurs first.

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



dissemination of this information.

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

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

(w) Within 120 days of August 20, 1995 (the effective date of Public Act 89-392), the Department shall prepare and submit to the Governor and the General Assembly, a written plan for the development of in-state licensed secure child care facilities that care for children who are in need of secure

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

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

(20 ILCS 505/5a) (from Ch. 23, par. 5005a)

Sec. 5a. Reimbursable services for which the Department of Children and Family Services shall pay 100% of the reasonable cost pursuant to a written contract negotiated between the Department and the agency furnishing the services (which shall include but not be limited to the determination of reasonable

cost, the services being purchased and the duration of the agreement) include, but are not limited to:

SERVICE ACTIVITIES

Adjunctive Therapy;  
Child Care Service, including day care;  
Clinical Therapy;  
Custodial Service;  
Field Work Students;  
Food Service;  
Normal Education;  
In-Service Training;  
Intake or Evaluation, or both;  
Medical Services;  
Recreation;  
Social Work or Counselling, or both;  
Supportive Staff;  
Volunteers.

OBJECT EXPENSES

Professional Fees and Contract Service Payments;  
Supplies;  
Telephone and Telegram;  
Occupancy;  
Local Transportation;  
Equipment and Other Fixed Assets, including amortization

of same;  
Miscellaneous.

ADMINISTRATIVE COSTS

Program Administration;  
Supervision and Consultation;  
Inspection and Monitoring for purposes of issuing  
licenses;  
Determination of Children who are eligible  
for federal or other reimbursement;  
Postage and Shipping;  
Outside Printing, Artwork, etc.;  
Subscriptions and Reference Publications;  
Management and General Expense.

Reimbursement of administrative costs other than inspection and monitoring for purposes of issuing licenses may not exceed 20% of the costs for other services.

The Department may offer services to any child or family with respect to whom a report of suspected child abuse or neglect has been called in to the hotline after completion of a family assessment as provided under subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act and the Department has determined that services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment. Acceptance of such services shall be voluntary.

All Object Expenses, Service Activities and Administrative Costs are allowable.

If a survey instrument is used in the rate setting process:

(a) with respect to any day care centers, it shall be limited to those agencies which receive reimbursement from the State;

(b) the cost survey instrument shall be promulgated by rule;

(c) any requirements of the respondents shall be promulgated by rule;

(d) all screens, limits or other tests of reasonableness, allowability and reimbursability shall be promulgated by rule;

(e) adjustments may be made by the Department to rates when it determines that reported wage and salary levels are insufficient to attract capable caregivers in sufficient numbers.

The Department of Children and Family Services may pay 100% of the reasonable costs of research and valuation focused exclusively on services to wards of the Department. Such research projects must be approved, in advance, by the Director of the Department.

In addition to reimbursements otherwise provided for in this Section, the Department of Human Services shall, in accordance with annual written agreements, make advance quarterly disbursements to local public agencies for child day

care services with funds appropriated from the Local Effort Day Care Fund.

Neither the Department of Children and Family Services nor the Department of Human Services shall pay or approve reimbursement for day care in a facility which is operating without a valid license or permit, except in the case of day care homes or day care centers which are exempt from the licensing requirements of the "Child Care Act of 1969".

(Source: P.A. 89-507, eff. 7-1-97.)

(20 ILCS 505/9.9) (from Ch. 23, par. 5009.9)

Sec. 9.9. Review under Administrative Review Law. Any responsible parent or guardian affected by a final administrative decision of the Department in a hearing, conducted pursuant to this Act, may have the decision reviewed only under and in accordance with the Administrative Review Law as amended. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of such final administrative decisions of the Department. The term "administrative decision", is defined as in Section 3-101 of the Code of Civil Procedure.

Review of a final administrative decision under the Administrative Review Law is not applicable to a decision to conduct a family assessment as provided under subsection (a-5) of Section 7.4 of the Abused and Neglected Child Reporting Act

because no determination concerning child abuse or neglect is made and nothing is reported to the central register.

Appeals from all final orders and judgments entered by a court upon review of the Department's orders in any case may be taken by either party to the proceeding and shall be governed by the rules applicable to appeals in civil cases.

The remedy herein provided for appeal shall be exclusive, and no court shall have jurisdiction to review the subject matter of any order made by the Department except as herein provided.

(Source: P.A. 83-1037.)

Section 10. The Abused and Neglected Child Reporting Act is amended by changing Sections 7.4 and 11.6 as follows:

(325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

Sec. 7.4. (a) The Department shall be capable of receiving reports of suspected child abuse or neglect 24 hours a day, 7 days a week. Whenever the Department receives a report alleging that a child is a truant as defined in Section 26-2a of The School Code, as now or hereafter amended, the Department shall notify the superintendent of the school district in which the child resides and the appropriate superintendent of the educational service region. The notification to the appropriate officials by the Department shall not be considered an allegation of abuse or neglect under this Act.

(a-5) Beginning January 1, 2010, the Department of Children and Family Services may implement a 5-year demonstration of a "differential response program" in accordance with criteria, standards, and procedures prescribed by rule. The program may provide that, upon receiving a report, the Department shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child abuse or neglect.

For purposes of this subsection (a-5), "family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. "Family assessment" does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

For purposes of this subsection (a-5), "investigation" means fact-gathering related to the current safety of a child and the risk of subsequent abuse or neglect that determines whether a report of suspected child abuse or neglect should be indicated or unfounded and whether child protective services are needed.

Under the "differential response program" implemented under this subsection (a-5), the Department:

- (1) Shall conduct an investigation on reports



involving substantial child abuse or neglect.

(2) Shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child abuse or neglect or a serious threat to the child's safety exists.

(3) May conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the Department may consider issues including, but not limited to, child safety, parental cooperation, and the need for an immediate response.

(4) Shall promulgate criteria, standards, and procedures that shall be applied in making this determination, taking into consideration the Child Endangerment Risk Assessment Protocol of the Department.

(5) May conduct a family assessment on a report that was initially screened and assigned for an investigation.

In determining that a complete investigation is not required, the Department must document the reason for terminating the investigation and notify the local law enforcement agency or the Department of State Police if the local law enforcement agency or Department of State Police is conducting a joint investigation.

Once it is determined that a "family assessment" will be implemented, the case shall not be reported to the central

register of abuse and neglect reports.

During a family assessment, the Department shall collect any available and relevant information to determine child safety, risk of subsequent abuse or neglect, and family strengths.

Information collected includes, but is not limited to, when relevant: information with regard to the person reporting the alleged abuse or neglect, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being abused or neglected; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged abuse or neglect. Information relevant to the assessment must be asked for, and may include:

(A) The child's sex and age, prior reports of abuse or neglect, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this paragraph (A) is consistent with other information collected during the course of the assessment or investigation.

(B) The alleged offender's age, a record check for prior reports of abuse or neglect, and criminal charges and convictions. The alleged offender may submit supporting documentation relevant to the assessment.

(C) Collateral source information regarding the

alleged abuse or neglect and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or care of the child maintained by any facility, clinic, or health care professional, and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child.

(D) Information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this subsection (a-5) precludes the Department from collecting other relevant information necessary to conduct the assessment or investigation. Nothing in this subsection (a-5) shall be construed to allow the name or identity of a reporter to be disclosed in violation of the protections afforded under Section 7.19 of this Act.

After conducting the family assessment, the Department shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent abuse or neglect.

Upon completion of the family assessment, if the Department concludes that no services shall be offered, then the case

shall be closed. If the Department concludes that services shall be offered, the Department shall develop a family preservation plan and offer or refer services to the family.

At any time during a family assessment, if the Department believes there is any reason to stop the assessment and conduct an investigation based on the information discovered, the Department shall do so.

The procedures available to the Department in conducting investigations under this Act shall be followed as appropriate during a family assessment.

The Department shall arrange for an independent evaluation of the "differential response program" authorized and implemented under this subsection (a-5) to determine whether it is meeting the goals in accordance with Section 2 of this Act. The Department may adopt administrative rules necessary for the execution of this Section, in accordance with Section 4 of the Children and Family Services Act.

The demonstration conducted under this subsection (a-5) shall become a permanent program on January 1, 2015, upon completion of the demonstration project period.

(b) (1) The following procedures shall be followed in the investigation of all reports of suspected abuse or neglect of a child, except as provided in subsection (c) of this Section.

(2) If, during a family assessment authorized by subsection (a-5) or an investigation, it appears that the

immediate safety or well-being of a child is endangered, that the family may flee or the child disappear, or that the facts otherwise so warrant, the Child Protective Service Unit shall commence an investigation immediately, regardless of the time of day or night. All other investigations ~~In all other cases, investigation~~ shall be commenced within 24 hours of receipt of the report. Upon receipt of a report, the Child Protective Service Unit shall conduct a family assessment authorized by subsection (a-5) or begin ~~make~~ an initial investigation and make an initial determination whether the report is a good faith indication of alleged child abuse or neglect.

(3) Based on an initial investigation, if ~~if~~ the Unit determines the report is a good faith indication of alleged child abuse or neglect, then a formal investigation shall commence and, pursuant to Section 7.12 of this Act, may or may not result in an indicated report. The formal investigation shall include: direct contact with the subject or subjects of the report as soon as possible after the report is received; an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report; the name, age and condition of other children in

the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under this Act in regard to amendment or expungement. To fulfill the requirements of this Section, the Child Protective Service Unit shall have the capability of providing or arranging for comprehensive emergency services to children and families at all times of the day or night.

(4) If (i) at the conclusion of the Unit's initial investigation of a report, the Unit determines the report to be a good faith indication of alleged child abuse or neglect that warrants a formal investigation by the Unit, the Department, any law enforcement agency or any other responsible agency and (ii) the person who is alleged to have caused the abuse or neglect is employed or otherwise engaged in an activity resulting in frequent contact with children and the alleged abuse or neglect are in the course of such employment or activity, then the Department shall, except in investigations where the Director determines that such notification would be detrimental to the Department's investigation, inform the appropriate supervisor or administrator of that employment or activity

that the Unit has commenced a formal investigation pursuant to this Act, which may or may not result in an indicated report. The Department shall also notify the person being investigated, unless the Director determines that such notification would be detrimental to the Department's investigation.

(c) In an investigation of a report of suspected abuse or neglect of a child by a school employee at a school or on school grounds, the Department shall make reasonable efforts to follow the following procedures:

(1) Investigations involving teachers shall not, to the extent possible, be conducted when the teacher is scheduled to conduct classes. Investigations involving other school employees shall be conducted so as to minimize disruption of the school day. The school employee accused of child abuse or neglect may have his superior, his association or union representative and his attorney present at any interview or meeting at which the teacher or administrator is present. The accused school employee shall be informed by a representative of the Department, at any interview or meeting, of the accused school employee's due process rights and of the steps in the investigation process. The information shall include, but need not necessarily be limited to the right, subject to the approval of the Department, of the school employee to confront the accuser, if the accuser is 14 years of age or

older, or the right to review the specific allegations which gave rise to the investigation, and the right to review all materials and evidence that have been submitted to the Department in support of the allegation. These due process rights shall also include the right of the school employee to present countervailing evidence regarding the accusations.

(2) If a report of neglect or abuse of a child by a teacher or administrator does not involve allegations of sexual abuse or extreme physical abuse, the Child Protective Service Unit shall make reasonable efforts to conduct the initial investigation in coordination with the employee's supervisor.

If the Unit determines that the report is a good faith indication of potential child abuse or neglect, it shall then commence a formal investigation under paragraph (3) of subsection (b) of this Section.

(3) If a report of neglect or abuse of a child by a teacher or administrator involves an allegation of sexual abuse or extreme physical abuse, the Child Protective Unit shall commence an investigation under paragraph (2) of subsection (b) of this Section.

(c-5) In any instance in which a report is made or caused to be made by a school district employee involving the conduct of a person employed by the school district, at the time the report was made, as required under Section 4 of this Act, the



Child Protective Service Unit shall send a copy of its final finding report to the general superintendent of that school district.

(d) If the Department has contact with an employer, or with a religious institution or religious official having supervisory or hierarchical authority over a member of the clergy accused of the abuse of a child, in the course of its investigation, the Department shall notify the employer or the religious institution or religious official, in writing, when a report is unfounded so that any record of the investigation can be expunged from the employee's or member of the clergy's personnel or other records. The Department shall also notify the employee or the member of the clergy, in writing, that notification has been sent to the employer or to the appropriate religious institution or religious official informing the employer or religious institution or religious official that the Department's investigation has resulted in an unfounded report.

(e) Upon request by the Department, the Department of State Police and law enforcement agencies are authorized to provide criminal history record information as defined in the Illinois Uniform Conviction Information Act and information maintained in the adjudicatory and dispositional record system as defined in Section 2605-355 of the Department of State Police Law (20 ILCS 2605/2605-355) to properly designated employees of the Department of Children and Family Services if the Department

determines the information is necessary to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act. The request shall be in the form and manner required by the Department of State Police. Any information obtained by the Department of Children and Family Services under this Section is confidential and may not be transmitted outside the Department of Children and Family Services other than to a court of competent jurisdiction or unless otherwise authorized by law. Any employee of the Department of Children and Family Services who transmits confidential information in violation of this Section or causes the information to be transmitted in violation of this Section is guilty of a Class A misdemeanor unless the transmittal of the information is authorized by this Section or otherwise authorized by law.

(Source: P.A. 95-908, eff. 8-26-08.)

(325 ILCS 5/11.6) (from Ch. 23, par. 2061.6)

Sec. 11.6. All final administrative decisions of the Department under this Act are subject to judicial review under the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Review of a final administrative decision under the Administrative Review Law is not applicable to a decision to

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conduct a family assessment under subsection (a-5) of Section 7.4 because no determination concerning child abuse or neglect is made and nothing is reported to the central register.

(Source: P.A. 82-783.)