



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1322

Introduced 2/20/2007, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/5	from Ch. 23, par. 5005
325 ILCS 5/8.2	from Ch. 23, par. 2058.2
705 ILCS 405/2-23	from Ch. 37, par. 802-23
750 ILCS 50/1	from Ch. 40, par. 1501

Amends the Children and Family Services Act and the Abused and Neglected Child Reporting Act. Provides that when a child is the subject of an action under the "Abused, Neglected or Dependent Minors" Article of the Juvenile Court Act of 1987 and the child's service plan calls for certain family preservation services, the court hearing the action under the Juvenile Court Act of 1987 may order the Department of Children and Family Services (DCFS) to provide the family preservation services set out in the plan, if those services are not provided with reasonable promptness. Amends the Juvenile Court Act of 1987. In provisions concerning dispositional orders with respect to abused, neglected, or dependent minors, makes changes concerning a court's findings and the service plan developed by DCFS; provides that unless otherwise specifically authorized by law, the court is not empowered to order specific placements, specific services, or specific service providers to be included in the plan. Amends the Adoption Act. In provisions concerning grounds for finding a parent "unfit", provides that if a petition alleges that a parent failed to make reasonable progress to correct conditions or toward the return of a child, the 9-month period is tolled during any period for which there is a court finding that the parent's failure to make reasonable progress was due to factors beyond the parent's control. Makes other changes.

LRB095 09303 DRJ 29497 b

1 AN ACT concerning children.

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

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

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

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

11 (a) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

1 home without endangering the child's health and  
2 safety;

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

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

16 (G) (blank);

17 (H) (blank); and

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

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

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

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

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

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

11 (e) (Blank).

12 (f) (Blank).

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

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

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

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

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

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

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

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

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

14 (j) The Department may provide categories of financial  
15 assistance and education assistance grants, and shall  
16 establish rules and regulations concerning the assistance and  
17 grants, to persons who adopt physically or mentally  
18 handicapped, older and other hard-to-place children who (i)  
19 immediately prior to their adoption were legal wards of the  
20 Department or (ii) were determined eligible for financial  
21 assistance with respect to a prior adoption and who become  
22 available for adoption because the prior adoption has been  
23 dissolved and the parental rights of the adoptive parents have  
24 been terminated or because the child's adoptive parents have  
25 died. The Department may, subject to federal financial  
26 participation in the cost, continue to provide financial



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

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

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

25 (j-5) The Department shall not deny or delay the placement  
26 of a child for adoption if an approved family is available

1 either outside of the Department region handling the case, or  
2 outside of the State of Illinois.

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

7 (l) Before July 1, 2000, the Department may provide, and  
8 beginning July 1, 2000, the Department shall offer family  
9 preservation services, as defined in Section 8.2 of the Abused  
10 and Neglected Child Reporting Act, to help families, including  
11 adoptive and extended families. Family preservation services  
12 shall be offered (i) to prevent the placement of children in  
13 substitute care when the children can be cared for at home or  
14 in the custody of the person responsible for the children's  
15 welfare, (ii) to reunite children with their families, or (iii)  
16 to maintain an adoptive placement. Family preservation  
17 services shall only be offered when doing so will not endanger  
18 the children's health or safety. With respect to children who  
19 are in substitute care pursuant to the Juvenile Court Act of  
20 1987, family preservation services shall not be offered if a  
21 goal other than those of subdivisions (A), (B), or (B-1) of  
22 subsection (2) of Section 2-28 of that Act has been set.  
23 Nothing in this paragraph shall be construed to create a  
24 private right of action or claim on the part of any individual  
25 or child welfare agency, except that when a child is the  
26 subject of an action under Article II of the Juvenile Court Act

1 of 1987 and the child's service plan calls for certain family  
2 preservation services, the court hearing the action under  
3 Article II of the Juvenile Court Act of 1987 may order the  
4 Department to provide the family preservation services set out  
5 in the plan, if those services are not provided with reasonable  
6 promptness.

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

26       The Department may, at its discretion except for those

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

13 (1-1) The legislature recognizes that the best interests of  
14 the child require that the child be placed in the most  
15 permanent living arrangement as soon as is practically  
16 possible. To achieve this goal, the legislature directs the  
17 Department of Children and Family Services to conduct  
18 concurrent planning so that permanency may occur at the  
19 earliest opportunity. Permanent living arrangements may  
20 include prevention of placement of a child outside the home of  
21 the family when the child can be cared for at home without  
22 endangering the child's health or safety; reunification with  
23 the family, when safe and appropriate, if temporary placement  
24 is necessary; or movement of the child toward the most  
25 permanent living arrangement and permanent legal status.

26 When determining reasonable efforts to be made with respect

1 to a child, as described in this subsection, and in making such  
2 reasonable efforts, the child's health and safety shall be the  
3 paramount concern.

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

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

22 The Department shall adopt rules addressing concurrent  
23 planning for reunification and permanency. The Department  
24 shall consider the following factors when determining  
25 appropriateness of concurrent planning:

26 (1) the likelihood of prompt reunification;

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

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

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

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

20 If the child is found in his or her residence without a parent,  
21 guardian, custodian or responsible caretaker, the Department  
22 may, instead of removing the child and assuming temporary  
23 custody, place an authorized representative of the Department  
24 in that residence until such time as a parent, guardian or  
25 custodian enters the home and expresses a willingness and  
26 apparent ability to ensure the child's health and safety and

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

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

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

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

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



1 child is a ward who was placed under the care of the Department  
2 before being subject to placement in a correctional facility  
3 and a court of competent jurisdiction has ordered placement of  
4 the child in a secure care facility.

5 (n) The Department may place children under 18 years of age  
6 in licensed child care facilities when in the opinion of the  
7 Department, appropriate services aimed at family preservation  
8 have been unsuccessful and cannot ensure the child's health and  
9 safety or are unavailable and such placement would be for their  
10 best interest. Payment for board, clothing, care, training and  
11 supervision of any child placed in a licensed child care  
12 facility may be made by the Department, by the parents or  
13 guardians of the estates of those children, or by both the  
14 Department and the parents or guardians, except that no  
15 payments shall be made by the Department for any child placed  
16 in a licensed child care facility for board, clothing, care,  
17 training and supervision of such a child that exceed the  
18 average per capita cost of maintaining and of caring for a  
19 child in institutions for dependent or neglected children  
20 operated by the Department. However, such restriction on  
21 payments does not apply in cases where children require  
22 specialized care and treatment for problems of severe emotional  
23 disturbance, physical disability, social adjustment, or any  
24 combination thereof and suitable facilities for the placement  
25 of such children are not available at payment rates within the  
26 limitations set forth in this Section. All reimbursements for

1 services delivered shall be absolutely inalienable by  
2 assignment, sale, attachment, garnishment or otherwise.

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

22 (p) There is hereby created the Department of Children and  
23 Family Services Emergency Assistance Fund from which the  
24 Department may provide special financial assistance to  
25 families which are in economic crisis when such assistance is  
26 not available through other public or private sources and the

1 assistance is deemed necessary to prevent dissolution of the  
2 family unit or to reunite families which have been separated  
3 due to child abuse and neglect. The Department shall establish  
4 administrative rules specifying the criteria for determining  
5 eligibility for and the amount and nature of assistance to be  
6 provided. The Department may also enter into written agreements  
7 with private and public social service agencies to provide  
8 emergency financial services to families referred by the  
9 Department. Special financial assistance payments shall be  
10 available to a family no more than once during each fiscal year  
11 and the total payments to a family may not exceed \$500 during a  
12 fiscal year.

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

19 The Department shall set up and administer no-cost,  
20 interest-bearing accounts in appropriate financial  
21 institutions for children for whom the Department is legally  
22 responsible and who have been determined eligible for Veterans'  
23 Benefits, Social Security benefits, assistance allotments from  
24 the armed forces, court ordered payments, parental voluntary  
25 payments, Supplemental Security Income, Railroad Retirement  
26 payments, Black Lung benefits, or other miscellaneous

1 payments. Interest earned by each account shall be credited to  
2 the account, unless disbursed in accordance with this  
3 subsection.

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

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

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

23 (3) Maintain any balance remaining after reimbursing  
24 for the child's costs of care, as specified in item (2).  
25 The balance shall accumulate in accordance with relevant  
26 State and federal laws and shall be disbursed to the child

1 or his or her guardian, or to the issuing agency.

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

17 (s) The Department of Children and Family Services may  
18 establish and implement a program to reimburse Department and  
19 private child welfare agency foster parents licensed by the  
20 Department of Children and Family Services for damages  
21 sustained by the foster parents as a result of the malicious or  
22 negligent acts of foster children, as well as providing third  
23 party coverage for such foster parents with regard to actions  
24 of foster children to other individuals. Such coverage will be  
25 secondary to the foster parent liability insurance policy, if  
26 applicable. The program shall be funded through appropriations

1 from the General Revenue Fund, specifically designated for such  
2 purposes.

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

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

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

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

21 (u) In addition to other information that must be provided,  
22 whenever the Department places a child with a prospective  
23 adoptive parent or parents or in a licensed foster home, group  
24 home, child care institution, or in a relative home, the  
25 Department shall provide to the prospective adoptive parent or  
26 parents or other caretaker:

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

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

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

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

1 provide the information in writing as required by this  
2 subsection.

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

18 (u-5) Effective July 1, 1995, only foster care placements  
19 licensed as foster family homes pursuant to the Child Care Act  
20 of 1969 shall be eligible to receive foster care payments from  
21 the Department. Relative caregivers who, as of July 1, 1995,  
22 were approved pursuant to approved relative placement rules  
23 previously promulgated by the Department at 89 Ill. Adm. Code  
24 335 and had submitted an application for licensure as a foster  
25 family home may continue to receive foster care payments only  
26 until the Department determines that they may be licensed as a



1 foster family home or that their application for licensure is  
2 denied or until September 30, 1995, whichever occurs first.

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

25 (w) Within 120 days of August 20, 1995 (the effective date  
26 of Public Act 89-392), the Department shall prepare and submit

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

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

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

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

24 Sec. 8.2. If the Child Protective Service Unit determines,

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

19 For purposes of this Act, the term "family preservation  
20 services" refers to all services to help families, including  
21 adoptive and extended families. Family preservation services  
22 shall be offered, where safe and appropriate, to prevent the  
23 placement of children in substitute care when the children can  
24 be cared for at home or in the custody of the person  
25 responsible for the children's welfare without endangering the  
26 children's health or safety, to reunite them with their

1 families if so placed when reunification is an appropriate  
2 goal, or to maintain an adoptive placement. The term  
3 "homemaker" includes emergency caretakers, homemakers,  
4 caretakers, housekeepers and chore services. The term  
5 "counseling" includes individual therapy, infant stimulation  
6 therapy, family therapy, group therapy, self-help groups, drug  
7 and alcohol abuse counseling, vocational counseling and  
8 post-adoptive services. The term "day care" includes  
9 protective day care and day care to meet educational,  
10 prevocational or vocational needs. The term "emergency  
11 assistance and advocacy" includes coordinated services to  
12 secure emergency cash, food, housing and medical assistance or  
13 advocacy for other subsistence and family protective needs.

14 Before July 1, 2000, appropriate family preservation  
15 services shall, subject to appropriation, be included in the  
16 service plan if the Department has determined that those  
17 services will ensure the child's health and safety, are in the  
18 child's best interests, and will not place the child in  
19 imminent risk of harm. Beginning July 1, 2000, appropriate  
20 family preservation services shall be uniformly available  
21 throughout the State. The Department shall promptly notify  
22 children and families of the Department's responsibility to  
23 offer and provide family preservation services as identified in  
24 the service plan. Such plans may include but are not limited  
25 to: case management services; homemakers; counseling; parent  
26 education; day care; emergency assistance and advocacy

1 assessments; respite care; in-home health care; transportation  
2 to obtain any of the above services; and medical assistance.  
3 Nothing in this paragraph shall be construed to create a  
4 private right of action or claim on the part of any individual  
5 or child welfare agency, except that when a child is the  
6 subject of an action under Article II of the Juvenile Court Act  
7 of 1987 and the child's service plan calls for certain family  
8 preservation services, the court hearing the action under  
9 Article II of the Juvenile Court Act of 1987 may order the  
10 Department to provide the family preservation services set out  
11 in the plan, if those services are not provided with reasonable  
12 promptness.

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

17 (a) the number of families and children served, by type  
18 of services;

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

22 (c) the number of families which have been subjects of  
23 founded reports of abuse following the termination of  
24 services;

25 (d) an analysis of general family circumstances in  
26 which family preservation services have been determined to

1 be an effective intervention;

2 (e) information regarding the number of families in  
3 need of services but unserved due to budget or program  
4 criteria guidelines;

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

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

10 (h) recommendations regarding any proposed legislative  
11 changes to this program.

12 Each Department field office shall maintain on a local  
13 basis directories of services available to children and  
14 families in the local area where the Department office is  
15 located.

16 The Department shall refer children and families served  
17 pursuant to this Section to private agencies and governmental  
18 agencies, where available.

19 Where there are 2 equal proposals from both a  
20 not-for-profit and a for-profit agency to provide services, the  
21 Department shall give preference to the proposal from the  
22 not-for-profit agency.

23 No service plan shall compel any child or parent to engage  
24 in any activity or refrain from any activity which is not  
25 reasonably related to remedying a condition or conditions that  
26 gave rise or which could give rise to any finding of child

1 abuse or neglect.

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

4 Section 15. The Juvenile Court Act of 1987 is amended by  
5 changing Section 2-23 as follows:

6 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

10 (a) A minor under 18 years of age found to be neglected  
11 or abused under Section 2-3 or dependent under Section 2-4  
12 may be (1) continued in the custody of his or her parents,  
13 guardian or legal custodian; (2) placed in accordance with  
14 Section 2-27; (3) restored to the custody of the parent,  
15 parents, guardian, or legal custodian, provided the court  
16 shall order the parent, parents, guardian, or legal  
17 custodian to cooperate with the Department of Children and  
18 Family Services and comply with the terms of an after-care  
19 plan or risk the loss of custody of the child and the  
20 possible termination of their parental rights; or (4)  
21 ordered partially or completely emancipated in accordance  
22 with the provisions of the Emancipation of ~~Mature~~ Minors  
23 Act.

24 However, in any case in which a minor is found by the

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

12 (b) A minor under 18 years of age found to be dependent  
13 under Section 2-4 may be (1) placed in accordance with  
14 Section 2-27 or (2) ordered partially or completely  
15 emancipated in accordance with the provisions of the  
16 Emancipation of ~~Mature~~ Minors Act.

17 However, in any case in which a minor is found by the  
18 court to be dependent under Section 2-4 of this Act,  
19 custody of the minor shall not be restored to any parent,  
20 guardian or legal custodian whose acts or omissions or both  
21 have been identified, pursuant to subsection (1) of Section  
22 2-21, as forming the basis for the court's finding of  
23 dependency, until such time as a hearing is held on the  
24 issue of the fitness of such parent, guardian or legal  
25 custodian to care for the minor without endangering the  
26 minor's health or safety, and the court enters an order



1           that such parent, guardian or legal custodian is fit to  
2           care for the minor.

3           (c) When the court awards guardianship to the  
4           Department of Children and Family Services, the court shall  
5           order the parents to cooperate with the Department of  
6           Children and Family Services, comply with the terms of the  
7           service plans, and correct the conditions that require the  
8           child to be in care, or risk termination of their parental  
9           rights.

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

13          Unless the order of disposition expressly so provides, it  
14          does not operate to close proceedings on the pending petition,  
15          but is subject to modification, not inconsistent with Section  
16          2-28, until final closing and discharge of the proceedings  
17          under Section 2-31.

18          (3) The court also shall enter any other orders necessary  
19          to fulfill the service plan, including, but not limited to, (i)  
20          orders requiring parties to cooperate with services, (ii)  
21          restraining orders controlling the conduct of any party likely  
22          to frustrate the achievement of the goal, and (iii) visiting  
23          orders. Unless otherwise specifically authorized by law, the  
24          court is not empowered under this subsection (3) to order  
25          specific placements, specific services, or specific service  
26          providers to be included in the plan. If, after receiving

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

25 (4) In addition to any other order of disposition, the  
26 court may order any minor adjudicated neglected with respect to

1 his or her own injurious behavior to make restitution, in  
2 monetary or non-monetary form, under the terms and conditions  
3 of Section 5-5-6 of the Unified Code of Corrections, except  
4 that the "presentence hearing" referred to therein shall be the  
5 dispositional hearing for purposes of this Section. The parent,  
6 guardian or legal custodian of the minor may pay some or all of  
7 such restitution on the minor's behalf.

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

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

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

24 (Source: P.A. 89-17, eff. 5-31-95; 89-235, eff. 8-4-95; 90-27,  
25 eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98; 90-655,  
26 eff. 7-30-98; revised 10-9-03.)

1           Section 20. The Adoption Act is amended by changing Section  
2 1 as follows:

3           (750 ILCS 50/1) (from Ch. 40, par. 1501)

4           Sec. 1. Definitions. When used in this Act, unless the  
5 context otherwise requires:

6           A. "Child" means a person under legal age subject to  
7 adoption under this Act.

8           B. "Related child" means a child subject to adoption where  
9 either or both of the adopting parents stands in any of the  
10 following relationships to the child by blood or marriage:  
11 parent, grand-parent, brother, sister, step-parent,  
12 step-grandparent, step-brother, step-sister, uncle, aunt,  
13 great-uncle, great-aunt, or cousin of first degree. A child  
14 whose parent has executed a final irrevocable consent to  
15 adoption or a final irrevocable surrender for purposes of  
16 adoption, or whose parent has had his or her parental rights  
17 terminated, is not a related child to that person, unless the  
18 consent is determined to be void or is void pursuant to  
19 subsection 0 of Section 10.

20           C. "Agency" for the purpose of this Act means a public  
21 child welfare agency or a licensed child welfare agency.

22           D. "Unfit person" means any person whom the court shall  
23 find to be unfit to have a child, without regard to the  
24 likelihood that the child will be placed for adoption. The

1 grounds of unfitness are any one or more of the following,  
2 except that a person shall not be considered an unfit person  
3 for the sole reason that the person has relinquished a child in  
4 accordance with the Abandoned Newborn Infant Protection Act:

5 (a) Abandonment of the child.

6 (a-1) Abandonment of a newborn infant in a hospital.

7 (a-2) Abandonment of a newborn infant in any setting  
8 where the evidence suggests that the parent intended to  
9 relinquish his or her parental rights.

10 (b) Failure to maintain a reasonable degree of  
11 interest, concern or responsibility as to the child's  
12 welfare.

13 (c) Desertion of the child for more than 3 months next  
14 preceding the commencement of the Adoption proceeding.

15 (d) Substantial neglect of the child if continuous or  
16 repeated.

17 (d-1) Substantial neglect, if continuous or repeated,  
18 of any child residing in the household which resulted in  
19 the death of that child.

20 (e) Extreme or repeated cruelty to the child.

21 (f) There is a rebuttable presumption, which can be  
22 overcome only by clear and convincing evidence, that a  
23 parent is unfit if:

24 (1) Two or more findings of physical abuse have  
25 been entered regarding any children under Section 2-21  
26 of the Juvenile Court Act of 1987, the most recent of

1           which was determined by the juvenile court hearing the  
2           matter to be supported by clear and convincing  
3           evidence; or

4                   (2) The parent has been convicted or found not  
5           guilty by reason of insanity and the conviction or  
6           finding resulted from the death of any child by  
7           physical abuse; or

8                   (3) There is a finding of physical child abuse  
9           resulting from the death of any child under Section  
10          2-21 of the Juvenile Court Act of 1987.

11           No conviction or finding of delinquency pursuant  
12          to Article 5 of the Juvenile Court Act of 1987 shall be  
13          considered a criminal conviction for the purpose of  
14          applying any presumption under this item (f).

15           (g) Failure to protect the child from conditions within  
16          his environment injurious to the child's welfare.

17           (h) Other neglect of, or misconduct toward the child;  
18          provided that in making a finding of unfitness the court  
19          hearing the adoption proceeding shall not be bound by any  
20          previous finding, order or judgment affecting or  
21          determining the rights of the parents toward the child  
22          sought to be adopted in any other proceeding except such  
23          proceedings terminating parental rights as shall be had  
24          under either this Act, the Juvenile Court Act or the  
25          Juvenile Court Act of 1987.

26           (i) Depravity. Conviction of any one of the following

1 crimes shall create a presumption that a parent is deprived  
2 which can be overcome only by clear and convincing  
3 evidence: (1) first degree murder in violation of paragraph  
4 1 or 2 of subsection (a) of Section 9-1 of the Criminal  
5 Code of 1961 or conviction of second degree murder in  
6 violation of subsection (a) of Section 9-2 of the Criminal  
7 Code of 1961 of a parent of the child to be adopted; (2)  
8 first degree murder or second degree murder of any child in  
9 violation of the Criminal Code of 1961; (3) attempt or  
10 conspiracy to commit first degree murder or second degree  
11 murder of any child in violation of the Criminal Code of  
12 1961; (4) solicitation to commit murder of any child,  
13 solicitation to commit murder of any child for hire, or  
14 solicitation to commit second degree murder of any child in  
15 violation of the Criminal Code of 1961; (5) predatory  
16 criminal sexual assault of a child in violation of Section  
17 12-14.1 of the Criminal Code of 1961; (6) heinous battery  
18 of any child in violation of the Criminal Code of 1961; or  
19 (7) aggravated battery of any child in violation of the  
20 Criminal Code of 1961.

21 There is a rebuttable presumption that a parent is  
22 deprived if the parent has been criminally convicted of at  
23 least 3 felonies under the laws of this State or any other  
24 state, or under federal law, or the criminal laws of any  
25 United States territory; and at least one of these  
26 convictions took place within 5 years of the filing of the

1 petition or motion seeking termination of parental rights.

2 There is a rebuttable presumption that a parent is  
3 deprived if that parent has been criminally convicted of  
4 either first or second degree murder of any person as  
5 defined in the Criminal Code of 1961 within 10 years of the  
6 filing date of the petition or motion to terminate parental  
7 rights.

8 No conviction or finding of delinquency pursuant to  
9 Article 5 of the Juvenile Court Act of 1987 shall be  
10 considered a criminal conviction for the purpose of  
11 applying any presumption under this item (i).

12 (j) Open and notorious adultery or fornication.

13 (j-1) (Blank).

14 (k) Habitual drunkenness or addiction to drugs, other  
15 than those prescribed by a physician, for at least one year  
16 immediately prior to the commencement of the unfitness  
17 proceeding.

18 There is a rebuttable presumption that a parent is  
19 unfit under this subsection with respect to any child to  
20 which that parent gives birth where there is a confirmed  
21 test result that at birth the child's blood, urine, or  
22 meconium contained any amount of a controlled substance as  
23 defined in subsection (f) of Section 102 of the Illinois  
24 Controlled Substances Act or metabolites of such  
25 substances, the presence of which in the newborn infant was  
26 not the result of medical treatment administered to the



1 mother or the newborn infant; and the biological mother of  
2 this child is the biological mother of at least one other  
3 child who was adjudicated a neglected minor under  
4 subsection (c) of Section 2-3 of the Juvenile Court Act of  
5 1987.

6 (l) Failure to demonstrate a reasonable degree of  
7 interest, concern or responsibility as to the welfare of a  
8 new born child during the first 30 days after its birth.

9 (m) Failure by a parent (i) to make reasonable efforts  
10 to correct the conditions that were the basis for the  
11 removal of the child from the parent, or (ii) to make  
12 reasonable progress toward the return of the child to the  
13 parent within 9 months after an adjudication of neglected  
14 or abused minor under Section 2-3 of the Juvenile Court Act  
15 of 1987 or dependent minor under Section 2-4 of that Act,  
16 or (iii) to make reasonable progress toward the return of  
17 the child to the parent during any 9-month period after the  
18 end of the initial 9-month period following the  
19 adjudication of neglected or abused minor under Section 2-3  
20 of the Juvenile Court Act of 1987 or dependent minor under  
21 Section 2-4 of that Act. When the petition alleges that the  
22 parent failed to make reasonable progress, the 9-month  
23 period is tolled during any period for which there is a  
24 court finding that the parent's failure to make reasonable  
25 progress was due to factors beyond the parent's control. If  
26 a service plan has been established as required under

1 Section 8.2 of the Abused and Neglected Child Reporting Act  
2 to correct the conditions that were the basis for the  
3 removal of the child from the parent and if those services  
4 were available, then, for purposes of this Act, "failure to  
5 make reasonable progress toward the return of the child to  
6 the parent" includes (I) the parent's failure to  
7 substantially fulfill his or her obligations under the  
8 service plan and correct the conditions that brought the  
9 child into care within 9 months after the adjudication  
10 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987  
11 and (II) the parent's failure to substantially fulfill his  
12 or her obligations under the service plan and correct the  
13 conditions that brought the child into care during any  
14 9-month period after the end of the initial 9-month period  
15 following the adjudication under Section 2-3 or 2-4 of the  
16 Juvenile Court Act of 1987. Notwithstanding any other  
17 provision, when a petition or motion seeks to terminate  
18 parental rights on the basis of item (iii) of this  
19 subsection (m), the petitioner shall file with the court  
20 and serve on the parties a pleading that specifies the  
21 9-month period or periods relied on. The pleading shall be  
22 filed and served on the parties no later than 3 weeks  
23 before the date set by the court for closure of discovery,  
24 and the allegations in the pleading shall be treated as  
25 incorporated into the petition or motion. Failure of a  
26 respondent to file a written denial of the allegations in

1 the pleading shall not be treated as an admission that the  
2 allegations are true.

3 (m-1) (Blank). ~~Pursuant to the Juvenile Court Act of~~  
4 ~~1987, a child has been in foster care for 15 months out of~~  
5 ~~any 22 month period which begins on or after the effective~~  
6 ~~date of this amendatory Act of 1998 unless the child's~~  
7 ~~parent can prove by a preponderance of the evidence that it~~  
8 ~~is more likely than not that it will be in the best~~  
9 ~~interests of the child to be returned to the parent within~~  
10 ~~6 months of the date on which a petition for termination of~~  
11 ~~parental rights is filed under the Juvenile Court Act of~~  
12 ~~1987. The 15 month time limit is tolled during any period~~  
13 ~~for which there is a court finding that the appointed~~  
14 ~~custodian or guardian failed to make reasonable efforts to~~  
15 ~~reunify the child with his or her family, provided that (i)~~  
16 ~~the finding of no reasonable efforts is made within 60 days~~  
17 ~~of the period when reasonable efforts were not made or (ii)~~  
18 ~~the parent filed a motion requesting a finding of no~~  
19 ~~reasonable efforts within 60 days of the period when~~  
20 ~~reasonable efforts were not made. For purposes of this~~  
21 ~~subdivision (m-1), the date of entering foster care is the~~  
22 ~~earlier of: (i) the date of a judicial finding at an~~  
23 ~~adjudicatory hearing that the child is an abused,~~  
24 ~~neglected, or dependent minor; or (ii) 60 days after the~~  
25 ~~date on which the child is removed from his or her parent,~~  
26 ~~guardian, or legal custodian.~~

1           (n) Evidence of intent to forgo his or her parental  
2           rights, whether or not the child is a ward of the court,  
3           (1) as manifested by his or her failure for a period of 12  
4           months: (i) to visit the child, (ii) to communicate with  
5           the child or agency, although able to do so and not  
6           prevented from doing so by an agency or by court order, or  
7           (iii) to maintain contact with or plan for the future of  
8           the child, although physically able to do so, or (2) as  
9           manifested by the father's failure, where he and the mother  
10          of the child were unmarried to each other at the time of  
11          the child's birth, (i) to commence legal proceedings to  
12          establish his paternity under the Illinois Parentage Act of  
13          1984 or the law of the jurisdiction of the child's birth  
14          within 30 days of being informed, pursuant to Section 12a  
15          of this Act, that he is the father or the likely father of  
16          the child or, after being so informed where the child is  
17          not yet born, within 30 days of the child's birth, or (ii)  
18          to make a good faith effort to pay a reasonable amount of  
19          the expenses related to the birth of the child and to  
20          provide a reasonable amount for the financial support of  
21          the child, the court to consider in its determination all  
22          relevant circumstances, including the financial condition  
23          of both parents; provided that the ground for termination  
24          provided in this subparagraph (n)(2)(ii) shall only be  
25          available where the petition is brought by the mother or  
26          the husband of the mother.

1 Contact or communication by a parent with his or her  
2 child that does not demonstrate affection and concern does  
3 not constitute reasonable contact and planning under  
4 subdivision (n). In the absence of evidence to the  
5 contrary, the ability to visit, communicate, maintain  
6 contact, pay expenses and plan for the future shall be  
7 presumed. The subjective intent of the parent, whether  
8 expressed or otherwise, unsupported by evidence of the  
9 foregoing parental acts manifesting that intent, shall not  
10 preclude a determination that the parent has intended to  
11 forgo his or her parental rights. In making this  
12 determination, the court may consider but shall not require  
13 a showing of diligent efforts by an authorized agency to  
14 encourage the parent to perform the acts specified in  
15 subdivision (n).

16 It shall be an affirmative defense to any allegation  
17 under paragraph (2) of this subsection that the father's  
18 failure was due to circumstances beyond his control or to  
19 impediments created by the mother or any other person  
20 having legal custody. Proof of that fact need only be by a  
21 preponderance of the evidence.

22 (o) Repeated or continuous failure by the parents,  
23 although physically and financially able, to provide the  
24 child with adequate food, clothing, or shelter.

25 (p) Inability to discharge parental responsibilities  
26 supported by competent evidence from a psychiatrist,

1 licensed clinical social worker, or clinical psychologist  
2 of mental impairment, mental illness or mental retardation  
3 as defined in Section 1-116 of the Mental Health and  
4 Developmental Disabilities Code, or developmental  
5 disability as defined in Section 1-106 of that Code, and  
6 there is sufficient justification to believe that the  
7 inability to discharge parental responsibilities shall  
8 extend beyond a reasonable time period. However, this  
9 subdivision (p) shall not be construed so as to permit a  
10 licensed clinical social worker to conduct any medical  
11 diagnosis to determine mental illness or mental  
12 impairment.

13 (q) (Blank).

14 (r) The child is in the temporary custody or  
15 guardianship of the Department of Children and Family  
16 Services, the parent is incarcerated as a result of  
17 criminal conviction at the time the petition or motion for  
18 termination of parental rights is filed, prior to  
19 incarceration the parent had little or no contact with the  
20 child or provided little or no support for the child, and  
21 the parent's incarceration will prevent the parent from  
22 discharging his or her parental responsibilities for the  
23 child for a period in excess of 2 years after the filing of  
24 the petition or motion for termination of parental rights.

25 (s) The child is in the temporary custody or  
26 guardianship of the Department of Children and Family

1 Services, the parent is incarcerated at the time the  
2 petition or motion for termination of parental rights is  
3 filed, the parent has been repeatedly incarcerated as a  
4 result of criminal convictions, and the parent's repeated  
5 incarceration has prevented the parent from discharging  
6 his or her parental responsibilities for the child.

7 (t) A finding that at birth the child's blood, urine,  
8 or meconium contained any amount of a controlled substance  
9 as defined in subsection (f) of Section 102 of the Illinois  
10 Controlled Substances Act, or a metabolite of a controlled  
11 substance, with the exception of controlled substances or  
12 metabolites of such substances, the presence of which in  
13 the newborn infant was the result of medical treatment  
14 administered to the mother or the newborn infant, and that  
15 the biological mother of this child is the biological  
16 mother of at least one other child who was adjudicated a  
17 neglected minor under subsection (c) of Section 2-3 of the  
18 Juvenile Court Act of 1987, after which the biological  
19 mother had the opportunity to enroll in and participate in  
20 a clinically appropriate substance abuse counseling,  
21 treatment, and rehabilitation program.

22 E. "Parent" means the father or mother of a lawful child of  
23 the parties or child born out of wedlock. For the purpose of  
24 this Act, a person who has executed a final and irrevocable  
25 consent to adoption or a final and irrevocable surrender for  
26 purposes of adoption, or whose parental rights have been

1 terminated by a court, is not a parent of the child who was the  
2 subject of the consent or surrender, unless the consent is void  
3 pursuant to subsection O of Section 10.

4 F. A person is available for adoption when the person is:

5 (a) a child who has been surrendered for adoption to an  
6 agency and to whose adoption the agency has thereafter  
7 consented;

8 (b) a child to whose adoption a person authorized by  
9 law, other than his parents, has consented, or to whose  
10 adoption no consent is required pursuant to Section 8 of  
11 this Act;

12 (c) a child who is in the custody of persons who intend  
13 to adopt him through placement made by his parents;

14 (c-1) a child for whom a parent has signed a specific  
15 consent pursuant to subsection O of Section 10;

16 (d) an adult who meets the conditions set forth in  
17 Section 3 of this Act; or

18 (e) a child who has been relinquished as defined in  
19 Section 10 of the Abandoned Newborn Infant Protection Act.

20 A person who would otherwise be available for adoption  
21 shall not be deemed unavailable for adoption solely by reason  
22 of his or her death.

23 G. The singular includes the plural and the plural includes  
24 the singular and the "male" includes the "female", as the  
25 context of this Act may require.

26 H. "Adoption disruption" occurs when an adoptive placement



1 does not prove successful and it becomes necessary for the  
2 child to be removed from placement before the adoption is  
3 finalized.

4 I. "Foreign placing agency" is an agency or individual  
5 operating in a country or territory outside the United States  
6 that is authorized by its country to place children for  
7 adoption either directly with families in the United States or  
8 through United States based international agencies.

9 J. "Immediate relatives" means the biological parents, the  
10 parents of the biological parents and siblings of the  
11 biological parents.

12 K. "Intercountry adoption" is a process by which a child  
13 from a country other than the United States is adopted.

14 L. "Intercountry Adoption Coordinator" is a staff person of  
15 the Department of Children and Family Services appointed by the  
16 Director to coordinate the provision of services by the public  
17 and private sector to prospective parents of foreign-born  
18 children.

19 M. "Interstate Compact on the Placement of Children" is a  
20 law enacted by most states for the purpose of establishing  
21 uniform procedures for handling the interstate placement of  
22 children in foster homes, adoptive homes, or other child care  
23 facilities.

24 N. "Non-Compact state" means a state that has not enacted  
25 the Interstate Compact on the Placement of Children.

26 O. "Preadoption requirements" are any conditions

1 established by the laws or regulations of the Federal  
2 Government or of each state that must be met prior to the  
3 placement of a child in an adoptive home.

4 P. "Abused child" means a child whose parent or immediate  
5 family member, or any person responsible for the child's  
6 welfare, or any individual residing in the same home as the  
7 child, or a paramour of the child's parent:

8 (a) inflicts, causes to be inflicted, or allows to be  
9 inflicted upon the child physical injury, by other than  
10 accidental means, that causes death, disfigurement,  
11 impairment of physical or emotional health, or loss or  
12 impairment of any bodily function;

13 (b) creates a substantial risk of physical injury to  
14 the child by other than accidental means which would be  
15 likely to cause death, disfigurement, impairment of  
16 physical or emotional health, or loss or impairment of any  
17 bodily function;

18 (c) commits or allows to be committed any sex offense  
19 against the child, as sex offenses are defined in the  
20 Criminal Code of 1961 and extending those definitions of  
21 sex offenses to include children under 18 years of age;

22 (d) commits or allows to be committed an act or acts of  
23 torture upon the child; or

24 (e) inflicts excessive corporal punishment.

25 Q. "Neglected child" means any child whose parent or other  
26 person responsible for the child's welfare withholds or denies

1 nourishment or medically indicated treatment including food or  
2 care denied solely on the basis of the present or anticipated  
3 mental or physical impairment as determined by a physician  
4 acting alone or in consultation with other physicians or  
5 otherwise does not provide the proper or necessary support,  
6 education as required by law, or medical or other remedial care  
7 recognized under State law as necessary for a child's  
8 well-being, or other care necessary for his or her well-being,  
9 including adequate food, clothing and shelter; or who is  
10 abandoned by his or her parents or other person responsible for  
11 the child's welfare.

12 A child shall not be considered neglected or abused for the  
13 sole reason that the child's parent or other person responsible  
14 for his or her welfare depends upon spiritual means through  
15 prayer alone for the treatment or cure of disease or remedial  
16 care as provided under Section 4 of the Abused and Neglected  
17 Child Reporting Act. A child shall not be considered neglected  
18 or abused for the sole reason that the child's parent or other  
19 person responsible for the child's welfare failed to vaccinate,  
20 delayed vaccination, or refused vaccination for the child due  
21 to a waiver on religious or medical grounds as permitted by  
22 law.

23 R. "Putative father" means a man who may be a child's  
24 father, but who (1) is not married to the child's mother on or  
25 before the date that the child was or is to be born and (2) has  
26 not established paternity of the child in a court proceeding

1 before the filing of a petition for the adoption of the child.  
2 The term includes a male who is less than 18 years of age.  
3 "Putative father" does not mean a man who is the child's father  
4 as a result of criminal sexual abuse or assault as defined  
5 under Article 12 of the Criminal Code of 1961.

6 S. "Standby adoption" means an adoption in which a parent  
7 consents to custody and termination of parental rights to  
8 become effective upon the occurrence of a future event, which  
9 is either the death of the parent or the request of the parent  
10 for the entry of a final judgment of adoption.

11 T. (Blank).

12 (Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563,  
13 eff. 1-1-06; 94-939, eff. 1-1-07.)