



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4242

Introduced 12/09/05, by Rep. William Delgado

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7

from Ch. 23, par. 5007

Amends the Children and Family Services Act. Provides that the Department may place a child with a relative if the Department determines that the relative will be able to adequately provide for the child's safety and welfare based on the factors set forth in the Department's Rules governing relative placements and if the placement is consistent with the child's best interests taking into consideration the factors set out by statute for a "best interests" determination. Provides that in placing a child under the Act, the Department shall make reasonable efforts to identify and locate a relative who is ready, willing, and able to care for the child and that, at a minimum, these efforts are to be renewed each time the child requires a placement change when it is appropriate for the child to be cared for in a home environment. Requires the Department to document its efforts to identify and locate a relative placement and maintain the documentation in the child's case file. Provides that if any person files an administrative appeal of the Department's decision not to place a child with a relative, it will be the Department's burden to prove that its decision is consistent with the child's best interests. Sets forth additional requirements for the Department regarding relative placements. Provides that the definition of relative under this Act shall include any person who would have qualified as a relative under this paragraph, prior to an adoption, but only if the Department determines, and documents its determination, that it would be in the child's best interests to consider this person a relative. Makes other changes. Effective August 1, 2006.

LRB094 15651 RSP 50859 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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

4 Section 5. The Children and Family Services Act is amended
5 by changing Section 7 as follows:

6 (20 ILCS 505/7) (from Ch. 23, par. 5007)

7 Sec. 7. Placement of children; considerations.

8 (a) In placing any child under this Act, the Department
9 shall place such child, as far as possible, in the care and
10 custody of some individual holding the same religious belief as
11 the parents of the child, or with some child care facility
12 which is operated by persons of like religious faith as the
13 parents of such child.

14 (b) In placing a child under this Act, the Department may
15 place a child with a relative if the Department determines ~~has~~
16 ~~reason to believe~~ that the relative will be able to adequately
17 provide for the child's safety and welfare based on the factors
18 set forth in the Department's Rules governing relative
19 placements, and that the placement is consistent with the
20 child's best interests, taking into consideration the factors
21 set out in subsection (4.05) of Section 1-3 of the Juvenile
22 Court Act of 1987.

23 When the Department first assumes custody of a child, in
24 placing that child under this Act, the Department shall make
25 reasonable efforts to identify and locate a relative who is
26 ready, willing, and able to care for the child. At a minimum,
27 these efforts shall be renewed each time the child requires a
28 placement change and it is appropriate for the child to be
29 cared for in a home environment. The Department must document
30 its efforts to identify and locate such a relative placement
31 and maintain the documentation in the child's case file.

32 If the Department determines that a placement with any

1 identified relative is not in the child's best interests or
2 that the relative does not meet the requirements to be a
3 relative caregiver, as set forth in Department Rules or by
4 statute, the Department must document the basis for that
5 decision and maintain the documentation in the child's case
6 file.

7 If, pursuant to the Department's Rules, any person files an
8 administrative appeal of the Department's decision not to place
9 a child with a relative, it is the Department's burden to prove
10 that the decision is consistent with the child's best
11 interests.

12 When the Department determines that the child requires
13 placement in an environment, other than a home environment, the
14 Department shall continue to make reasonable efforts to
15 identify and locate relatives to serve as visitation resources
16 for the child and potential future placement resources, except
17 when the Department determines that those efforts would be
18 futile or inconsistent with the child's best interests.

19 If the Department determines that efforts to identify and
20 locate relatives would be futile or inconsistent with the
21 child's best interests, the Department shall document the basis
22 of its determination and maintain the documentation in the
23 child's case file.

24 If the Department determines that an individual or a group
25 of relatives are inappropriate to serve as visitation resources
26 or possible placement resources, the Department shall document
27 the basis of its determination and maintain the documentation
28 in the child's case file.

29 When the Department determines that an individual or a
30 group of relatives are appropriate to serve as visitation
31 resources or possible future placement resources, the
32 Department shall document the basis of its determination,
33 maintain the documentation in the child's case file, create a
34 visitation or transition plan, or both, and incorporate the
35 visitation or transition plan, or both, into the child's case
36 plan. For the purpose of this subsection, any determination as

1 to the child's best interests shall include consideration of
2 the factors set out in subsection (4.05) of Section 1-3 of the
3 Juvenile Court Act of 1987.

4 The Department may not place a child with a relative, with
5 the exception of certain circumstances which may be waived as
6 defined by the Department in rules, if the results of a check
7 of the Law Enforcement Agencies ~~Agency~~ Data System (LEADS)
8 identifies a prior criminal conviction of the relative or any
9 adult member of the relative's household for any of the
10 following offenses under the Criminal Code of 1961:

11 (1) murder;

12 (1.1) solicitation of murder;

13 (1.2) solicitation of murder for hire;

14 (1.3) intentional homicide of an unborn child;

15 (1.4) voluntary manslaughter of an unborn child;

16 (1.5) involuntary manslaughter;

17 (1.6) reckless homicide;

18 (1.7) concealment of a homicidal death;

19 (1.8) involuntary manslaughter of an unborn child;

20 (1.9) reckless homicide of an unborn child;

21 (1.10) drug-induced homicide;

22 (2) a sex offense under Article 11, except offenses
23 described in Sections 11-7, 11-8, 11-12, and 11-13;

24 (3) kidnapping;

25 (3.1) aggravated unlawful restraint;

26 (3.2) forcible detention;

27 (3.3) aiding and abetting child abduction;

28 (4) aggravated kidnapping;

29 (5) child abduction;

30 (6) aggravated battery of a child;

31 (7) criminal sexual assault;

32 (8) aggravated criminal sexual assault;

33 (8.1) predatory criminal sexual assault of a child;

34 (9) criminal sexual abuse;

35 (10) aggravated sexual abuse;

36 (11) heinous battery;

- 1 (12) aggravated battery with a firearm;
- 2 (13) tampering with food, drugs, or cosmetics;
- 3 (14) drug-induced infliction of great bodily harm;
- 4 (15) aggravated stalking;
- 5 (16) home invasion;
- 6 (17) vehicular invasion;
- 7 (18) criminal transmission of HIV;
- 8 (19) criminal abuse or neglect of an elderly or
- 9 disabled person;
- 10 (20) child abandonment;
- 11 (21) endangering the life or health of a child;
- 12 (22) ritual mutilation;
- 13 (23) ritualized abuse of a child;
- 14 (24) an offense in any other state the elements of
- 15 which are similar and bear a substantial relationship to
- 16 any of the foregoing offenses.

17 For the purpose of this subsection, "relative" shall include
18 any person, 21 years of age or over, other than the parent, who
19 (i) is currently related to the child in any of the following
20 ways by blood or adoption: grandparent, sibling,
21 great-grandparent, uncle, aunt, nephew, niece, first cousin,
22 second cousin, godparent, great-uncle, or great-aunt; or (ii)
23 is the spouse of such a relative; or (iii) is the child's
24 step-father, step-mother, or adult step-brother or
25 step-sister; "relative" also includes a person related in any
26 of the foregoing ways to a sibling of a child, even though the
27 person is not related to the child, when the child and its
28 sibling are placed together with that person. For children who
29 have been in the guardianship of the Department, have been
30 adopted, and are subsequently returned to the temporary custody
31 or guardianship of the Department, a "relative" may also
32 include any person who would have qualified as a relative under
33 this paragraph prior to the adoption, but only if the
34 Department determines, and documents, that it would be in the
35 child's best interests to consider this person a relative,
36 based upon the factors for determining best interests set forth

1 in subsection (4.05) of Section 1-3 of the Juvenile Court Act
2 of 1987. A relative with whom a child is placed pursuant to
3 this subsection may, but is not required to, apply for
4 licensure as a foster family home pursuant to the Child Care
5 Act of 1969; provided, however, that as of July 1, 1995, foster
6 care payments shall be made only to licensed foster family
7 homes pursuant to the terms of Section 5 of this Act.

8 (c) In placing a child under this Act, the Department shall
9 ensure that the child's health, safety, and best interests are
10 met ~~in making a family foster care placement.~~ In rejecting
11 placement of a child with an identified relative, the
12 Department shall ensure that the child's health, safety, and
13 best interests are met. In evaluating the best interests of the
14 child, the Department shall take into consideration the factors
15 set forth in subsection (4.05) of Section 1-3 of the Juvenile
16 Court Act of 1987.

17 The Department shall consider the individual needs of the
18 child and the capacity of the prospective foster or adoptive
19 parents to meet the needs of the child. When a child must be
20 placed outside his or her home and cannot be immediately
21 returned to his or her parents or guardian, a comprehensive,
22 individualized assessment shall be performed of that child at
23 which time the needs of the child shall be determined. Only if
24 race, color, or national origin is identified as a legitimate
25 factor in advancing the child's best interests shall it be
26 considered. Race, color, or national origin shall not be
27 routinely considered in making a placement decision. The
28 Department shall make special efforts for the diligent
29 recruitment of potential foster and adoptive families that
30 reflect the ethnic and racial diversity of the children for
31 whom foster and adoptive homes are needed. "Special efforts"
32 shall include contacting and working with community
33 organizations and religious organizations and may include
34 contracting with those organizations, utilizing local media
35 and other local resources, and conducting outreach activities.

36 (c-1) At the time of placement, the Department shall

1 consider concurrent planning, as described in subsection (1-1)
2 of Section 5, so that permanency may occur at the earliest
3 opportunity. Consideration should be given so that if
4 reunification fails or is delayed, the placement made is the
5 best available placement to provide permanency for the child.

6 (d) The Department may accept gifts, grants, offers of
7 services, and other contributions to use in making special
8 recruitment efforts.

9 (e) The Department in placing children in adoptive or
10 foster care homes may not, in any policy or practice relating
11 to the placement of children for adoption or foster care,
12 discriminate against any child or prospective adoptive or
13 foster parent on the basis of race.

14 (Source: P.A. 92-192, eff. 1-1-02; 92-328, eff. 1-1-02; 92-334,
15 eff. 8-10-01; 92-651, eff. 7-11-02; revised 2-17-03.)

16 Section 99. Effective date. This Act takes effect August 1,
17 2006.