



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5864

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

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 and if those services are available. 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. Authorizes a court to select the goal of long-term foster care as a permanency goal if certain conditions are met.

LRB095 14159 DRJ 40022 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 (Text of Section before amendment by P.A. 95-642)

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

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

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

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

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

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

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

25 (D) restoring to their families children who have
26 been removed, by the provision of services to the child

1 and the families when the child can be cared for at
2 home without endangering the child's health and
3 safety;

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

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

17 (G) (blank);

18 (H) (blank); and

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

1 place or maintain children:

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

3 (ii) who are persons with a developmental
4 disability, as defined in the Mental Health and
5 Developmental Disabilities Code, or

6 (iii) who are female children who are
7 pregnant, pregnant and parenting or parenting, or

8 (iv) who are siblings, in facilities that
9 provide separate living quarters for children 18
10 years of age and older and for children under 18
11 years of age.

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

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

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

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

12 (e) (Blank).

13 (f) (Blank).

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

18 (1) adoption;

19 (2) foster care;

20 (3) family counseling;

21 (4) protective services;

22 (5) (blank);

23 (6) homemaker service;

24 (7) return of runaway children;

25 (8) (blank);

26 (9) placement under Section 5-7 of the Juvenile Court

1 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
2 Court Act of 1987 in accordance with the federal Adoption
3 Assistance and Child Welfare Act of 1980; and

4 (10) interstate services.

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

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

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

26 (1) case management;

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

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

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

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

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

26 The Department shall notify the child and his family of the

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

19 The Department may, at its discretion except for those
20 children also adjudicated neglected or dependent, accept for
21 care and training any child who has been adjudicated addicted,
22 as a truant minor in need of supervision or as a minor
23 requiring authoritative intervention, under the Juvenile Court
24 Act or the Juvenile Court Act of 1987, but no such child shall
25 be committed to the Department by any court without the
26 approval of the Department. A minor charged with a criminal

1 offense under the Criminal Code of 1961 or adjudicated
2 delinquent shall not be placed in the custody of or committed
3 to the Department by any court, except a minor less than 13
4 years of age committed to the Department under Section 5-710 of
5 the Juvenile Court Act of 1987.

6 (1-1) The legislature recognizes that the best interests of
7 the child require that the child be placed in the most
8 permanent living arrangement as soon as is practically
9 possible. To achieve this goal, the legislature directs the
10 Department of Children and Family Services to conduct
11 concurrent planning so that permanency may occur at the
12 earliest opportunity. Permanent living arrangements may
13 include prevention of placement of a child outside the home of
14 the family when the child can be cared for at home without
15 endangering the child's health or safety; reunification with
16 the family, when safe and appropriate, if temporary placement
17 is necessary; or movement of the child toward the most
18 permanent living arrangement and permanent legal status.

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

23 When a child is placed in foster care, the Department shall
24 ensure and document that reasonable efforts were made to
25 prevent or eliminate the need to remove the child from the
26 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

1 provide an adoptive home or long-term placement;

2 (7) the age of the child;

3 (8) placement of siblings.

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

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

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

13 If the child is found in his or her residence without a parent,
14 guardian, custodian or responsible caretaker, the Department
15 may, instead of removing the child and assuming temporary
16 custody, place an authorized representative of the Department
17 in that residence until such time as a parent, guardian or
18 custodian enters the home and expresses a willingness and
19 apparent ability to ensure the child's health and safety and
20 resume permanent charge of the child, or until a relative
21 enters the home and is willing and able to ensure the child's
22 health and safety and assume charge of the child until a
23 parent, guardian or custodian enters the home and expresses
24 such willingness and ability to ensure the child's safety and
25 resume permanent charge. After a caretaker has remained in the
26 home for a period not to exceed 12 hours, the Department must

1 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
2 5-415 of the Juvenile Court Act of 1987.

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

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

20 A parent, guardian or custodian of a child in the temporary
21 custody of the Department who would have custody of the child
22 if he were not in the temporary custody of the Department may
23 deliver to the Department a signed request that the Department
24 surrender the temporary custody of the child. The Department
25 may retain temporary custody of the child for 10 days after the
26 receipt of the request, during which period the Department may

1 cause to be filed a petition pursuant to the Juvenile Court Act
2 of 1987. If a petition is so filed, the Department shall retain
3 temporary custody of the child until the court orders
4 otherwise. If a petition is not filed within the 10 day period,
5 the child shall be surrendered to the custody of the requesting
6 parent, guardian or custodian not later than the expiration of
7 the 10 day period, at which time the authority and duties of
8 the Department with respect to the temporary custody of the
9 child shall terminate.

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

24 (n) The Department may place children under 18 years of age
25 in licensed child care facilities when in the opinion of the
26 Department, appropriate services aimed at family preservation

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

22 (o) The Department shall establish an administrative
23 review and appeal process for children and families who request
24 or receive child welfare services from the Department. Children
25 who are wards of the Department and are placed by private child
26 welfare agencies, and foster families with whom those children

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

15 (p) There is hereby created the Department of Children and
16 Family Services Emergency Assistance Fund from which the
17 Department may provide special financial assistance to
18 families which are in economic crisis when such assistance is
19 not available through other public or private sources and the
20 assistance is deemed necessary to prevent dissolution of the
21 family unit or to reunite families which have been separated
22 due to child abuse and neglect. The Department shall establish
23 administrative rules specifying the criteria for determining
24 eligibility for and the amount and nature of assistance to be
25 provided. The Department may also enter into written agreements
26 with private and public social service agencies to provide

1 emergency financial services to families referred by the
2 Department. Special financial assistance payments shall be
3 available to a family no more than once during each fiscal year
4 and the total payments to a family may not exceed \$500 during a
5 fiscal year.

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

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

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

25 (1) Establish standards in accordance with State and
26 federal laws for disbursing money from children's

1 accounts. In all circumstances, the Department's
2 "Guardianship Administrator" or his or her designee must
3 approve disbursements from children's accounts. The
4 Department shall be responsible for keeping complete
5 records of all disbursements for each account for any
6 purpose.

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

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

21 (r) The Department shall promulgate regulations
22 encouraging all adoption agencies to voluntarily forward to the
23 Department or its agent names and addresses of all persons who
24 have applied for and have been approved for adoption of a
25 hard-to-place or handicapped child and the names of such
26 children who have not been placed for adoption. A list of such

1 names and addresses shall be maintained by the Department or
2 its agent, and coded lists which maintain the confidentiality
3 of the person seeking to adopt the child and of the child shall
4 be made available, without charge, to every adoption agency in
5 the State to assist the agencies in placing such children for
6 adoption. The Department may delegate to an agent its duty to
7 maintain and make available such lists. The Department shall
8 ensure that such agent maintains the confidentiality of the
9 person seeking to adopt the child and of the child.

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

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

26 (1) an order entered by an Illinois court specifically

1 directs the Department to perform such services; and

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

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

14 (u) In addition to other information that must be provided,
15 whenever the Department places a child with a prospective
16 adoptive parent or parents or in a licensed foster home, group
17 home, child care institution, or in a relative home, the
18 Department shall provide to the prospective adoptive parent or
19 parents or other caretaker:

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

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

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

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

22 The information described in this subsection shall be
23 provided in writing. In the case of emergency placements when
24 time does not allow prior review, preparation, and collection
25 of written information, the Department shall provide such
26 information as it becomes available. Within 10 business days

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

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

22 (v) The Department shall access criminal history record
23 information as defined in the Illinois Uniform Conviction
24 Information Act and information maintained in the adjudicatory
25 and dispositional record system as defined in Section 2605-355
26 of the Department of State Police Law (20 ILCS 2605/2605-355)

1 if the Department determines the information is necessary to
2 perform its duties under the Abused and Neglected Child
3 Reporting Act, the Child Care Act of 1969, and the Children and
4 Family Services Act. The Department shall provide for
5 interactive computerized communication and processing
6 equipment that permits direct on-line communication with the
7 Department of State Police's central criminal history data
8 repository. The Department shall comply with all certification
9 requirements and provide certified operators who have been
10 trained by personnel from the Department of State Police. In
11 addition, one Office of the Inspector General investigator
12 shall have training in the use of the criminal history
13 information access system and have access to the terminal. The
14 Department of Children and Family Services and its employees
15 shall abide by rules and regulations established by the
16 Department of State Police relating to the access and
17 dissemination of this information.

18 (v-1) Prior to final approval for placement of a child, the
19 Department shall conduct a criminal records background check of
20 the prospective foster or adoptive parent, including
21 fingerprint-based checks of national crime information
22 databases. Final approval for placement shall not be granted if
23 the record check reveals a felony conviction for child abuse or
24 neglect, for spousal abuse, for a crime against children, or
25 for a crime involving violence, including rape, sexual assault,
26 or homicide, but not including other physical assault or

1 battery, or if there is a felony conviction for physical
2 assault, battery, or a drug-related offense committed within
3 the past 5 years.

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

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

1 facilities; the estimated number of placements; the potential
2 cost savings resulting from the movement of children currently
3 out-of-state who are projected to be returned to Illinois; the
4 necessary geographic distribution of these facilities in
5 Illinois; and a proposed timetable for development of such
6 facilities.

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

9 (Text of Section after amendment by P.A. 95-642)

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

14 (a) For purposes of this Section:

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

18 (A) were committed to the Department pursuant to
19 the Juvenile Court Act or the Juvenile Court Act of
20 1987, as amended, prior to the age of 18 and who
21 continue under the jurisdiction of the court; or

22 (B) were accepted for care, service and training by
23 the Department prior to the age of 18 and whose best
24 interest in the discretion of the Department would be
25 served by continuing that care, service and training

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

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

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

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

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

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

25 (D) restoring to their families children who have
26 been removed, by the provision of services to the child

1 and the families when the child can be cared for at
2 home without endangering the child's health and
3 safety;

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

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

17 (G) (blank);

18 (H) (blank); and

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

1 place or maintain children:

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

3 (ii) who are persons with a developmental
4 disability, as defined in the Mental Health and
5 Developmental Disabilities Code, or

6 (iii) who are female children who are
7 pregnant, pregnant and parenting or parenting, or

8 (iv) who are siblings, in facilities that
9 provide separate living quarters for children 18
10 years of age and older and for children under 18
11 years of age.

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

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

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

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

12 (e) (Blank).

13 (f) (Blank).

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

18 (1) adoption;

19 (2) foster care;

20 (3) family counseling;

21 (4) protective services;

22 (5) (blank);

23 (6) homemaker service;

24 (7) return of runaway children;

25 (8) (blank);

26 (9) placement under Section 5-7 of the Juvenile Court

1 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
2 Court Act of 1987 in accordance with the federal Adoption
3 Assistance and Child Welfare Act of 1980; and

4 (10) interstate services.

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

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

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

26 (1) case management;

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

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

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

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

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

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 15
11 years of age committed to the Department under Section 5-710 of
12 the Juvenile Court Act of 1987 or a minor for whom an
13 independent basis of abuse, neglect, or dependency exists,
14 which must be defined by departmental rule. An independent
15 basis exists when the allegations or adjudication of abuse,
16 neglect, or dependency do not arise from the same facts,
17 incident, or circumstances which give rise to a charge or
18 adjudication of delinquency.

19 (1-1) The legislature recognizes that the best interests of
20 the child require that the child be placed in the most
21 permanent living arrangement as soon as is practically
22 possible. To achieve this goal, the legislature directs the
23 Department of Children and Family Services to conduct
24 concurrent planning so that permanency may occur at the
25 earliest opportunity. Permanent living arrangements may
26 include prevention of placement of a child outside the home of

1 the family when the child can be cared for at home without
2 endangering the child's health or safety; reunification with
3 the family, when safe and appropriate, if temporary placement
4 is necessary; or movement of the child toward the most
5 permanent living arrangement and permanent legal status.

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

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

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

1 permanency for the child.

2 The Department shall adopt rules addressing concurrent
3 planning for reunification and permanency. The Department
4 shall consider the following factors when determining
5 appropriateness of concurrent planning:

6 (1) the likelihood of prompt reunification;

7 (2) the past history of the family;

8 (3) the barriers to reunification being addressed by
9 the family;

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

11 (5) the foster parents' willingness to work with the
12 family to reunite;

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

15 (7) the age of the child;

16 (8) placement of siblings.

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

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

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

26 If the child is found in his or her residence without a parent,

1 guardian, custodian or responsible caretaker, the Department
2 may, instead of removing the child and assuming temporary
3 custody, place an authorized representative of the Department
4 in that residence until such time as a parent, guardian or
5 custodian enters the home and expresses a willingness and
6 apparent ability to ensure the child's health and safety and
7 resume permanent charge of the child, or until a relative
8 enters the home and is willing and able to ensure the child's
9 health and safety and assume charge of the child until a
10 parent, guardian or custodian enters the home and expresses
11 such willingness and ability to ensure the child's safety and
12 resume permanent charge. After a caretaker has remained in the
13 home for a period not to exceed 12 hours, the Department must
14 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
15 5-415 of the Juvenile Court Act of 1987.

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

1 and duties that a legal custodian of the child would have under
2 subsection (9) of Section 1-3 of the Juvenile Court Act of
3 1987.

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

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

23 (m-1) The Department may place children under 18 years of
24 age in a secure child care facility licensed by the Department
25 that cares for children who are in need of secure living
26 arrangements for their health, safety, and well-being after a

1 determination is made by the facility director and the Director
2 or the Director's designate prior to admission to the facility
3 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
4 This subsection (m-1) does not apply to a child who is subject
5 to placement in a correctional facility operated pursuant to
6 Section 3-15-2 of the Unified Code of Corrections, unless the
7 child is a ward who was placed under the care of the Department
8 before being subject to placement in a correctional facility
9 and a court of competent jurisdiction has ordered placement of
10 the child in a secure care facility.

11 (n) The Department may place children under 18 years of age
12 in licensed child care facilities when in the opinion of the
13 Department, appropriate services aimed at family preservation
14 have been unsuccessful and cannot ensure the child's health and
15 safety or are unavailable and such placement would be for their
16 best interest. Payment for board, clothing, care, training and
17 supervision of any child placed in a licensed child care
18 facility may be made by the Department, by the parents or
19 guardians of the estates of those children, or by both the
20 Department and the parents or guardians, except that no
21 payments shall be made by the Department for any child placed
22 in a licensed child care facility for board, clothing, care,
23 training and supervision of such a child that exceed the
24 average per capita cost of maintaining and of caring for a
25 child in institutions for dependent or neglected children
26 operated by the Department. However, such restriction on

1 payments does not apply in cases where children require
2 specialized care and treatment for problems of severe emotional
3 disturbance, physical disability, social adjustment, or any
4 combination thereof and suitable facilities for the placement
5 of such children are not available at payment rates within the
6 limitations set forth in this Section. All reimbursements for
7 services delivered shall be absolutely inalienable by
8 assignment, sale, attachment, garnishment or otherwise.

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

1 conducted in an expedited manner.

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

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

25 The Department shall set up and administer no-cost,
26 interest-bearing accounts in appropriate financial

1 institutions for children for whom the Department is legally
2 responsible and who have been determined eligible for Veterans'
3 Benefits, Social Security benefits, assistance allotments from
4 the armed forces, court ordered payments, parental voluntary
5 payments, Supplemental Security Income, Railroad Retirement
6 payments, Black Lung benefits, or other miscellaneous
7 payments. Interest earned by each account shall be credited to
8 the account, unless disbursed in accordance with this
9 subsection.

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

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

20 (2) Calculate on a monthly basis the amounts paid from
21 State funds for the child's board and care, medical care
22 not covered under Medicaid, and social services; and
23 utilize funds from the child's account, as covered by
24 regulation, to reimburse those costs. Monthly,
25 disbursements from all children's accounts, up to 1/12 of
26 \$13,000,000, shall be deposited by the Department into the

1 General Revenue Fund and the balance over 1/12 of
2 \$13,000,000 into the DCFS Children's Services Fund.

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

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

23 (s) The Department of Children and Family Services may
24 establish and implement a program to reimburse Department and
25 private child welfare agency foster parents licensed by the
26 Department of Children and Family Services for damages

1 sustained by the foster parents as a result of the malicious or
2 negligent acts of foster children, as well as providing third
3 party coverage for such foster parents with regard to actions
4 of foster children to other individuals. Such coverage will be
5 secondary to the foster parent liability insurance policy, if
6 applicable. The program shall be funded through appropriations
7 from the General Revenue Fund, specifically designated for such
8 purposes.

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

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

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

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

1 (u) In addition to other information that must be provided,
2 whenever the Department places a child with a prospective
3 adoptive parent or parents or in a licensed foster home, group
4 home, child care institution, or in a relative home, the
5 Department shall provide to the prospective adoptive parent or
6 parents or other caretaker:

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

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

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

20 The caretaker shall be informed of any known social or
21 behavioral information (including, but not limited to,
22 criminal background, fire setting, perpetuation of sexual
23 abuse, destructive behavior, and substance abuse) necessary to
24 care for and safeguard the children to be placed or currently
25 in the home. The Department may prepare a written summary of
26 the information required by this paragraph, which may be

1 provided to the foster or prospective adoptive parent in
2 advance of a placement. The foster or prospective adoptive
3 parent may review the supporting documents in the child's file
4 in the presence of casework staff. In the case of an emergency
5 placement, casework staff shall at least provide known
6 information verbally, if necessary, and must subsequently
7 provide the information in writing as required by this
8 subsection.

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

24 (u-5) Effective July 1, 1995, only foster care placements
25 licensed as foster family homes pursuant to the Child Care Act
26 of 1969 shall be eligible to receive foster care payments from

1 the Department. Relative caregivers who, as of July 1, 1995,
2 were approved pursuant to approved relative placement rules
3 previously promulgated by the Department at 89 Ill. Adm. Code
4 335 and had submitted an application for licensure as a foster
5 family home may continue to receive foster care payments only
6 until the Department determines that they may be licensed as a
7 foster family home or that their application for licensure is
8 denied or until September 30, 1995, whichever occurs first.

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

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

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

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

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 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;
22 revised 10-30-07.)

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

1 (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

2 Sec. 8.2. If the Child Protective Service Unit determines,
3 following an investigation made pursuant to Section 7.4 of this
4 Act, that there is credible evidence that the child is abused
5 or neglected, the Department shall assess the family's need for
6 services, and, as necessary, develop, with the family, an
7 appropriate service plan for the family's voluntary acceptance
8 or refusal. In any case where there is evidence that the
9 perpetrator of the abuse or neglect is an addict or alcoholic
10 as defined in the Alcoholism and Other Drug Abuse and
11 Dependency Act, the Department, when making referrals for drug
12 or alcohol abuse services, shall make such referrals to
13 facilities licensed by the Department of Human Services or the
14 Department of Public Health. The Department shall comply with
15 Section 8.1 by explaining its lack of legal authority to compel
16 the acceptance of services and may explain its concomitant
17 authority to petition the Circuit court under the Juvenile
18 Court Act of 1987 or refer the case to the local law
19 enforcement authority or State's attorney for criminal
20 prosecution.

21 For purposes of this Act, the term "family preservation
22 services" refers to all services to help families, including
23 adoptive and extended families. Family preservation services
24 shall be offered, where safe and appropriate, to prevent the
25 placement of children in substitute care when the children can
26 be cared for at home or in the custody of the person

1 responsible for the children's welfare without endangering the
2 children's health or safety, to reunite them with their
3 families if so placed when reunification is an appropriate
4 goal, or to maintain an adoptive placement. The term
5 "homemaker" includes emergency caretakers, homemakers,
6 caretakers, housekeepers and chore services. The term
7 "counseling" includes individual therapy, infant stimulation
8 therapy, family therapy, group therapy, self-help groups, drug
9 and alcohol abuse counseling, vocational counseling and
10 post-adoptive services. The term "day care" includes
11 protective day care and day care to meet educational,
12 prevocational or vocational needs. The term "emergency
13 assistance and advocacy" includes coordinated services to
14 secure emergency cash, food, housing and medical assistance or
15 advocacy for other subsistence and family protective needs.

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

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

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

19 (a) the number of families and children served, by type
20 of services;

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

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

1 (d) an analysis of general family circumstances in
2 which family preservation services have been determined to
3 be an effective intervention;

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

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

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

12 (h) recommendations regarding any proposed legislative
13 changes to this program.

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

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

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

25 No service plan shall compel any child or parent to engage
26 in any activity or refrain from any activity which is not

1 reasonably related to remedying a condition or conditions that
2 gave rise or which could give rise to any finding of child
3 abuse or neglect.

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

6 Section 15. The Juvenile Court Act of 1987 is amended by
7 changing Sections 2-23 and 2-28 as follows:

8 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

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

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

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

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

1 minor's health or safety, and the court enters an order
2 that such parent, guardian or legal custodian is fit to
3 care for the minor.

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

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

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

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

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

26 (4) In addition to any other order of disposition, the

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

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

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

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

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

1 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

2 (Text of Section from P.A. 95-10)

3 Sec. 2-28. Court review.

4 (1) The court may require any legal custodian or guardian
5 of the person appointed under this Act to report periodically
6 to the court or may cite him into court and require him or his
7 agency, to make a full and accurate report of his or its doings
8 in behalf of the minor. The custodian or guardian, within 10
9 days after such citation, shall make the report, either in
10 writing verified by affidavit or orally under oath in open
11 court, or otherwise as the court directs. Upon the hearing of
12 the report the court may remove the custodian or guardian and
13 appoint another in his stead or restore the minor to the
14 custody of his parents or former guardian or custodian.
15 However, custody of the minor shall not be restored to any
16 parent, guardian or legal custodian in any case in which the
17 minor is found to be neglected or abused under Section 2-3 or
18 dependent under Section 2-4 of this Act, unless the minor can
19 be cared for at home without endangering the minor's health or
20 safety and it is in the best interests of the minor, and if
21 such neglect, abuse, or dependency is found by the court under
22 paragraph (1) of Section 2-21 of this Act to have come about
23 due to the acts or omissions or both of such parent, guardian
24 or legal custodian, until such time as an investigation is made
25 as provided in paragraph (5) and a hearing is held on the issue
26 of the fitness of such parent, guardian or legal custodian to

1 care for the minor and the court enters an order that such
2 parent, guardian or legal custodian is fit to care for the
3 minor.

4 (2) The first permanency hearing shall be conducted by the
5 judge. Subsequent permanency hearings may be heard by a judge
6 or by hearing officers appointed or approved by the court in
7 the manner set forth in Section 2-28.1 of this Act. The initial
8 hearing shall be held (a) within 12 months from the date
9 temporary custody was taken, (b) if the parental rights of both
10 parents have been terminated in accordance with the procedure
11 described in subsection (5) of Section 2-21, within 30 days of
12 the order for termination of parental rights and appointment of
13 a guardian with power to consent to adoption, or (c) in
14 accordance with subsection (2) of Section 2-13.1. Subsequent
15 permanency hearings shall be held every 6 months or more
16 frequently if necessary in the court's determination following
17 the initial permanency hearing, in accordance with the
18 standards set forth in this Section, until the court determines
19 that the plan and goal have been achieved. Once the plan and
20 goal have been achieved, if the minor remains in substitute
21 care, the case shall be reviewed at least every 6 months
22 thereafter, subject to the provisions of this Section, unless
23 the minor is placed in the guardianship of a suitable relative
24 or other person and the court determines that further
25 monitoring by the court does not further the health, safety or
26 best interest of the child and that this is a stable permanent

1 placement. The permanency hearings must occur within the time
2 frames set forth in this subsection and may not be delayed in
3 anticipation of a report from any source or due to the agency's
4 failure to timely file its written report (this written report
5 means the one required under the next paragraph and does not
6 mean the service plan also referred to in that paragraph).

7 The public agency that is the custodian or guardian of the
8 minor, or another agency responsible for the minor's care,
9 shall ensure that all parties to the permanency hearings are
10 provided a copy of the most recent service plan prepared within
11 the prior 6 months at least 14 days in advance of the hearing.
12 If not contained in the plan, the agency shall also include a
13 report setting forth (i) any special physical, psychological,
14 educational, medical, emotional, or other needs of the minor or
15 his or her family that are relevant to a permanency or
16 placement determination and (ii) for any minor age 16 or over,
17 a written description of the programs and services that will
18 enable the minor to prepare for independent living. The
19 agency's written report must detail what progress or lack of
20 progress the parent has made in correcting the conditions
21 requiring the child to be in care; whether the child can be
22 returned home without jeopardizing the child's health, safety,
23 and welfare, and if not, what permanency goal is recommended to
24 be in the best interests of the child, and why the other
25 permanency goals are not appropriate. The caseworker must
26 appear and testify at the permanency hearing. If a permanency

1 hearing has not previously been scheduled by the court, the
2 moving party shall move for the setting of a permanency hearing
3 and the entry of an order within the time frames set forth in
4 this subsection.

5 At the permanency hearing, the court shall determine the
6 future status of the child. The court shall set one of the
7 following permanency goals:

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

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

15 (B-1) The minor will be in short-term care with a
16 continued goal to return home pending a status hearing.
17 When the court finds that a parent has not made reasonable
18 efforts or reasonable progress to date, the court shall
19 identify what actions the parent and the Department must
20 take in order to justify a finding of reasonable efforts or
21 reasonable progress and shall set a status hearing to be
22 held not earlier than 9 months from the date of
23 adjudication nor later than 11 months from the date of
24 adjudication during which the parent's progress will again
25 be reviewed.

26 (C) The minor will be in substitute care pending court

1 determination on termination of parental rights.

2 (D) Adoption, provided that parental rights have been
3 terminated or relinquished.

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

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

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

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

21 The court shall set a permanency goal that is in the best
22 interest of the child. In determining that goal, the court
23 shall consult with the minor in an age-appropriate manner
24 regarding the proposed permanency or transition plan for the
25 minor. The court's determination shall include the following
26 factors:

1 (1) Age of the child.

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

4 (3) Current placement of the child and the intent of
5 the family regarding adoption.

6 (4) Emotional, physical, and mental status or
7 condition of the child.

8 (5) Types of services previously offered and whether or
9 not the services were successful and, if not successful,
10 the reasons the services failed.

11 (6) Availability of services currently needed and
12 whether the services exist.

13 (7) Status of siblings of the minor.

14 The court shall consider (i) the permanency goal contained
15 in the service plan, (ii) the appropriateness of the services
16 contained in the plan and whether those services have been
17 provided, (iii) whether reasonable efforts have been made by
18 all the parties to the service plan to achieve the goal, and
19 (iv) whether the plan and goal have been achieved. All evidence
20 relevant to determining these questions, including oral and
21 written reports, may be admitted and may be relied on to the
22 extent of their probative value.

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

26 If, after receiving evidence, the court determines that the

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

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

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

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

24 (a) The future status of the minor, including the
25 permanency goal, and any order necessary to conform the
26 minor's legal custody and status to such determination; or

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

6 (i) (Blank).

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

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

23 (iv) (Blank).

24 (v) (Blank).

25 Any order entered pursuant to this subsection (3) shall be
26 immediately appealable as a matter of right under Supreme Court

1 Rule 304(b) (1) .

2 (4) The minor or any person interested in the minor may
3 apply to the court for a change in custody of the minor and the
4 appointment of a new custodian or guardian of the person or for
5 the restoration of the minor to the custody of his parents or
6 former guardian or custodian.

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

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

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

22 Custody of the minor shall not be restored to any parent,
23 guardian or legal custodian in any case in which the minor is
24 found to be neglected or abused under Section 2-3 or dependent
25 under Section 2-4 of this Act, unless the minor can be cared
26 for at home without endangering his or her health or safety and

1 it is in the best interest of the minor, and if such neglect,
2 abuse, or dependency is found by the court under paragraph (1)
3 of Section 2-21 of this Act to have come about due to the acts
4 or omissions or both of such parent, guardian or legal
5 custodian, until such time as an investigation is made as
6 provided in paragraph (5) and a hearing is held on the issue of
7 the health, safety and best interest of the minor and the
8 fitness of such parent, guardian or legal custodian to care for
9 the minor and the court enters an order that such parent,
10 guardian or legal custodian is fit to care for the minor. In
11 the event that the minor has attained 18 years of age and the
12 guardian or custodian petitions the court for an order
13 terminating his guardianship or custody, guardianship or
14 custody shall terminate automatically 30 days after the receipt
15 of the petition unless the court orders otherwise. No legal
16 custodian or guardian of the person may be removed without his
17 consent until given notice and an opportunity to be heard by
18 the court.

19 When the court orders a child restored to the custody of
20 the parent or parents, the court shall order the parent or
21 parents to cooperate with the Department of Children and Family
22 Services and comply with the terms of an after-care plan, or
23 risk the loss of custody of the child and possible termination
24 of their parental rights. The court may also enter an order of
25 protective supervision in accordance with Section 2-24.

26 (5) Whenever a parent, guardian, or legal custodian files a

1 motion for restoration of custody of the minor, and the minor
2 was adjudicated neglected, abused, or dependent as a result of
3 physical abuse, the court shall cause to be made an
4 investigation as to whether the movant has ever been charged
5 with or convicted of any criminal offense which would indicate
6 the likelihood of any further physical abuse to the minor.
7 Evidence of such criminal convictions shall be taken into
8 account in determining whether the minor can be cared for at
9 home without endangering his or her health or safety and
10 fitness of the parent, guardian, or legal custodian.

11 (a) Any agency of this State or any subdivision thereof
12 shall co-operate with the agent of the court in providing
13 any information sought in the investigation.

14 (b) The information derived from the investigation and
15 any conclusions or recommendations derived from the
16 information shall be provided to the parent, guardian, or
17 legal custodian seeking restoration of custody prior to the
18 hearing on fitness and the movant shall have an opportunity
19 at the hearing to refute the information or contest its
20 significance.

21 (c) All information obtained from any investigation
22 shall be confidential as provided in Section 5-150 of this
23 Act.

24 (Source: P.A. 95-10, eff. 6-30-07.)

25 (Text of Section from P.A. 95-182)

1 Sec. 2-28. Court review.

2 (1) The court may require any legal custodian or guardian
3 of the person appointed under this Act to report periodically
4 to the court or may cite him into court and require him or his
5 agency, to make a full and accurate report of his or its doings
6 in behalf of the minor. The custodian or guardian, within 10
7 days after such citation, shall make the report, either in
8 writing verified by affidavit or orally under oath in open
9 court, or otherwise as the court directs. Upon the hearing of
10 the report the court may remove the custodian or guardian and
11 appoint another in his stead or restore the minor to the
12 custody of his parents or former guardian or custodian.
13 However, custody of the minor shall not be restored to any
14 parent, guardian or legal custodian in any case in which the
15 minor is found to be neglected or abused under Section 2-3 or
16 dependent under Section 2-4 of this Act, unless the minor can
17 be cared for at home without endangering the minor's health or
18 safety and it is in the best interests of the minor, and if
19 such neglect, abuse, or dependency is found by the court under
20 paragraph (1) of Section 2-21 of this Act to have come about
21 due to the acts or omissions or both of such parent, guardian
22 or legal custodian, until such time as an investigation is made
23 as provided in paragraph (5) and a hearing is held on the issue
24 of the fitness of such parent, guardian or legal custodian to
25 care for the minor and the court enters an order that such
26 parent, guardian or legal custodian is fit to care for the

1 minor.

2 (2) The first permanency hearing shall be conducted by the
3 judge. Subsequent permanency hearings may be heard by a judge
4 or by hearing officers appointed or approved by the court in
5 the manner set forth in Section 2-28.1 of this Act. The initial
6 hearing shall be held (a) within 12 months from the date
7 temporary custody was taken, (b) if the parental rights of both
8 parents have been terminated in accordance with the procedure
9 described in subsection (5) of Section 2-21, within 30 days of
10 the order for termination of parental rights and appointment of
11 a guardian with power to consent to adoption, or (c) in
12 accordance with subsection (2) of Section 2-13.1. Subsequent
13 permanency hearings shall be held every 6 months or more
14 frequently if necessary in the court's determination following
15 the initial permanency hearing, in accordance with the
16 standards set forth in this Section, until the court determines
17 that the plan and goal have been achieved. Once the plan and
18 goal have been achieved, if the minor remains in substitute
19 care, the case shall be reviewed at least every 6 months
20 thereafter, subject to the provisions of this Section, unless
21 the minor is placed in the guardianship of a suitable relative
22 or other person and the court determines that further
23 monitoring by the court does not further the health, safety or
24 best interest of the child and that this is a stable permanent
25 placement. The permanency hearings must occur within the time
26 frames set forth in this subsection and may not be delayed in

1 anticipation of a report from any source or due to the agency's
2 failure to timely file its written report (this written report
3 means the one required under the next paragraph and does not
4 mean the service plan also referred to in that paragraph).

5 The public agency that is the custodian or guardian of the
6 minor, or another agency responsible for the minor's care,
7 shall ensure that all parties to the permanency hearings are
8 provided a copy of the most recent service plan prepared within
9 the prior 6 months at least 14 days in advance of the hearing.
10 If not contained in the plan, the agency shall also include a
11 report setting forth (i) any special physical, psychological,
12 educational, medical, emotional, or other needs of the minor or
13 his or her family that are relevant to a permanency or
14 placement determination and (ii) for any minor age 16 or over,
15 a written description of the programs and services that will
16 enable the minor to prepare for independent living. The
17 agency's written report must detail what progress or lack of
18 progress the parent has made in correcting the conditions
19 requiring the child to be in care; whether the child can be
20 returned home without jeopardizing the child's health, safety,
21 and welfare, and if not, what permanency goal is recommended to
22 be in the best interests of the child, and why the other
23 permanency goals are not appropriate. The caseworker must
24 appear and testify at the permanency hearing. If a permanency
25 hearing has not previously been scheduled by the court, the
26 moving party shall move for the setting of a permanency hearing

1 and the entry of an order within the time frames set forth in
2 this subsection.

3 At the permanency hearing, the court shall determine the
4 future status of the child. The court shall set one of the
5 following permanency goals:

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

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

13 (B-1) The minor will be in short-term care with a
14 continued goal to return home pending a status hearing.
15 When the court finds that a parent has not made reasonable
16 efforts or reasonable progress to date, the court shall
17 identify what actions the parent and the Department must
18 take in order to justify a finding of reasonable efforts or
19 reasonable progress and shall set a status hearing to be
20 held not earlier than 9 months from the date of
21 adjudication nor later than 11 months from the date of
22 adjudication during which the parent's progress will again
23 be reviewed.

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

26 (D) Adoption, provided that parental rights have been

1 terminated or relinquished.

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

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

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

12 In selecting any permanency goal, the court shall indicate
13 in writing the reasons the goal was selected and why the
14 preceding goals were ruled out. Where the court has selected a
15 permanency goal other than (A), (B), or (B-1), the Department
16 of Children and Family Services shall not provide further
17 reunification services, but shall provide services consistent
18 with the goal selected.

19 Notwithstanding any other provision in this Section, the
20 court may select the goal of long-term foster care as a
21 permanency goal if:

22 (H) the Department of Children and Family Services is
23 the custodian or guardian of the minor; and

24 (I) the court has ruled out return home as a permanency
25 goal; and

26 (J) the court, after receiving evidence, makes written

1 findings that (i) the child is living with a relative or
2 foster parent who is unable or unwilling to adopt the child
3 or be named the child's guardian because of exceptional
4 circumstances, but who is willing and capable of providing
5 the child with a stable and permanent environment, and the
6 removal of the child from the physical custody of his or
7 her relative or foster parent would be detrimental to the
8 emotional well-being of the child or (ii) there would be
9 substantial interference with a child's sibling
10 relationship, taking into consideration the nature and
11 extent of the relationship, including, but not limited to,
12 whether the child was raised with a sibling in the same
13 home, whether the child shared significant common
14 experiences or has existing close and strong bonds with a
15 sibling, and whether ongoing contact is in the child's best
16 interest, including the child's long-term emotional
17 interest, as compared to the benefit of legal permanence
18 through adoption.

19 The court shall set a permanency goal that is in the best
20 interest of the child. The court's determination shall include
21 the following factors:

22 (1) Age of the child.

23 (2) Options available for permanence.

24 (3) Current placement of the child and the intent of
25 the family regarding adoption.

26 (4) Emotional, physical, and mental status or

1 condition of the child.

2 (5) Types of services previously offered and whether or
3 not the services were successful and, if not successful,
4 the reasons the services failed.

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

7 (7) Status of siblings of the minor.

8 The court shall consider (i) the permanency goal contained
9 in the service plan, (ii) the appropriateness of the services
10 contained in the plan and whether those services have been
11 provided, (iii) whether reasonable efforts have been made by
12 all the parties to the service plan to achieve the goal, and
13 (iv) whether the plan and goal have been achieved. All evidence
14 relevant to determining these questions, including oral and
15 written reports, may be admitted and may be relied on to the
16 extent of their probative value.

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

20 If, after receiving evidence, the court determines that the
21 services contained in the plan are not reasonably calculated to
22 facilitate achievement of the permanency goal, the court shall
23 put in writing the factual basis supporting the determination
24 and enter specific findings based on the evidence. The court
25 also shall enter an order for the Department to develop and
26 implement a new service plan or to implement changes to the

1 current service plan consistent with the court's findings. The
2 new service plan shall be filed with the court and served on
3 all parties within 45 days of the date of the order. The court
4 shall continue the matter until the new service plan is filed.
5 Unless otherwise specifically authorized by law, the court is
6 not empowered under this subsection (2) or under subsection (3)
7 to order specific placements, specific services, or specific
8 service providers to be included in the plan.

9 A guardian or custodian appointed by the court pursuant to
10 this Act shall file updated case plans with the court every 6
11 months.

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

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

18 (a) The future status of the minor, including the
19 permanency goal, and any order necessary to conform the
20 minor's legal custody and status to such determination; or

21 (b) If the permanency goal of the minor cannot be
22 achieved immediately, the specific reasons for continuing
23 the minor in the care of the Department of Children and
24 Family Services or other agency for short term placement,
25 and the following determinations:

26 (i) (Blank).

1 (ii) Whether the services required by the court and
2 by any service plan prepared within the prior 6 months
3 have been provided and (A) if so, whether the services
4 were reasonably calculated to facilitate the
5 achievement of the permanency goal or (B) if not
6 provided, why the services were not provided.

7 (iii) Whether the minor's placement is necessary,
8 and appropriate to the plan and goal, recognizing the
9 right of minors to the least restrictive (most
10 family-like) setting available and in close proximity
11 to the parents' home consistent with the health,
12 safety, best interest and special needs of the minor
13 and, if the minor is placed out-of-State, whether the
14 out-of-State placement continues to be appropriate and
15 consistent with the health, safety, and best interest
16 of the minor.

17 (iv) (Blank).

18 (v) (Blank).

19 (4) The minor or any person interested in the minor may
20 apply to the court for a change in custody of the minor and the
21 appointment of a new custodian or guardian of the person or for
22 the restoration of the minor to the custody of his parents or
23 former guardian or custodian.

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

25 (a) The Department, the minor, or the current foster
26 parent or relative caregiver seeking private guardianship

1 may file a motion for private guardianship of the minor.
2 Appointment of a guardian under this Section requires
3 approval of the court.

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

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

1 guardian or legal custodian is fit to care for the minor. In
2 the event that the minor has attained 18 years of age and the
3 guardian or custodian petitions the court for an order
4 terminating his guardianship or custody, guardianship or
5 custody shall terminate automatically 30 days after the receipt
6 of the petition unless the court orders otherwise. No legal
7 custodian or guardian of the person may be removed without his
8 consent until given notice and an opportunity to be heard by
9 the court.

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

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

1 fitness of the parent, guardian, or legal custodian.

2 (a) Any agency of this State or any subdivision thereof
3 shall co-operate with the agent of the court in providing
4 any information sought in the investigation.

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

12 (c) All information obtained from any investigation
13 shall be confidential as provided in Section 5-150 of this
14 Act.

15 (Source: P.A. 95-182, eff. 8-14-07.)

16 Section 95. No acceleration or delay. Where this Act makes
17 changes in a statute that is represented in this Act by text
18 that is not yet or no longer in effect (for example, a Section
19 represented by multiple versions), the use of that text does
20 not accelerate or delay the taking effect of (i) the changes
21 made by this Act or (ii) provisions derived from any other
22 Public Act.