

1 AN ACT concerning children.

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

4 Section 5. The Children and Family Services Act is amended  
5 by changing Sections 5, 25, and 35.1 and by adding Sections  
6 5.30 and 7.5 as follows:

7 (20 ILCS 505/5) (from Ch. 23, par. 5005)

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

12 (a) For purposes of this Section:

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

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

20 (B) were accepted for care, service and training by  
21 the Department prior to the age of 18 and whose best  
22 interest in the discretion of the Department would be  
23 served by continuing that care, service and training  
24 because of severe emotional disturbances, physical  
25 disability, social adjustment or any combination  
26 thereof, or because of the need to complete an  
27 educational or vocational training program.

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

32 (3) "Child welfare services" means public social

1 services which are directed toward the accomplishment of  
2 the following purposes:

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

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

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

16 (D) restoring to their families children who have  
17 been removed, by the provision of services to the child  
18 and the families when the child can be cared for at  
19 home without endangering the child's health and  
20 safety;

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

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

34 (G) (blank);

35 (H) (blank); and

36 (I) placing and maintaining children in facilities

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

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

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

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

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

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

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

27           (d) The Director may authorize advance disbursements for  
28           any new program initiative to any agency contracting with the  
29           Department. As a prerequisite for an advance disbursement, the  
30           contractor must post a surety bond in the amount of the advance  
31           disbursement and have a purchase of service contract approved  
32           by the Department. The Department may pay up to 2 months  
33           operational expenses in advance. The amount of the advance  
34           disbursement shall be prorated over the life of the contract or  
35           the remaining months of the fiscal year, whichever is less, and  
36           the installment amount shall then be deducted from future

1 bills. Advance disbursement authorizations for new initiatives  
2 shall not be made to any agency after that agency has operated  
3 during 2 consecutive fiscal years. The requirements of this  
4 Section concerning advance disbursements shall not apply with  
5 respect to the following: payments to local public agencies for  
6 child day care services as authorized by Section 5a of this  
7 Act; and youth service programs receiving grant funds under  
8 Section 17a-4.

9 (e) (Blank).

10 (f) (Blank).

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

15 (1) adoption;

16 (2) foster care;

17 (3) family counseling;

18 (4) protective services;

19 (5) (blank);

20 (6) homemaker service;

21 (7) return of runaway children;

22 (8) (blank);

23 (9) placement under Section 5-7 of the Juvenile Court  
24 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile  
25 Court Act of 1987 in accordance with the federal Adoption  
26 Assistance and Child Welfare Act of 1980; and

27 (10) interstate services.

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

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

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

- 13 (1) case management;
- 14 (2) homemakers;
- 15 (3) counseling;
- 16 (4) parent education;
- 17 (5) day care; and
- 18 (6) emergency assistance and advocacy.

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

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

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

28 (j) The Department may provide categories of financial  
29 assistance and education assistance grants, and shall  
30 establish rules and regulations concerning the assistance and  
31 grants, to persons who adopt physically or mentally  
32 handicapped, older and other hard-to-place children who (i)  
33 immediately prior to their adoption were legal wards of the  
34 Department or (ii) were determined eligible for financial  
35 assistance with respect to a prior adoption and who become  
36 available for adoption because the prior adoption has been

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

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

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

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

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

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

20 The Department shall notify the child and his family of the  
21 Department's responsibility to offer and provide family  
22 preservation services as identified in the service plan. The  
23 child and his family shall be eligible for services as soon as  
24 the report is determined to be "indicated". The Department may  
25 offer services to any child or family with respect to whom a  
26 report of suspected child abuse or neglect has been filed,  
27 prior to concluding its investigation under Section 7.12 of the  
28 Abused and Neglected Child Reporting Act. However, the child's  
29 or family's willingness to accept services shall not be  
30 considered in the investigation. The Department may also  
31 provide services to any child or family who is the subject of  
32 any report of suspected child abuse or neglect or may refer  
33 such child or family to services available from other agencies  
34 in the community, even if the report is determined to be  
35 unfounded, if the conditions in the child's or family's home  
36 are reasonably likely to subject the child or family to future

1 reports of suspected child abuse or neglect. Acceptance of such  
2 services shall be voluntary.

3 The Department may, at its discretion except for those  
4 children also adjudicated neglected or dependent, accept for  
5 care and training any child who has been adjudicated addicted,  
6 as a truant minor in need of supervision or as a minor  
7 requiring authoritative intervention, under the Juvenile Court  
8 Act or the Juvenile Court Act of 1987, but no such child shall  
9 be committed to the Department by any court without the  
10 approval of the Department. A minor charged with a criminal  
11 offense under the Criminal Code of 1961 or adjudicated  
12 delinquent shall not be placed in the custody of or committed  
13 to the Department by any court, except a minor less than 13  
14 years of age committed to the Department under Section 5-710 of  
15 the Juvenile Court Act of 1987.

16 (1-1) The legislature recognizes that the best interests of  
17 the child require that the child be placed in the most  
18 permanent living arrangement as soon as is practically  
19 possible. To achieve this goal, the legislature directs the  
20 Department of Children and Family Services to conduct  
21 concurrent planning so that permanency may occur at the  
22 earliest opportunity. Permanent living arrangements may  
23 include prevention of placement of a child outside the home of  
24 the family when the child can be cared for at home without  
25 endangering the child's health or safety; reunification with  
26 the family, when safe and appropriate, if temporary placement  
27 is necessary; or movement of the child toward the most  
28 permanent living arrangement and permanent legal status.

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

33 When a child is placed in foster care, the Department shall  
34 ensure and document that reasonable efforts were made to  
35 prevent or eliminate the need to remove the child from the  
36 child's home. The Department must make reasonable efforts to



1 reunify the family when temporary placement of the child occurs  
2 unless otherwise required, pursuant to the Juvenile Court Act  
3 of 1987. At any time after the dispositional hearing where the  
4 Department believes that further reunification services would  
5 be ineffective, it may request a finding from the court that  
6 reasonable efforts are no longer appropriate. The Department is  
7 not required to provide further reunification services after  
8 such a finding.

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

15 The Department shall adopt rules addressing concurrent  
16 planning for reunification and permanency. The Department  
17 shall consider the following factors when determining  
18 appropriateness of concurrent planning:

19 (1) the likelihood of prompt reunification;

20 (2) the past history of the family;

21 (3) the barriers to reunification being addressed by  
22 the family;

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

24 (5) the foster parents' willingness to work with the  
25 family to reunite;

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

28 (7) the age of the child;

29 (8) placement of siblings.

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

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

1           (2) the child is found in the State and neither a  
2           parent, guardian nor custodian of the child can be located.  
3           If the child is found in his or her residence without a parent,  
4           guardian, custodian or responsible caretaker, the Department  
5           may, instead of removing the child and assuming temporary  
6           custody, place an authorized representative of the Department  
7           in that residence until such time as a parent, guardian or  
8           custodian enters the home and expresses a willingness and  
9           apparent ability to ensure the child's health and safety and  
10          resume permanent charge of the child, or until a relative  
11          enters the home and is willing and able to ensure the child's  
12          health and safety and assume charge of the child until a  
13          parent, guardian or custodian enters the home and expresses  
14          such willingness and ability to ensure the child's safety and  
15          resume permanent charge. After a caretaker has remained in the  
16          home for a period not to exceed 12 hours, the Department must  
17          follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
18          5-415 of the Juvenile Court Act of 1987.

19          The Department shall have the authority, responsibilities  
20          and duties that a legal custodian of the child would have  
21          pursuant to subsection (9) of Section 1-3 of the Juvenile Court  
22          Act of 1987. Whenever a child is taken into temporary custody  
23          pursuant to an investigation under the Abused and Neglected  
24          Child Reporting Act, or pursuant to a referral and acceptance  
25          under the Juvenile Court Act of 1987 of a minor in limited  
26          custody, the Department, during the period of temporary custody  
27          and before the child is brought before a judicial officer as  
28          required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile  
29          Court Act of 1987, shall have the authority, responsibilities  
30          and duties that a legal custodian of the child would have under  
31          subsection (9) of Section 1-3 of the Juvenile Court Act of  
32          1987.

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

36          A parent, guardian or custodian of a child in the temporary

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

16 (m-1) The Department may place children under 18 years of  
17 age in a secure child care facility licensed by the Department  
18 that cares for children who are in need of secure living  
19 arrangements for their health, safety, and well-being after a  
20 determination is made by the facility director and the Director  
21 or the Director's designate prior to admission to the facility  
22 subject to Section 2-27.1 of the Juvenile Court Act of 1987.  
23 This subsection (m-1) does not apply to a child who is subject  
24 to placement in a correctional facility operated pursuant to  
25 Section 3-15-2 of the Unified Code of Corrections, unless the  
26 child is a ward who was placed under the care of the Department  
27 before being subject to placement in a correctional facility  
28 and a court of competent jurisdiction has ordered placement of  
29 the child in a secure care facility.

30 (n) The Department may place children under 18 years of age  
31 in licensed child care facilities when in the opinion of the  
32 Department, appropriate services aimed at family preservation  
33 have been unsuccessful and cannot ensure the child's health and  
34 safety or are unavailable and such placement would be for their  
35 best interest. Payment for board, clothing, care, training and  
36 supervision of any child placed in a licensed child care

1 facility may be made by the Department, by the parents or  
2 guardians of the estates of those children, or by both the  
3 Department and the parents or guardians, except that no  
4 payments shall be made by the Department for any child placed  
5 in a licensed child care facility for board, clothing, care,  
6 training and supervision of such a child that exceed the  
7 average per capita cost of maintaining and of caring for a  
8 child in institutions for dependent or neglected children  
9 operated by the Department. However, such restriction on  
10 payments does not apply in cases where children require  
11 specialized care and treatment for problems of severe emotional  
12 disturbance, physical disability, social adjustment, or any  
13 combination thereof and suitable facilities for the placement  
14 of such children are not available at payment rates within the  
15 limitations set forth in this Section. All reimbursements for  
16 services delivered shall be absolutely inalienable by  
17 assignment, sale, attachment, garnishment or otherwise.

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

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

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

24           The Department shall set up and administer no-cost,  
25 interest-bearing accounts in appropriate financial  
26 institutions for children for whom the Department is legally  
27 responsible and who have been determined eligible for Veterans'  
28 Benefits, Social Security benefits, assistance allotments from  
29 the armed forces, court ordered payments, parental voluntary  
30 payments, Supplemental Security Income, Railroad Retirement  
31 payments, Black Lung benefits, or other miscellaneous  
32 payments. Interest earned by each account shall be credited to  
33 the account, unless disbursed in accordance with this  
34 subsection.

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

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

9           (2) Calculate on a monthly basis the amounts paid from  
10 State funds for the child's board and care, medical care  
11 not covered under Medicaid, and social services; and  
12 utilize funds from the child's account, as covered by  
13 regulation, to reimburse those costs. Monthly,  
14 disbursements from all children's accounts, up to 1/12 of  
15 \$13,000,000, shall be deposited by the Department into the  
16 General Revenue Fund and the balance over 1/12 of  
17 \$13,000,000 into the DCFS Children's Services Fund.

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

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

1 person seeking to adopt the child and of the child.

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

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

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

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

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

32 (u) In addition to other information that must be provided,  
33 whenever ~~whenever~~ the Department places a child with a  
34 prospective adoptive parent or parents or in a licensed foster  
35 home, group home, child care institution, or in a relative  
36 home, the Department shall provide to the prospective adoptive

1 parent or parents or other caretaker:

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

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

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

15 The caretaker shall be informed of any known social or  
16 behavioral information (including, but not limited to,  
17 criminal background, fire setting, perpetuation of sexual  
18 abuse, destructive behavior, and substance abuse) necessary to  
19 care for and safeguard the children to be placed or currently  
20 in the home child. The Department may prepare a written summary  
21 of the information required by this paragraph, which may be  
22 provided to the foster or prospective adoptive parent in  
23 advance of a placement. The foster or prospective adoptive  
24 parent may review the supporting documents in the child's file  
25 in the presence of casework staff. In the case of an emergency  
26 placement, casework staff shall at least provide known  
27 information verbally, if necessary, and must subsequently  
28 provide the information in writing as required by this  
29 subsection.

30 The information described in this subsection shall be  
31 provided in writing. In the case of emergency placements when  
32 time does not allow prior review, preparation, and collection  
33 of written information, the Department shall provide such  
34 information as it becomes available. Within 10 business days  
35 after placement, the Department shall obtain from the  
36 prospective adoptive parent or parents or other caretaker a



1 signed verification of receipt of the information provided.  
2 Within 10 business days after placement, the Department shall  
3 provide to the child's guardian ad litem a copy of the  
4 information provided to the prospective adoptive parent or  
5 parents or other caretaker. The information provided to the  
6 prospective adoptive parent or parents or other caretaker shall  
7 be reviewed and approved regarding accuracy at the supervisory  
8 level.

9 (u-5) Effective July 1, 1995, only foster care placements  
10 licensed as foster family homes pursuant to the Child Care Act  
11 of 1969 shall be eligible to receive foster care payments from  
12 the Department. Relative caregivers who, as of July 1, 1995,  
13 were approved pursuant to approved relative placement rules  
14 previously promulgated by the Department at 89 Ill. Adm. Code  
15 335 and had submitted an application for licensure as a foster  
16 family home may continue to receive foster care payments only  
17 until the Department determines that they may be licensed as a  
18 foster family home or that their application for licensure is  
19 denied or until September 30, 1995, whichever occurs first.

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

1 information access system and have access to the terminal. The  
2 Department of Children and Family Services and its employees  
3 shall abide by rules and regulations established by the  
4 Department of State Police relating to the access and  
5 dissemination of this information.

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

27 (Source: P.A. 94-215, eff. 1-1-06.)

28 (20 ILCS 505/5.30 new)

29 Sec. 5.30. Specialized care.

30 (a) Not later than July 1, 2007, the Department shall adopt  
31 a rule, or an amendment to a rule then in effect, regarding the  
32 provision of specialized care to a child in the custody or  
33 guardianship of the Department, or to a child being placed in a  
34 subsidized guardianship arrangement or under an adoption  
35 assistance agreement, who requires such services due to

1 emotional, behavioral, developmental, or medical needs, or any  
2 combination thereof, or any other needs which require special  
3 intervention services, the primary goal being to maintain the  
4 child in foster care or in a permanency setting. The rule or  
5 amendment to a rule shall establish, at a minimum, the  
6 criteria, standards, and procedures for the following:

7 (1) The determination that a child requires  
8 specialization.

9 (2) The determination of the level of care required to  
10 meet the child's special needs.

11 (3) The approval of a plan of care that will meet the  
12 child's special needs.

13 (4) The monitoring of the specialized care provided to  
14 the child and review of the plan to ensure quality of care  
15 and effectiveness in meeting the child's needs.

16 (5) The determination, approval, and implementation of  
17 amendments to the plan of care.

18 (6) The establishment and maintenance of the  
19 qualifications, including specialized training, of  
20 caretakers of specialized children.

21 The rule or amendment to a rule adopted under this  
22 subsection shall establish the minimum services to be provided  
23 to children eligible for specialized care under this Section.  
24 The Department shall also adopt rules providing for the  
25 training of Department and public or private agency staff  
26 involved in implementing the rule. Within 6 months after the  
27 effective date of this amendatory Act of the 94th General  
28 Assembly, the Director of Children and Family Services shall  
29 appoint a multidisciplinary advisory committee to advise the  
30 Department in developing and implementing the requirements of  
31 this Section. On or before September 1 of 2007 and each year  
32 thereafter, the Department shall submit to the General Assembly  
33 an annual report on the implementation of this Section.

34 (b) Not later than January 1, 2007, the Department shall  
35 adopt an emergency rule in accordance with the provisions of  
36 Section 5-45 of the Illinois Administrative Procedure Act,

1 regarding the provision of specialized care to children who are  
2 at that time in the custody or guardianship of the Department  
3 or who are to be placed in a subsidized guardianship  
4 arrangement or under an adoption assistance agreement. The  
5 emergency rule required by this subsection shall amend or  
6 replace the rules, policies, and procedures in effect  
7 immediately before the adoption of that emergency rule to  
8 incorporate criteria, standards, and procedures that are  
9 substantially similar to the criteria, standards, and  
10 procedures for determining eligibility and authorization for  
11 specialized foster care under Policy Guide 2001.03 (Review of  
12 Specialized and Treatment Foster Care Cases Level of Care  
13 Assessment) effective from February 15, 2001 through May 2,  
14 2002. For purposes of the Illinois Administrative Procedure  
15 Act, the adoption of rules to implement this Section as added  
16 by this amendatory Act of the 94th General Assembly shall be  
17 deemed an emergency and necessary for the public interest,  
18 safety, and welfare.

19 (c) No payments to caregivers in effect for the specialized  
20 treatment or care of a child, nor the level of care being  
21 provided to a child prior to the effective date of this  
22 amendatory Act of the 94th General Assembly, shall be reduced  
23 under the criteria, standards, and procedures adopted and  
24 implemented under this Section.

25 (20 ILCS 505/7.5 new)

26 Sec. 7.5. Notice of post-adoption reunion services.

27 (a) For purposes of this Section, "post-adoption reunion  
28 services" means services provided by the Department to  
29 facilitate contact between adoptees and their siblings when one  
30 or more is still in the Department's care or adopted elsewhere,  
31 with the notarized consent of the adoptive parents of a minor  
32 child, when such contact has been established to be necessary  
33 to the adoptee's best interests and when all involved parties,  
34 including the adoptive parent of a child under 21 years of age,  
35 have provided written consent for such contact.

1       (b) The Department shall provide to all adoptive parents of  
2 children receiving monthly adoption assistance under  
3 subsection (j) of Section 5 of this Act a notice that includes  
4 a description of the Department's post-adoption reunion  
5 services and an explanation of how to access those services.  
6 The notice to adoptive parents shall be provided at least once  
7 per year until such time as the adoption assistance payments  
8 cease.

9       The Department shall also provide to all former wards of  
10 the Department, at the time of their emancipation from foster  
11 care, the notice described in this Section.

12       (c) The Department shall adopt a rule regarding the  
13 provision of search and reunion services to wards and former  
14 wards.

15       (20 ILCS 505/25) (from Ch. 23, par. 5025)

16       Sec. 25. Grants, gifts, or legacies; Putative Father  
17 Registry fees.

18       (a) To accept and hold in behalf of the State, if for the  
19 public interest, a grant, gift or legacy of money or property  
20 to the State of Illinois, to the Department, or to any  
21 institution or program of the Department made in trust for the  
22 maintenance or support of a resident of an institution of the  
23 Department, or for any other legitimate purpose connected with  
24 such institution or program. The Department shall cause each  
25 gift, grant or legacy to be kept as a distinct fund, and shall  
26 invest the same in the manner provided by the laws of this  
27 State as the same now exist, or shall hereafter be enacted,  
28 relating to securities in which the deposit in savings banks  
29 may be invested. But the Department may, in its discretion,  
30 deposit in a proper trust company or savings bank, during the  
31 continuance of the trust, any fund so left in trust for the  
32 life of a person, and shall adopt rules and regulations  
33 governing the deposit, transfer, or withdrawal of such fund.  
34 The Department shall on the expiration of any trust as provided  
35 in any instrument creating the same, dispose of the fund

1 thereby created in the manner provided in such instrument. The  
2 Department shall include in its required reports a statement  
3 showing what funds are so held by it and the condition thereof.  
4 Monies found on residents at the time of their admission, or  
5 accruing to them during their period of institutional care, and  
6 monies deposited with the superintendents by relatives,  
7 guardians or friends of residents for the special comfort and  
8 pleasure of such resident, shall remain in the custody of such  
9 superintendents who shall act as trustees for disbursement to,  
10 in behalf of, or for the benefit of such resident. All types of  
11 retirement and pension benefits from private and public sources  
12 may be paid directly to the superintendent of the institution  
13 where the person is a resident, for deposit to the resident's  
14 trust fund account.

15 (b) The Department shall hold all Putative Father Registry  
16 fees collected under Section 12.1 of the Adoption Act in a  
17 distinct fund for the Department's use in maintaining the  
18 Putative Father Registry. The Department shall invest the  
19 moneys in the fund in the same manner as moneys in the funds  
20 described in subsection (a) and shall include in its required  
21 reports a statement showing the condition of the fund.

22 (Source: P.A. 83-1362.)

23 (20 ILCS 505/35.1) (from Ch. 23, par. 5035.1)

24 Sec. 35.1. The case and clinical records of patients in  
25 Department supervised facilities, wards of the Department,  
26 children receiving or applying for child welfare services,  
27 persons receiving or applying for other services of the  
28 Department, and Department reports of injury or abuse to  
29 children shall not be open to the general public. Such case and  
30 clinical records and reports or the information contained  
31 therein shall be disclosed by the Director of the Department to  
32 juvenile authorities when necessary for the discharge of their  
33 official duties who request information concerning the minor  
34 and who certify in writing that the information will not be  
35 disclosed to any other party except as provided under law or

1 order of court. For purposes of this Section, "juvenile  
2 authorities" means: (i) a judge of the circuit court and  
3 members of the staff of the court designated by the judge; (ii)  
4 parties to the proceedings under the Juvenile Court Act of 1987  
5 and their attorneys; (iii) probation officers and court  
6 appointed advocates for the juvenile authorized by the judge  
7 hearing the case; (iv) any individual, public or private agency  
8 having custody of the child pursuant to court order or pursuant  
9 to placement of the child by the Department; (v) any  
10 individual, public or private agency providing education,  
11 medical or mental health service to the child when the  
12 requested information is needed to determine the appropriate  
13 service or treatment for the minor; (vi) any potential  
14 placement provider when such release is authorized by the court  
15 for the limited purpose of determining the appropriateness of  
16 the potential placement; (vii) law enforcement officers and  
17 prosecutors; (viii) adult and juvenile prisoner review boards;  
18 (ix) authorized military personnel; (x) individuals authorized  
19 by court; (xi) the Illinois General Assembly or any committee  
20 or commission thereof. This Section does not apply to the  
21 Department's fiscal records, other records of a purely  
22 administrative nature, or any forms, documents or other records  
23 required of facilities subject to licensure by the Department  
24 except as may otherwise be provided under the Child Care Act of  
25 1969.

26 Nothing contained in this Act prevents the sharing or  
27 disclosure of information or records relating or pertaining to  
28 juveniles subject to the provisions of the Serious Habitual  
29 Offender Comprehensive Action Program when that information is  
30 used to assist in the early identification and treatment of  
31 habitual juvenile offenders.

32 Nothing contained in this Act prevents the sharing or  
33 disclosure of information or records relating or pertaining to  
34 the death of a minor under the care of or receiving services  
35 from the Department and under the jurisdiction of the juvenile  
36 court with the juvenile court, the State's Attorney, and the

1 minor's attorney.

2 Nothing contained in this Section prohibits or prevents any  
3 individual dealing with or providing services to a minor from  
4 sharing information with another individual dealing with or  
5 providing services to a minor for the purpose of coordinating  
6 efforts on behalf of the minor. The sharing of such information  
7 is only for the purpose stated herein and is to be consistent  
8 with the intent and purpose of the confidentiality provisions  
9 of the Juvenile Court Act of 1987. This provision does not  
10 abrogate any recognized privilege. Sharing information does  
11 not include copying of records, reports or case files unless  
12 authorized herein.

13 Nothing in this Section prohibits or prevents the  
14 re-disclosure of records, reports, or other information that  
15 reveals malfeasance or nonfeasance on the part of the  
16 Department, its employees, or its agents. Nothing in this  
17 Section prohibits or prevents the Department or a party in a  
18 proceeding under the Juvenile Court Act of 1987 from copying  
19 records, reports, or case files for the purpose of sharing  
20 those documents with other parties to the litigation.

21 (Source: P.A. 90-15, eff. 6-13-97; 90-590, eff. 1-1-00; 91-812,  
22 eff. 6-13-00.)

23 Section 10. The Foster Parent Law is amended by changing  
24 Section 1-15 as follows:

25 (20 ILCS 520/1-15)

26 Sec. 1-15. Foster parent rights. A foster parent's rights  
27 include, but are not limited to, the following:

28 (1) The right to be treated with dignity, respect, and  
29 consideration as a professional member of the child welfare  
30 team.

31 (2) The right to be given standardized pre-service  
32 training and appropriate ongoing training to meet mutually  
33 assessed needs and improve the foster parent's skills.

34 (3) The right to be informed as to how to contact the



1 appropriate child placement agency in order to receive  
2 information and assistance to access supportive services  
3 for children in the foster parent's care.

4 (4) The right to receive timely financial  
5 reimbursement commensurate with the care needs of the child  
6 as specified in the service plan.

7 (5) The right to be provided a clear, written  
8 understanding of a placement agency's plan concerning the  
9 placement of a child in the foster parent's home. Inherent  
10 in this right is the foster parent's responsibility to  
11 support activities that will promote the child's right to  
12 relationships with his or her own family and cultural  
13 heritage.

14 (6) The right to be provided a fair, timely, and  
15 impartial investigation of complaints concerning the  
16 foster parent's licensure, to be provided the opportunity  
17 to have a person of the foster parent's choosing present  
18 during the investigation, and to be provided due process  
19 during the investigation; the right to be provided the  
20 opportunity to request and receive mediation or an  
21 administrative review of decisions that affect licensing  
22 parameters, or both mediation and an administrative  
23 review; and the right to have decisions concerning a  
24 licensing corrective action plan specifically explained  
25 and tied to the licensing standards violated.

26 (7) The right, at any time during which a child is  
27 placed with the foster parent, to receive additional or  
28 necessary information that is relevant to the care of the  
29 child.

30 (7.5) The right to be given information concerning a  
31 child (i) from the Department as required under subsection  
32 (u) of Section 5 of the Children and Family Services Act  
33 and (ii) from a child welfare agency as required under  
34 subsection (c-5) of Section 7.4 of the Child Care Act of  
35 1969.

36 (8) The right to be notified of scheduled meetings and

1 staffings concerning the foster child in order to actively  
2 participate in the case planning and decision-making  
3 process regarding the child, including individual service  
4 planning meetings, administrative case reviews,  
5 interdisciplinary staffings, and individual educational  
6 planning meetings; the right to be informed of decisions  
7 made by the courts or the child welfare agency concerning  
8 the child; the right to provide input concerning the plan  
9 of services for the child and to have that input given full  
10 consideration in the same manner as information presented  
11 by any other professional on the team; and the right to  
12 communicate with other professionals who work with the  
13 foster child within the context of the team, including  
14 therapists, physicians, and teachers.

15 (9) The right to be given, in a timely and consistent  
16 manner, any information a case worker has regarding the  
17 child and the child's family which is pertinent to the care  
18 and needs of the child and to the making of a permanency  
19 plan for the child. Disclosure of information concerning  
20 the child's family shall be limited to that information  
21 that is essential for understanding the needs of and  
22 providing care to the child in order to protect the rights  
23 of the child's family. When a positive relationship exists  
24 between the foster parent and the child's family, the  
25 child's family may consent to disclosure of additional  
26 information.

27 (10) The right to be given reasonable written notice of  
28 (i) any change in a child's case plan, (ii) plans to  
29 terminate the placement of the child with the foster  
30 parent, and (iii) the reasons for the change or termination  
31 in placement. The notice shall be waived only in cases of a  
32 court order or when the child is determined to be at  
33 imminent risk of harm.

34 (11) The right to be notified in a timely and complete  
35 manner of all court hearings, including notice of the date  
36 and time of the court hearing, the name of the judge or

1 hearing officer hearing the case, the location of the  
2 hearing, and the court docket number of the case; and the  
3 right to intervene in court proceedings or to seek mandamus  
4 under the Juvenile Court Act of 1987.

5 (12) The right to be considered as a placement option  
6 when a foster child who was formerly placed with the foster  
7 parent is to be re-entered into foster care, if that  
8 placement is consistent with the best interest of the child  
9 and other children in the foster parent's home.

10 (13) The right to have timely access to the child  
11 placement agency's existing appeals process and the right  
12 to be free from acts of harassment and retaliation by any  
13 other party when exercising the right to appeal.

14 (14) The right to be informed of the Foster Parent  
15 Hotline established under Section 35.6 of the Children and  
16 Family Services Act and all of the rights accorded to  
17 foster parents concerning reports of misconduct by  
18 Department employees, service providers, or contractors,  
19 confidential handling of those reports, and investigation  
20 by the Inspector General appointed under Section 35.5 of  
21 the Children and Family Services Act.

22 (Source: P.A. 89-19, eff. 6-3-95.)

23 Section 15. The Child Care Act of 1969 is amended by  
24 changing Sections 7.4, 8, and 15 as follows:

25 (225 ILCS 10/7.4)

26 Sec. 7.4. Disclosures.

27 (a) Every child welfare agency providing adoption services  
28 and licensed by the Department shall provide to all prospective  
29 clients and to the public written disclosures with respect to  
30 its adoption services, policies, and practices, including  
31 general eligibility criteria, fees, and the mutual rights and  
32 responsibilities of clients, including biological parents and  
33 adoptive parents. The written disclosure shall be posted on any  
34 website maintained by the child welfare agency that relates to

1 adoption services. The Department shall adopt rules relating to  
2 the contents of the written disclosures. Eligible agencies may  
3 be deemed compliant with this subsection (a).

4 (b) Every licensed child welfare agency providing adoption  
5 services shall provide to all applicants, prior to application,  
6 a written schedule of estimated fees, expenses, and refund  
7 policies. Every child welfare agency providing adoption  
8 services shall have a written policy that shall be part of its  
9 standard adoption contract and state that it will not charge  
10 additional fees and expenses beyond those disclosed in the  
11 adoption contract unless additional fees are reasonably  
12 required by the circumstances and are disclosed to the adoptive  
13 parents or parent before they are incurred. The Department  
14 shall adopt rules relating to the contents of the written  
15 schedule and policy. Eligible agencies may be deemed compliant  
16 with this subsection (b).

17 (c) Every licensed child welfare agency providing adoption  
18 services must make full and fair disclosure to its clients,  
19 including biological parents and adoptive parents, of all  
20 circumstances material to the placement of a child for  
21 adoption. The Department shall adopt rules necessary for the  
22 implementation and regulation of the requirements of this  
23 subsection (c).

24 (c-5) Whenever a licensed child welfare agency places a  
25 child in a licensed foster family home, the agency shall  
26 provide the following to the caretaker:

27 (1) Available detailed information concerning the  
28 child's educational and health history, copies of  
29 immunization records (including insurance and medical card  
30 information), a history of the child's previous  
31 placements, if any, and reasons for placement changes,  
32 excluding any information that identifies or reveals the  
33 location of any previous caretaker.

34 (2) A copy of the child's portion of the client service  
35 plan, including any visitation arrangement, and all  
36 amendments or revisions to it as related to the child.

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

4           (4) Any known social or behavioral information  
5           (including, but not limited to, criminal background, fire  
6           setting, perpetration of sexual abuse, destructive  
7           behavior, and substance abuse) necessary to care for and  
8           safeguard the child.

9           The agency may prepare a written summary of the information  
10          required by this subsection, which may be provided to the  
11          foster or prospective adoptive parent in advance of a  
12          placement. The foster or prospective adoptive parent may review  
13          the supporting documents in the child's file in the presence of  
14          casework staff. In the case of an emergency placement, casework  
15          staff shall at least provide information verbally, if  
16          necessary, and must subsequently provide the information in  
17          writing as required by this subsection. In the case of  
18          emergency placements when time does not allow prior review,  
19          preparation, and collection of written information, the agency  
20          shall provide such information as it becomes available.

21          The Department shall adopt rules necessary for the  
22          implementation and regulation of the requirements of this  
23          subsection (c-5).

24          (d) Every licensed child welfare agency providing adoption  
25          services shall meet minimum standards set forth by the  
26          Department concerning the taking or acknowledging of a consent  
27          prior to taking or acknowledging a consent from a prospective  
28          biological parent. The Department shall adopt rules concerning  
29          the minimum standards required by agencies under this Section.

30          (Source: P.A. 94-586, eff. 8-15-05.)

31               (225 ILCS 10/8) (from Ch. 23, par. 2218)

32          Sec. 8. The Department may revoke or refuse to renew the  
33          license of any child care facility or child welfare agency or  
34          refuse to issue full license to the holder of a permit should  
35          the licensee or holder of a permit:

1 (1) fail to maintain standards prescribed and  
2 published by the Department;

3 (2) violate any of the provisions of the license  
4 issued;

5 (3) furnish or make any misleading or any false  
6 statement or report to the Department;

7 (4) refuse to submit to the Department any reports or  
8 refuse to make available to the Department any records  
9 required by the Department in making investigation of the  
10 facility for licensing purposes;

11 (5) fail or refuse to submit to an investigation by the  
12 Department;

13 (6) fail or refuse to admit authorized representatives  
14 of the Department at any reasonable time for the purpose of  
15 investigation;

16 (7) fail to provide, maintain, equip and keep in safe  
17 and sanitary condition premises established or used for  
18 child care as required under standards prescribed by the  
19 Department, or as otherwise required by any law, regulation  
20 or ordinance applicable to the location of such facility;

21 (8) refuse to display its license or permit;

22 (9) be the subject of an indicated report under Section  
23 3 of the Abused and Neglected Child Reporting Act or fail  
24 to discharge or sever affiliation with the child care  
25 facility of an employee or volunteer at the facility with  
26 direct contact with children who is the subject of an  
27 indicated report under Section 3 of that Act;

28 (10) fail to comply with the provisions of Section 7.1;

29 (11) fail to exercise reasonable care in the hiring,  
30 training and supervision of facility personnel;

31 (12) fail to report suspected abuse or neglect of  
32 children within the facility, as required by the Abused and  
33 Neglected Child Reporting Act;

34 (12.5) fail to comply with subsection (c-5) of Section  
35 7.4;

36 (13) fail to comply with Section 5.1 or 5.2 of this

1 Act; or

2 (14) be identified in an investigation by the  
3 Department as an addict or alcoholic, as defined in the  
4 Alcoholism and Other Drug Abuse and Dependency Act, or be a  
5 person whom the Department knows has abused alcohol or  
6 drugs, and has not successfully participated in treatment,  
7 self-help groups or other suitable activities, and the  
8 Department determines that because of such abuse the  
9 licensee, holder of the permit, or any other person  
10 directly responsible for the care and welfare of the  
11 children served, does not comply with standards relating to  
12 character, suitability or other qualifications established  
13 under Section 7 of this Act.

14 (Source: P.A. 94-586, eff. 8-15-05.)

15 (225 ILCS 10/15) (from Ch. 23, par. 2225)

16 Sec. 15. Every child care facility must keep and maintain  
17 such records as the Department may prescribe pertaining to the  
18 admission, progress, health and discharge of children under the  
19 care of the facility and shall report relative thereto to the  
20 Department whenever called for, upon forms prescribed by the  
21 Department. All records regarding children and all facts  
22 learned about children and their relatives must be kept  
23 confidential both by the child care facility and by the  
24 Department.

25 Nothing contained in this Act prevents the sharing or  
26 disclosure of information or records relating or pertaining to  
27 juveniles subject to the provisions of the Serious Habitual  
28 Offender Comprehensive Action Program when that information is  
29 used to assist in the early identification and treatment of  
30 habitual juvenile offenders.

31 Nothing contained in this Act prevents the disclosure of  
32 information or records by a licensed child welfare agency as  
33 required under subsection (c-5) of Section 7.4.

34 (Source: P.A. 87-928.)

1 Section 20. The Abused and Neglected Child Reporting Act is  
2 amended by changing Section 11.1 as follows:

3 (325 ILCS 5/11.1) (from Ch. 23, par. 2061.1)

4 Sec. 11.1. Access to records.

5 (a) A person shall have access to the records described in  
6 Section 11 only in furtherance of purposes directly connected  
7 with the administration of this Act or the Intergovernmental  
8 Missing Child Recovery Act of 1984. Those persons and purposes  
9 for access include:

10 (1) Department staff in the furtherance of their  
11 responsibilities under this Act, or for the purpose of  
12 completing background investigations on persons or  
13 agencies licensed by the Department or with whom the  
14 Department contracts for the provision of child welfare  
15 services.

16 (2) A law enforcement agency investigating known or  
17 suspected child abuse or neglect, known or suspected  
18 involvement with child pornography, known or suspected  
19 criminal sexual assault, known or suspected criminal  
20 sexual abuse, or any other sexual offense when a child is  
21 alleged to be involved.

22 (3) The Department of State Police when administering  
23 the provisions of the Intergovernmental Missing Child  
24 Recovery Act of 1984.

25 (4) A physician who has before him a child whom he  
26 reasonably suspects may be abused or neglected.

27 (5) A person authorized under Section 5 of this Act to  
28 place a child in temporary protective custody when such  
29 person requires the information in the report or record to  
30 determine whether to place the child in temporary  
31 protective custody.

32 (6) A person having the legal responsibility or  
33 authorization to care for, treat, or supervise a child, or  
34 a parent, prospective adoptive parent, foster parent,  
35 guardian, or other person responsible for the child's



1 welfare, who is the subject of a report.

2 (7) Except in regard to harmful or detrimental  
3 information as provided in Section 7.19, any subject of the  
4 report, and if the subject of the report is a minor, his  
5 guardian or guardian ad litem.

6 (8) A court, upon its finding that access to such  
7 records may be necessary for the determination of an issue  
8 before such court; however, such access shall be limited to  
9 in camera inspection, unless the court determines that  
10 public disclosure of the information contained therein is  
11 necessary for the resolution of an issue then pending  
12 before it.

13 (8.1) A probation officer or other authorized  
14 representative of a probation or court services department  
15 conducting an investigation ordered by a court under the  
16 Juvenile Court Act of 1987.

17 (9) A grand jury, upon its determination that access to  
18 such records is necessary in the conduct of its official  
19 business.

20 (10) Any person authorized by the Director, in writing,  
21 for audit or bona fide research purposes.

22 (11) Law enforcement agencies, coroners or medical  
23 examiners, physicians, courts, school superintendents and  
24 child welfare agencies in other states who are responsible  
25 for child abuse or neglect investigations or background  
26 investigations.

27 (12) The Department of Professional Regulation, the  
28 State Board of Education and school superintendents in  
29 Illinois, who may use or disclose information from the  
30 records as they deem necessary to conduct investigations or  
31 take disciplinary action, as provided by law.

32 (13) A coroner or medical examiner who has reason to  
33 believe that a child has died as the result of abuse or  
34 neglect.

35 (14) The Director of a State-operated facility when an  
36 employee of that facility is the perpetrator in an

1 indicated report.

2 (15) The operator of a licensed child care facility or  
3 a facility licensed by the Department of Human Services (as  
4 successor to the Department of Alcoholism and Substance  
5 Abuse) in which children reside when a current or  
6 prospective employee of that facility is the perpetrator in  
7 an indicated child abuse or neglect report, pursuant to  
8 Section 4.3 of the Child Care Act of 1969.

9 (16) Members of a multidisciplinary team in the  
10 furtherance of its responsibilities under subsection (b)  
11 of Section 7.1. All reports concerning child abuse and  
12 neglect made available to members of such  
13 multidisciplinary teams and all records generated as a  
14 result of such reports shall be confidential and shall not  
15 be disclosed, except as specifically authorized by this Act  
16 or other applicable law. It is a Class A misdemeanor to  
17 permit, assist or encourage the unauthorized release of any  
18 information contained in such reports or records. Nothing  
19 contained in this Section prevents the sharing of reports  
20 or records relating or pertaining to the death of a minor  
21 under the care of or receiving services from the Department  
22 of Children and Family Services and under the jurisdiction  
23 of the juvenile court with the juvenile court, the State's  
24 Attorney, and the minor's attorney.

25 (17) The Department of Human Services, as provided in  
26 Section 17 of the Disabled Persons Rehabilitation Act.

27 (18) Any other agency or investigative body, including  
28 the Department of Public Health and a local board of  
29 health, authorized by State law to conduct an investigation  
30 into the quality of care provided to children in hospitals  
31 and other State regulated care facilities. The access to  
32 and release of information from such records shall be  
33 subject to the approval of the Director of the Department  
34 or his designee.

35 (19) The person appointed, under Section 2-17 of the  
36 Juvenile Court Act of 1987, as the guardian ad litem of a

1 minor who is the subject of a report or records under this  
2 Act.

3 (20) The Department of Human Services, as provided in  
4 Section 10 of the Early Intervention Services System Act,  
5 and the operator of a facility providing early intervention  
6 services pursuant to that Act, for the purpose of  
7 determining whether a current or prospective employee who  
8 provides or may provide direct services under that Act is  
9 the perpetrator in an indicated report of child abuse or  
10 neglect filed under this Act.

11 (b) Nothing contained in this Act prevents the sharing or  
12 disclosure of information or records relating or pertaining to  
13 juveniles subject to the provisions of the Serious Habitual  
14 Offender Comprehensive Action Program when that information is  
15 used to assist in the early identification and treatment of  
16 habitual juvenile offenders.

17 (c) To the extent that persons or agencies are given access  
18 to information pursuant to this Section, those persons or  
19 agencies may give this information to and receive this  
20 information from each other in order to facilitate an  
21 investigation conducted by those persons or agencies.

22 (Source: P.A. 93-147, eff. 1-1-04.)

23 Section 25. The Mental Health and Developmental  
24 Disabilities Confidentiality Act is amended by changing  
25 Section 11 as follows:

26 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

27 Sec. 11. Disclosure of records and communications. Records  
28 and communications may be disclosed:

29 (i) in accordance with the provisions of the Abused and  
30 Neglected Child Reporting Act, the Standards for Privacy of  
31 Individually Identifiable Health Information adopted by  
32 the U.S. Department of Health and Human Services under the  
33 Health Insurance Portability and Accountability Act of  
34 1996, subsection (u) of Section 5 of the Children and

1 Family Services Act, or Section 7.4 of the Child Care Act  
2 of 1969;

3 (ii) when, and to the extent, a therapist, in his or  
4 her sole discretion, determines that disclosure is  
5 necessary to initiate or continue civil commitment  
6 proceedings under the laws of this State or to otherwise  
7 protect the recipient or other person against a clear,  
8 imminent risk of serious physical or mental injury or  
9 disease or death being inflicted upon the recipient or by  
10 the recipient on himself or another;

11 (iii) when, and to the extent disclosure is, in the  
12 sole discretion of the therapist, necessary to the  
13 provision of emergency medical care to a recipient who is  
14 unable to assert or waive his or her rights hereunder;

15 (iv) when disclosure is necessary to collect sums or  
16 receive third party payment representing charges for  
17 mental health or developmental disabilities services  
18 provided by a therapist or agency to a recipient under  
19 Chapter V of the Mental Health and Developmental  
20 Disabilities Code or to transfer debts under the  
21 Uncollected State Claims Act; however, disclosure shall be  
22 limited to information needed to pursue collection, and the  
23 information so disclosed shall not be used for any other  
24 purposes nor shall it be redisclosed except in connection  
25 with collection activities;

26 (v) when requested by a family member, the Department  
27 of Human Services may assist in the location of the  
28 interment site of a deceased recipient who is interred in a  
29 cemetery established under Section 100-26 of the Mental  
30 Health and Developmental Disabilities Administrative Act;

31 (vi) in judicial proceedings under Article VIII of  
32 Chapter III and Article V of Chapter IV of the Mental  
33 Health and Developmental Disabilities Code and proceedings  
34 and investigations preliminary thereto, to the State's  
35 Attorney for the county or residence of a person who is the  
36 subject of such proceedings, or in which the person is

1 found, or in which the facility is located, to the attorney  
2 representing the recipient in the judicial proceedings, to  
3 any person or agency providing mental health services that  
4 are the subject of the proceedings and to that person's or  
5 agency's attorney, to any court personnel, including but  
6 not limited to judges and circuit court clerks, and to a  
7 guardian ad litem if one has been appointed by the court,  
8 provided that the information so disclosed shall not be  
9 utilized for any other purpose nor be redisclosed except in  
10 connection with the proceedings or investigations;

11 (vii) when, and to the extent disclosure is necessary  
12 to comply with the requirements of the Census Bureau in  
13 taking the federal Decennial Census;

14 (viii) when, and to the extent, in the therapist's sole  
15 discretion, disclosure is necessary to warn or protect a  
16 specific individual against whom a recipient has made a  
17 specific threat of violence where there exists a  
18 therapist-recipient relationship or a special  
19 recipient-individual relationship;

20 (ix) in accordance with the Sex Offender Registration  
21 Act; and

22 (x) in accordance with the Rights of Crime Victims and  
23 Witnesses Act.

24 Any person, institution, or agency, under this Act,  
25 participating in good faith in the making of a report under the  
26 Abused and Neglected Child Reporting Act or in the disclosure  
27 of records and communications under this Section, shall have  
28 immunity from any liability, civil, criminal or otherwise, that  
29 might result by reason of such action. For the purpose of any  
30 proceeding, civil or criminal, arising out of a report or  
31 disclosure under this Section, the good faith of any person,  
32 institution, or agency so reporting or disclosing shall be  
33 presumed.

34 (Source: P.A. 90-423, eff. 8-15-97; 90-538, eff. 12-1-97;  
35 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

1 Section 30. The Adoption Act is amended by changing  
2 Sections 12.1 and 18.3a as follows:

3 (750 ILCS 50/12.1)

4 Sec. 12.1. Putative Father Registry. The Department of  
5 Children and Family Services shall establish a Putative Father  
6 Registry for the purpose of determining the identity and  
7 location of a putative father of a minor child who is, or is  
8 expected to be, the subject of an adoption proceeding, in order  
9 to provide notice of such proceeding to the putative father.  
10 The Department of Children and Family Services shall establish  
11 rules and informational material necessary to implement the  
12 provisions of this Section. The Department shall have the  
13 authority to set reasonable fees for the use of the Registry.  
14 All such fees for the use of the Registry that are received by  
15 the Department or its agent shall be deposited into the fund  
16 authorized under subsection (b) of Section 25 of the Children  
17 and Family Services Act. The Department shall use the moneys in  
18 that fund for the purpose of maintaining the Registry.

19 (a) The Department shall maintain the following  
20 information in the Registry:

21 (1) With respect to the putative father:

22 (i) Name, including any other names by which the  
23 putative father may be known and that he may provide to  
24 the Registry;

25 (ii) Address at which he may be served with notice  
26 of a petition under this Act, including any change of  
27 address;

28 (iii) Social Security Number;

29 (iv) Date of birth; and

30 (v) If applicable, a certified copy of an order by  
31 a court of this State or of another state or territory  
32 of the United States adjudicating the putative father  
33 to be the father of the child.

34 (2) With respect to the mother of the child:

35 (i) Name, including all other names known to the

1 putative father by which the mother may be known;

2 (ii) If known to the putative father, her last  
3 address;

4 (iii) Social Security Number; and

5 (iv) Date of birth.

6 (3) If known to the putative father, the name, gender,  
7 place of birth, and date of birth or anticipated date of  
8 birth of the child.

9 (4) The date that the Department received the putative  
10 father's registration.

11 (5) Other information as the Department may by rule  
12 determine necessary for the orderly administration of the  
13 Registry.

14 (b) A putative father may register with the Department  
15 before the birth of the child but shall register no later than  
16 30 days after the birth of the child. All registrations shall  
17 be in writing and signed by the putative father. No fee shall  
18 be charged for the initial registration. The Department shall  
19 have no independent obligation to gather the information to be  
20 maintained.

21 (c) An interested party, including persons intending to  
22 adopt a child, a child welfare agency with whom the mother has  
23 placed or has given written notice of her intention to place a  
24 child for adoption, the mother of the child, or an attorney  
25 representing an interested party may request that the  
26 Department search the Registry to determine whether a putative  
27 father is registered in relation to a child who is or may be  
28 the subject to an adoption petition.

29 (d) A search of the Registry may be proven by the  
30 production of a certified copy of the registration form, or by  
31 the certified statement of the administrator of the Registry  
32 that after a search, no registration of a putative father in  
33 relation to a child who is or may be the subject of an adoption  
34 petition could be located.

35 (e) Except as otherwise provided, information contained  
36 within the Registry is confidential and shall not be published

1 or open to public inspection.

2 (f) A person who knowingly or intentionally registers false  
3 information under this Section commits a Class B misdemeanor. A  
4 person who knowingly or intentionally releases confidential  
5 information in violation of this Section commits a Class B  
6 misdemeanor.

7 (g) Except as provided in subsections (b) or (c) of Section  
8 of this Act, a putative father who fails to register with the  
9 Putative Father Registry as provided in this Section is barred  
10 from thereafter bringing or maintaining any action to assert  
11 any interest in the child, unless he proves by clear and  
12 convincing evidence that:

13 (1) it was not possible for him to register within the  
14 period of time specified in subsection (b) of this Section;

15 and

16 (2) his failure to register was through no fault of his  
17 own; and

18 (3) he registered within 10 days after it became  
19 possible for him to file.

20 A lack of knowledge of the pregnancy or birth is not an  
21 acceptable reason for failure to register.

22 (h) Except as provided in subsection (b) or (c) of Section  
23 8 of this Act, failure to timely register with the Putative  
24 Father Registry (i) shall be deemed to be a waiver and  
25 surrender of any right to notice of any hearing in any judicial  
26 proceeding for the adoption of the child, and the consent or  
27 surrender of that person to the adoption of the child is not  
28 required, and (ii) shall constitute an abandonment of the child  
29 and shall be prima facie evidence of sufficient grounds to  
30 support termination of such father's parental rights under this  
31 Act.

32 (i) In any adoption proceeding pertaining to a child born  
33 out of wedlock, if there is no showing that a putative father  
34 has executed a consent or surrender or waived his rights  
35 regarding the proposed adoption, certification as specified in  
36 subsection (d) shall be filed with the court prior to entry of



1 a final judgment order of adoption.

2 (j) The Registry shall not be used to notify a putative  
3 father who is the father of a child as a result of criminal  
4 sexual abuse or assault as defined under Article 12 of the  
5 Criminal Code of 1961.

6 (Source: P.A. 89-315, eff. 1-1-96; 90-15, eff. 6-13-97.)

7 (750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

8 Sec. 18.3a. Confidential intermediary.

9 (a) General purposes. Notwithstanding any other provision  
10 of this Act, any adopted or surrendered person 21 years of age  
11 or over, any adoptive parent or legal guardian of an adopted or  
12 surrendered person under the age of 21, or any birth parent of  
13 an adopted or surrendered person who is 21 years of age or over  
14 may petition the court in any county in the State of Illinois  
15 for appointment of a confidential intermediary as provided in  
16 this Section for the purpose of exchanging medical information  
17 with one or more mutually consenting biological relatives,  
18 obtaining identifying information about one or more mutually  
19 consenting biological relatives, or arranging contact with one  
20 or more mutually consenting biological relatives.  
21 Additionally, in cases where an adopted or surrendered person  
22 is deceased, an adult child of the adopted or surrendered  
23 person or his or her adoptive parents or surviving spouse may  
24 file a petition under this Section and in cases where the birth  
25 parent is deceased, an adult birth sibling of the adopted or  
26 surrendered person or of the deceased birth parent may file a  
27 petition under this Section for the purpose of exchanging  
28 medical information with one or more mutually consenting  
29 biological relatives of the adopted or surrendered person,  
30 obtaining identifying information about one or more mutually  
31 consenting biological relatives of the adopted or surrendered  
32 person, or arranging contact with one or more mutually  
33 consenting biological relatives of the adopted or surrendered  
34 person. Beginning January 1, 2006, any adopted or surrendered  
35 person 21 years of age or over; any adoptive parent or legal

1 guardian of an adopted or surrendered person under the age of  
2 21; any birth parent, birth sibling, birth aunt, or birth uncle  
3 of an adopted or surrendered person over the age of 21; any  
4 surviving child, adoptive parent, or surviving spouse of a  
5 deceased adopted or surrendered person who wishes to petition  
6 the court for the appointment of a confidential intermediary  
7 shall be required to accompany their petition with proof of  
8 registration with the Illinois Adoption Registry and Medical  
9 Information Exchange.

10 (b) Petition. Upon petition by an adopted or surrendered  
11 person 21 years of age or over, an adoptive parent or legal  
12 guardian of an adopted or surrendered person under the age of  
13 21, or a birth parent of an adopted or surrendered person who  
14 is 21 years of age or over, the court shall appoint a  
15 confidential intermediary. Upon petition by an adult child,  
16 adoptive parent or surviving spouse of an adopted or  
17 surrendered person who is deceased, by an adult birth sibling  
18 of an adopted or surrendered person whose common birth parent  
19 is deceased and whose adopted or surrendered birth sibling is  
20 21 years of age or over, or by an adult sibling of a birth  
21 parent who is deceased, and whose surrendered child is 21 years  
22 of age or over, the court may appoint a confidential  
23 intermediary if the court finds that the disclosure is of  
24 greater benefit than nondisclosure. The petition shall state  
25 which biological relative or relatives are being sought and  
26 shall indicate if the petitioner wants to do any one or more of  
27 the following: exchange medical information with the  
28 biological relative or relatives, obtain identifying  
29 information from the biological relative or relatives, or to  
30 arrange contact with the biological relative.

31 (c) Order. The order appointing the confidential  
32 intermediary shall allow that intermediary to conduct a search  
33 for the sought-after relative by accessing those records  
34 described in subsection (g) of this Section.

35 (d) Fees and expenses. The court shall condition the  
36 appointment of the confidential intermediary on the

1 petitioner's payment of the intermediary's fees and expenses in  
2 advance of the commencement of the work of the confidential  
3 intermediary.

4 (e) Eligibility of intermediary. The court may appoint as  
5 confidential intermediary any person certified by the  
6 Department of Children and Family Services as qualified to  
7 serve as a confidential intermediary. Certification shall be  
8 dependent upon the confidential intermediary completing a  
9 course of training including, but not limited to, applicable  
10 federal and State privacy laws.

11 (f) Confidential Intermediary Council. There shall be  
12 established under the Department of Children and Family  
13 Services a Confidential Intermediary Advisory Council. One  
14 member shall be an attorney representing the Attorney General's  
15 Office appointed by the Attorney General. One member shall be a  
16 currently certified confidential intermediary appointed by the  
17 Director of the Department of Children and Family Services. The  
18 Director shall also appoint 5 additional members. When making  
19 those appointments, the Director shall consider advocates for  
20 adopted persons, adoptive parents, birth parents, lawyers who  
21 represent clients in private adoptions, lawyers specializing  
22 in privacy law, and representatives of agencies involved in  
23 adoptions. The Director shall appoint one of the 7 members as  
24 the chairperson. An attorney from the Department of Children  
25 and Family Services and the person directly responsible for  
26 administering the confidential intermediary program shall  
27 serve as ex-officio, non-voting advisors to the Council.  
28 Council members shall serve at the discretion of the Director  
29 and shall receive no compensation other than reasonable  
30 expenses approved by the Director. The Council shall meet no  
31 less than twice yearly, and shall make recommendations to the  
32 Director regarding the development of rules, procedures, and  
33 forms that will ensure efficient and effective operation of the  
34 confidential intermediary process, including:

35 (1) Standards for certification for confidential  
36 intermediaries.

1           (2) Oversight of methods used to verify that  
2 intermediaries are complying with the appropriate laws.

3           (3) Training for confidential intermediaries,  
4 including training with respect to federal and State  
5 privacy laws.

6           (4) The relationship between confidential  
7 intermediaries and the court system, including the  
8 development of sample orders defining the scope of the  
9 intermediaries' access to information.

10          (5) Any recent violations of policy or procedures by  
11 confidential intermediaries and remedial steps, including  
12 decertification, to prevent future violations.

13          (g) Access. Subject to the limitations of subsection (i)  
14 of this Section, the confidential intermediary shall have  
15 access to vital records maintained by the Department of Public  
16 Health and its local designees for the maintenance of vital  
17 records and all records of the court or any adoption agency,  
18 public or private, as limited in this Section, which relate to  
19 the adoption or the identity and location of an adopted or  
20 surrendered person, of an adult child or surviving spouse of a  
21 deceased adopted or surrendered person, or of a birth parent,  
22 birth sibling, or the sibling of a deceased birth parent. The  
23 confidential intermediary shall not have access to any personal  
24 health information protected by the Standards for Privacy of  
25 Individually Identifiable Health Information adopted by the  
26 U.S. Department of Health and Human Services under the Health  
27 Insurance Portability and Accountability Act of 1996 unless the  
28 confidential intermediary has obtained written consent from  
29 the person whose information is being sought or, if that person  
30 is a minor child, that person's parent or guardian.  
31 Confidential intermediaries shall be authorized to inspect  
32 confidential relinquishment and adoption records. The  
33 confidential intermediary shall not be authorized to access  
34 medical records, financial records, credit records, banking  
35 records, home studies, attorney file records, or other personal  
36 records. In cases where a birth parent is being sought, an

1 adoption agency shall inform the confidential intermediary of  
2 any statement filed pursuant to Section 18.3, hereinafter  
3 referred to as "the 18.3 statement", indicating a desire of the  
4 surrendering birth parent to have identifying information  
5 shared or to not have identifying information shared. If there  
6 was a clear statement of intent by the sought-after birth  
7 parent not to have identifying information shared, the  
8 confidential intermediary shall discontinue the search and  
9 inform the petitioning party of the sought-after relative's  
10 intent. Information provided to the confidential intermediary  
11 by an adoption agency shall be restricted to the full name,  
12 date of birth, place of birth, last known address, last known  
13 telephone number of the sought-after relative or, if  
14 applicable, of the children or siblings of the sought-after  
15 relative, and the 18.3 statement.

16 (h) Adoption agency disclosure of medical information. If  
17 the petitioner is an adult adopted or surrendered person or the  
18 adoptive parent of a minor and if the petitioner has signed a  
19 written authorization to disclose personal medical  
20 information, an adoption agency disclosing information to a  
21 confidential intermediary shall disclose available medical  
22 information about the adopted or surrendered person from birth  
23 through adoption.

24 (i) Duties of confidential intermediary in conducting a  
25 search. In conducting a search under this Section, the  
26 confidential intermediary shall first confirm that there is no  
27 Denial of Information Exchange on file with the Illinois  
28 Adoption Registry. If the petitioner is an adult child of an  
29 adopted or surrendered person who is deceased, the confidential  
30 intermediary shall additionally confirm that the adopted or  
31 surrendered person did not file a Denial of Information  
32 Exchange with the Illinois Adoption Registry during his or her  
33 life. If the petitioner is an adult birth sibling of an adopted  
34 or surrendered person or an adult sibling of a birth parent who  
35 is deceased, the confidential intermediary shall additionally  
36 confirm that the birth parent did not file a Denial of

1 Information Exchange with the Registry during his or her life.  
2 If the confidential intermediary learns that a sought-after  
3 birth parent signed a statement indicating his or her intent  
4 not to have identifying information shared, and did not later  
5 file an Information Exchange Authorization with the Adoption  
6 Registry, the confidential intermediary shall discontinue the  
7 search and inform the petitioning party of the birth parent's  
8 intent.

9 In conducting a search under this Section, the confidential  
10 intermediary shall attempt to locate the relative or relatives  
11 from whom the petitioner has requested information. If the  
12 sought-after relative is deceased or cannot be located after a  
13 diligent search, the confidential intermediary may contact  
14 other adult relatives of the sought-after relative.

15 The confidential intermediary shall contact a sought-after  
16 relative on behalf of the petitioner in a manner that respects  
17 the sought-after relative's privacy and shall inform the  
18 sought-after relative of the petitioner's request for medical  
19 information, identifying information or contact as stated in  
20 the petition. Based upon the terms of the petitioner's request,  
21 the confidential intermediary shall contact a sought-after  
22 relative on behalf of the petitioner and inform the  
23 sought-after relative of the following options:

24 (1) The sought-after relative may totally reject one or  
25 all of the requests for medical information, identifying  
26 information or contact. The sought-after relative shall be  
27 informed that they can provide a medical questionnaire to  
28 be forwarded to the petitioner without releasing any  
29 identifying information. The confidential intermediary  
30 shall inform the petitioner of the sought-after relative's  
31 decision to reject the sharing of information or contact.

32 (2) The sought-after relative may consent to  
33 completing a medical questionnaire only. In this case, the  
34 confidential intermediary shall provide the questionnaire  
35 and ask the sought-after relative to complete it. The  
36 confidential intermediary shall forward the completed

1 questionnaire to the petitioner and inform the petitioner  
2 of the sought-after relative's desire to not provide any  
3 additional information.

4 (3) The sought-after relative may communicate with the  
5 petitioner without having his or her identity disclosed. In  
6 this case, the confidential intermediary shall arrange the  
7 desired communication in a manner that protects the  
8 identity of the sought-after relative. The confidential  
9 intermediary shall inform the petitioner of the  
10 sought-after relative's decision to communicate but not  
11 disclose his or her identity.

12 (4) The sought after relative may consent to initiate  
13 contact with the petitioner. If both the petitioner and the  
14 sought-after relative or relatives are eligible to  
15 register with the Illinois Adoption Registry, the  
16 confidential intermediary shall provide the necessary  
17 application forms and request that the sought-after  
18 relative register with the Illinois Adoption Registry. If  
19 either the petitioner or the sought-after relative or  
20 relatives are ineligible to register with the Illinois  
21 Adoption Registry, the confidential intermediary shall  
22 obtain written consents from both parties that they wish to  
23 disclose their identities to each other and to have contact  
24 with each other.

25 (j) Oath. The confidential intermediary shall sign an oath  
26 of confidentiality substantially as follows: "I, .....,  
27 being duly sworn, on oath depose and say: As a condition of  
28 appointment as a confidential intermediary, I affirm that:

29 (1) I will not disclose to the petitioner, directly or  
30 indirectly, any confidential information except in a  
31 manner consistent with the law.

32 (2) I recognize that violation of this oath subjects me  
33 to civil liability and to a potential finding of contempt  
34 of court. ....

35 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert  
36 date)

1 ....."

2 (k) Sanctions.

3 (1) Any confidential intermediary who improperly  
4 discloses confidential information identifying a  
5 sought-after relative shall be liable to the sought-after  
6 relative for damages and may also be found in contempt of  
7 court.

8 (2) Any person who learns a sought-after relative's  
9 identity, directly or indirectly, through the use of  
10 procedures provided in this Section and who improperly  
11 discloses information identifying the sought-after  
12 relative shall be liable to the sought-after relative for  
13 actual damages plus minimum punitive damages of \$10,000.

14 (3) The Department shall fine any confidential  
15 intermediary who improperly discloses confidential  
16 information in violation of item (1) or (2) of this  
17 subsection (k) an amount up to \$2,000 per improper  
18 disclosure. This fine does not affect civil liability under  
19 item (2) of this subsection (k). The Department shall  
20 deposit all fines and penalties collected under this  
21 Section into the Illinois Adoption Registry and Medical  
22 Information Fund.

23 (l) Death of person being sought. Notwithstanding any other  
24 provision of this Act, if the confidential intermediary  
25 discovers that the person being sought has died, he or she  
26 shall report this fact to the court, along with a copy of the  
27 death certificate.

28 (m) Any confidential information obtained by the  
29 confidential intermediary during the course of his or her  
30 search shall be kept strictly confidential and shall be used  
31 for the purpose of arranging contact between the petitioner and  
32 the sought-after birth relative. At the time the case is  
33 closed, all identifying information shall be returned to the  
34 court for inclusion in the impounded adoption file.

35 (n) If the petitioner is an adopted or surrendered person  
36 21 years of age or over or the adoptive parent or legal



1 guardian of an adopted or surrendered person under the age of  
2 21, any non-identifying information, as defined in Section  
3 18.4, that is ascertained during the course of the search may  
4 be given in writing to the petitioner before the case is  
5 closed.

6 (o) Except as provided in subsection (k) of this Section,  
7 no liability shall accrue to the State, any State agency, any  
8 judge, any officer or employee of the court, any certified  
9 confidential intermediary, or any agency designated to oversee  
10 confidential intermediary services for acts, omissions, or  
11 efforts made in good faith within the scope of this Section.

12 (p) An adoption agency that has received a request from a  
13 confidential intermediary for the full name, date of birth,  
14 last known address, or last known telephone number of a  
15 sought-after relative pursuant to subsection (g) of Section  
16 18.3, or for medical information regarding a sought-after  
17 relative pursuant to subsection (h) of Section 18.3, must  
18 satisfactorily comply with this court order within a period of  
19 45 days. The court shall order the adoption agency to reimburse  
20 the petitioner in an amount equal to all payments made by the  
21 petitioner to the confidential intermediary, and the adoption  
22 agency shall be subject to a civil monetary penalty of \$1,000  
23 to be paid to the Department of Children and Family Services.  
24 Following the issuance of a court order finding that the  
25 adoption agency has not complied with Section 18.3, the  
26 adoption agency shall be subject to a monetary penalty of \$500  
27 per day for each subsequent day of non-compliance.

28 Any reimbursements and fines, notwithstanding any  
29 reimbursement directly to the petitioner, paid under this  
30 subsection are in addition to other remedies a court may  
31 otherwise impose by law.

32 Proceeds from the penalties paid to the Department of  
33 Children and Family Services shall be deposited into the DCFS  
34 Children's Services Fund. The Department of Children and Family  
35 Services shall submit reports to the Confidential Intermediary  
36 Advisory Council by July 1 and January 1 of each year in order

1 to report the penalties assessed and collected under this  
2 subsection, the amounts of related deposits into the DCFS  
3 Children's Services Fund, and any expenditures from such  
4 deposits.

5 (Source: P.A. 93-189, eff. 1-1-04; 94-173, eff. 1-1-06.)

6 Section 99. Effective date. This Act takes effect October  
7 1, 2006.