

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) ~~The~~ ~~Before July 1, 2000, the Department may provide,~~
8 ~~and 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 13
11 years of age committed to the Department under Section 5-710 of
12 the Juvenile Court Act of 1987.

13 As soon as is possible after the effective date of this
14 amendatory Act of the 95th General Assembly, the Department
15 shall enhance its program of family preservation services,
16 including, but not limited to, respite care, to support intact,
17 foster, and adoptive families when (i) the family is eligible
18 for services from the Department pursuant to the Department's
19 rules, (ii) the family is experiencing extreme hardships due to
20 the difficulty and stress of caring for a child who has been
21 diagnosed with a pervasive developmental disorder, and (iii)
22 the Department determines that those services are necessary to
23 ensure the health and safety of the child. "Respite care" shall
24 be defined in the Department's amended rules and regulations.
25 The Department may refer the child or family to services
26 available from other agencies in the community. Acceptance of

1 these services shall be voluntary. The Department may develop
2 and implement a public information campaign to alert health and
3 social service providers and the general public about these
4 special family preservation services. The nature and scope of
5 the services offered and the number of families served under
6 the special program implemented under this paragraph shall be
7 determined by the level of funding that the Department annually
8 allocates for this purpose. The term "pervasive developmental
9 disorder" under this paragraph means a neurological condition,
10 Asperger's Syndrome, and autism, as defined in the most recent
11 edition of the Diagnostic and Statistical Manual of Mental
12 Disorders of the American Psychiatric Association.

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

26 When determining reasonable efforts to be made with respect

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

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

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

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

26 (1) the likelihood of prompt reunification;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (q) The Department may receive and use, in their entirety,
14 for the benefit of children any gift, donation or bequest of
15 money or other property which is received on behalf of such
16 children, or any financial benefits to which such children are
17 or may become entitled while under the jurisdiction or care of
18 the Department. If the person who gives, donates, or bequeaths
19 money or other property that is received by the Department for
20 the benefit of children provides in writing that the money or
21 other property is for a specific purpose, the Department shall
22 use the money or other property only for that purpose.

23 The Department shall set up and administer no-cost,
24 interest-bearing accounts in appropriate financial
25 institutions for children for whom the Department is legally
26 responsible and who have been determined eligible for Veterans'

1 Benefits, Social Security benefits, assistance allotments from
2 the armed forces, court ordered payments, parental voluntary
3 payments, Supplemental Security Income, Railroad Retirement
4 payments, Black Lung benefits, or other miscellaneous
5 payments. Interest earned by each account shall be credited to
6 the account, unless disbursed in accordance with this
7 subsection.

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

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

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

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

6 Subject to appropriation, the Department shall provide a
7 stipend in the amount of up to \$1,500 to youths who, on or
8 after January 1, 2009, cease to be wards of the Department
9 pursuant to Section 2-31 of the Juvenile Court Act of 1987 and
10 who meet the qualifications set out in this paragraph. The
11 stipend shall be paid by voucher to promote successful
12 transition outcomes by supporting training, housing, and
13 living expenses. All or part of the stipend may also be used to
14 pay the fee for drivers education to prepare the youth to take
15 an examination given by the Secretary of State for a driver's
16 license or permit. In order to be eligible for this benefit, a
17 youth must have: (A) at the time wardship terminated, reached
18 the age of 18 years or older; and (B) either (i) at the time
19 wardship terminated, obtained a certificate of graduation from
20 a high school or the recognized equivalent of such a
21 certificate; (ii) within one year after wardship terminated,
22 obtained a certificate of graduation from a high school or the
23 recognized equivalent of such a certificate, or (iii) within
24 one year after wardship terminated, been determined by DCFS to
25 lack the ability to obtain a certificate of graduation from a
26 high school, or the recognized equivalent of such a

1 certificate, due to an impairment or disability. The Department
2 shall establish (i) procedures for verifying eligibility for
3 the receipt of funds under this paragraph and for determining
4 the amount of the stipend to be awarded and (ii) a process for
5 disseminating the payments.

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

21 (s) The Department of Children and Family Services may
22 establish and implement a program to reimburse Department and
23 private child welfare agency foster parents licensed by the
24 Department of Children and Family Services for damages
25 sustained by the foster parents as a result of the malicious or
26 negligent acts of foster children, as well as providing third

1 party coverage for such foster parents with regard to actions
2 of foster children to other individuals. Such coverage will be
3 secondary to the foster parent liability insurance policy, if
4 applicable. The program shall be funded through appropriations
5 from the General Revenue Fund, specifically designated for such
6 purposes.

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

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

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

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

25 (u) In addition to other information that must be provided,
26 whenever the Department places a child with a prospective

1 adoptive parent or parents or in a licensed foster home, group
2 home, child care institution, or in a relative home, the
3 Department shall provide to the prospective adoptive parent or
4 parents or other caretaker:

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

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

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

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

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

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

22 (u-5) Effective July 1, 1995, only foster care placements
23 licensed as foster family homes pursuant to the Child Care Act
24 of 1969 shall be eligible to receive foster care payments from
25 the Department. Relative caregivers who, as of July 1, 1995,
26 were approved pursuant to approved relative placement rules

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

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

1 Department of State Police relating to the access and
2 dissemination of this information.

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

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

23 (w) Within 120 days of August 20, 1995 (the effective date
24 of Public Act 89-392), the Department shall prepare and submit
25 to the Governor and the General Assembly, a written plan for
26 the development of in-state licensed secure child care

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

18 (x) Notwithstanding any other rulemaking authority that
19 may exist, neither the Governor nor any agency or agency head
20 under the jurisdiction of the Governor has any authority to
21 make or promulgate rules to implement or enforce the provisions
22 of this amendatory Act of the 95th General Assembly. If,
23 however, the Governor believes that rules are necessary to
24 implement or enforce the provisions of this amendatory Act of
25 the 95th General Assembly, the Governor may suggest rules to
26 the General Assembly by filing them with the Clerk of the House

1 and the Secretary of the Senate and by requesting that the
2 General Assembly authorize such rulemaking by law, enact those
3 suggested rules into law, or take any other appropriate action
4 in the General Assembly's discretion. Nothing contained in this
5 amendatory Act of the 95th General Assembly shall be
6 interpreted to grant rulemaking authority under any other
7 Illinois statute where such authority is not otherwise
8 explicitly given. For the purposes of this amendatory Act of
9 the 95th General Assembly, "rules" is given the meaning
10 contained in Section 1-70 of the Illinois Administrative
11 Procedure Act, and "agency" and "agency head" are given the
12 meanings contained in Sections 1-20 and 1-25 of the Illinois
13 Administrative Procedure Act to the extent that such
14 definitions apply to agencies or agency heads under the
15 jurisdiction of the Governor.

16 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;
17 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; revised 10-30-07.)

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

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

23 (a) For purposes of this Section:

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

1 persons under age 19 who:

2 (A) were committed to the Department pursuant to
3 the Juvenile Court Act or the Juvenile Court Act of
4 1987, as amended, prior to the age of 18 and who
5 continue under the jurisdiction of the court; or

6 (B) were accepted for care, service and training by
7 the Department prior to the age of 18 and whose best
8 interest in the discretion of the Department would be
9 served by continuing that care, service and training
10 because of severe emotional disturbances, physical
11 disability, social adjustment or any combination
12 thereof, or because of the need to complete an
13 educational or vocational training program.

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

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

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

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

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

8 (D) restoring to their families children who have
9 been removed, by the provision of services to the child
10 and the families when the child can be cared for at
11 home without endangering the child's health and
12 safety;

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

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

26 (G) (blank);

1 (H) (blank); and

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

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

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

15 (iii) who are female children who are
16 pregnant, pregnant and parenting or parenting, or

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

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

24 (c) The Department shall establish and maintain
25 tax-supported child welfare services and extend and seek to
26 improve voluntary services throughout the State, to the end

1 that services and care shall be available on an equal basis
2 throughout the State to children requiring such services.

3 (d) The Director may authorize advance disbursements for
4 any new program initiative to any agency contracting with the
5 Department. As a prerequisite for an advance disbursement, the
6 contractor must post a surety bond in the amount of the advance
7 disbursement and have a purchase of service contract approved
8 by the Department. The Department may pay up to 2 months
9 operational expenses in advance. The amount of the advance
10 disbursement shall be prorated over the life of the contract or
11 the remaining months of the fiscal year, whichever is less, and
12 the installment amount shall then be deducted from future
13 bills. Advance disbursement authorizations for new initiatives
14 shall not be made to any agency after that agency has operated
15 during 2 consecutive fiscal years. The requirements of this
16 Section concerning advance disbursements shall not apply with
17 respect to the following: payments to local public agencies for
18 child day care services as authorized by Section 5a of this
19 Act; and youth service programs receiving grant funds under
20 Section 17a-4.

21 (e) (Blank).

22 (f) (Blank).

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

- 1 (1) adoption;
- 2 (2) foster care;
- 3 (3) family counseling;
- 4 (4) protective services;
- 5 (5) (blank);
- 6 (6) homemaker service;
- 7 (7) return of runaway children;
- 8 (8) (blank);
- 9 (9) placement under Section 5-7 of the Juvenile Court
10 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
11 Court Act of 1987 in accordance with the federal Adoption
12 Assistance and Child Welfare Act of 1980; and
- 13 (10) interstate services.

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

23 (h) If the Department finds that there is no appropriate
24 program or facility within or available to the Department for a
25 ward and that no licensed private facility has an adequate and
26 appropriate program or none agrees to accept the ward, the

1 Department shall create an appropriate individualized,
2 program-oriented plan for such ward. The plan may be developed
3 within the Department or through purchase of services by the
4 Department to the extent that it is within its statutory
5 authority to do.

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

- 9 (1) case management;
- 10 (2) homemakers;
- 11 (3) counseling;
- 12 (4) parent education;
- 13 (5) day care; and
- 14 (6) emergency assistance and advocacy.

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

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

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

24 (j) The Department may provide categories of financial
25 assistance and education assistance grants, and shall
26 establish rules and regulations concerning the assistance and

1 grants, to persons who adopt physically or mentally
2 handicapped, older and other hard-to-place children who (i)
3 immediately prior to their adoption were legal wards of the
4 Department or (ii) were determined eligible for financial
5 assistance with respect to a prior adoption and who become
6 available for adoption because the prior adoption has been
7 dissolved and the parental rights of the adoptive parents have
8 been terminated or because the child's adoptive parents have
9 died. The Department may continue to provide financial
10 assistance and education assistance grants for a child who was
11 determined eligible for financial assistance under this
12 subsection (j) in the interim period beginning when the child's
13 adoptive parents died and ending with the finalization of the
14 new adoption of the child by another adoptive parent or
15 parents. The Department may also provide categories of
16 financial assistance and education assistance grants, and
17 shall establish rules and regulations for the assistance and
18 grants, to persons appointed guardian of the person under
19 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
20 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
21 who were wards of the Department for 12 months immediately
22 prior to the appointment of the guardian.

23 The amount of assistance may vary, depending upon the needs
24 of the child and the adoptive parents, as set forth in the
25 annual assistance agreement. Special purpose grants are
26 allowed where the child requires special service but such costs

1 may not exceed the amounts which similar services would cost
2 the Department if it were to provide or secure them as guardian
3 of the child.

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

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

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

16 (l) ~~The~~ ~~Before July 1, 2000, the Department may provide,~~
17 ~~and beginning July 1, 2000, the~~ Department shall offer family
18 preservation services, as defined in Section 8.2 of the Abused
19 and Neglected Child Reporting Act, to help families, including
20 adoptive and extended families. Family preservation services
21 shall be offered (i) to prevent the placement of children in
22 substitute care when the children can be cared for at home or
23 in the custody of the person responsible for the children's
24 welfare, (ii) to reunite children with their families, or (iii)
25 to maintain an adoptive placement. Family preservation
26 services shall only be offered when doing so will not endanger

1 the children's health or safety. With respect to children who
2 are in substitute care pursuant to the Juvenile Court Act of
3 1987, family preservation services shall not be offered if a
4 goal other than those of subdivisions (A), (B), or (B-1) of
5 subsection (2) of Section 2-28 of that Act has been set.
6 Nothing in this paragraph shall be construed to create a
7 private right of action or claim on the part of any individual
8 or child welfare agency, except that when a child is the
9 subject of an action under Article II of the Juvenile Court Act
10 of 1987 and the child's service plan calls for certain family
11 preservation services, the court hearing the action under
12 Article II of the Juvenile Court Act of 1987 may order the
13 Department to provide the family preservation services set out
14 in the plan, if those services are not provided with reasonable
15 promptness and if those services are available.

16 The Department shall notify the child and his family of the
17 Department's responsibility to offer and provide family
18 preservation services as identified in the service plan. The
19 child and his family shall be eligible for services as soon as
20 the report is determined to be "indicated". The Department may
21 offer services to any child or family with respect to whom a
22 report of suspected child abuse or neglect has been filed,
23 prior to concluding its investigation under Section 7.12 of the
24 Abused and Neglected Child Reporting Act. However, the child's
25 or family's willingness to accept services shall not be
26 considered in the investigation. The Department may also

1 provide services to any child or family who is the subject of
2 any report of suspected child abuse or neglect or may refer
3 such child or family to services available from other agencies
4 in the community, even if the report is determined to be
5 unfounded, if the conditions in the child's or family's home
6 are reasonably likely to subject the child or family to future
7 reports of suspected child abuse or neglect. Acceptance of such
8 services shall be voluntary.

9 The Department may, at its discretion except for those
10 children also adjudicated neglected or dependent, accept for
11 care and training any child who has been adjudicated addicted,
12 as a truant minor in need of supervision or as a minor
13 requiring authoritative intervention, under the Juvenile Court
14 Act or the Juvenile Court Act of 1987, but no such child shall
15 be committed to the Department by any court without the
16 approval of the Department. A minor charged with a criminal
17 offense under the Criminal Code of 1961 or adjudicated
18 delinquent shall not be placed in the custody of or committed
19 to the Department by any court, except a minor less than 15
20 years of age committed to the Department under Section 5-710 of
21 the Juvenile Court Act of 1987 or a minor for whom an
22 independent basis of abuse, neglect, or dependency exists,
23 which must be defined by departmental rule. An independent
24 basis exists when the allegations or adjudication of abuse,
25 neglect, or dependency do not arise from the same facts,
26 incident, or circumstances which give rise to a charge or

1 adjudication of delinquency.

2 As soon as is possible after the effective date of this
3 amendatory Act of the 95th General Assembly, the Department
4 shall enhance its program of family preservation services,
5 including, but not limited to, respite care, to support intact,
6 foster, and adoptive families when (i) the family is eligible
7 for services from the Department pursuant to the Department's
8 rules, (ii) the family is experiencing extreme hardships due to
9 the difficulty and stress of caring for a child who has been
10 diagnosed with a pervasive developmental disorder, and (iii)
11 the Department determines that those services are necessary to
12 ensure the health and safety of the child. "Respite care" shall
13 be defined in the Department's amended rules and regulations.
14 The Department may refer the child or family to services
15 available from other agencies in the community. Acceptance of
16 these services shall be voluntary. The Department may develop
17 and implement a public information campaign to alert health and
18 social service providers and the general public about these
19 special family preservation services. The nature and scope of
20 the services offered and the number of families served under
21 the special program implemented under this paragraph shall be
22 determined by the level of funding that the Department annually
23 allocates for this purpose. The term "pervasive developmental
24 disorder" under this paragraph means a neurological condition,
25 Asperger's Syndrome, and autism, as defined in the most recent
26 edition of the Diagnostic and Statistical Manual of Mental

1 Disorders of the American Psychiatric Association.

2 (1-1) The legislature recognizes that the best interests of
3 the child require that the child be placed in the most
4 permanent living arrangement as soon as is practically
5 possible. To achieve this goal, the legislature directs the
6 Department of Children and Family Services to conduct
7 concurrent planning so that permanency may occur at the
8 earliest opportunity. Permanent living arrangements may
9 include prevention of placement of a child outside the home of
10 the family when the child can be cared for at home without
11 endangering the child's health or safety; reunification with
12 the family, when safe and appropriate, if temporary placement
13 is necessary; or movement of the child toward the most
14 permanent living arrangement and permanent legal status.

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

19 When a child is placed in foster care, the Department shall
20 ensure and document that reasonable efforts were made to
21 prevent or eliminate the need to remove the child from the
22 child's home. The Department must make reasonable efforts to
23 reunify the family when temporary placement of the child occurs
24 unless otherwise required, pursuant to the Juvenile Court Act
25 of 1987. At any time after the dispositional hearing where the
26 Department believes that further reunification services would

1 be ineffective, it may request a finding from the court that
2 reasonable efforts are no longer appropriate. The Department is
3 not required to provide further reunification services after
4 such a finding.

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

11 The Department shall adopt rules addressing concurrent
12 planning for reunification and permanency. The Department
13 shall consider the following factors when determining
14 appropriateness of concurrent planning:

- 15 (1) the likelihood of prompt reunification;
16 (2) the past history of the family;
17 (3) the barriers to reunification being addressed by
18 the family;
19 (4) the level of cooperation of the family;
20 (5) the foster parents' willingness to work with the
21 family to reunite;
22 (6) the willingness and ability of the foster family to
23 provide an adoptive home or long-term placement;
24 (7) the age of the child;
25 (8) placement of siblings.
26 (m) The Department may assume temporary custody of any

1 child if:

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

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

9 If the child is found in his or her residence without a parent,
10 guardian, custodian or responsible caretaker, the Department
11 may, instead of removing the child and assuming temporary
12 custody, place an authorized representative of the Department
13 in that residence until such time as a parent, guardian or
14 custodian enters the home and expresses a willingness and
15 apparent ability to ensure the child's health and safety and
16 resume permanent charge of the child, or until a relative
17 enters the home and is willing and able to ensure the child's
18 health and safety and assume charge of the child until a
19 parent, guardian or custodian enters the home and expresses
20 such willingness and ability to ensure the child's safety and
21 resume permanent charge. After a caretaker has remained in the
22 home for a period not to exceed 12 hours, the Department must
23 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
24 5-415 of the Juvenile Court Act of 1987.

25 The Department shall have the authority, responsibilities
26 and duties that a legal custodian of the child would have

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

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

16 A parent, guardian or custodian of a child in the temporary
17 custody of the Department who would have custody of the child
18 if he were not in the temporary custody of the Department may
19 deliver to the Department a signed request that the Department
20 surrender the temporary custody of the child. The Department
21 may retain temporary custody of the child for 10 days after the
22 receipt of the request, during which period the Department may
23 cause to be filed a petition pursuant to the Juvenile Court Act
24 of 1987. If a petition is so filed, the Department shall retain
25 temporary custody of the child until the court orders
26 otherwise. If a petition is not filed within the 10 day period,

1 the child shall be surrendered to the custody of the requesting
2 parent, guardian or custodian not later than the expiration of
3 the 10 day period, at which time the authority and duties of
4 the Department with respect to the temporary custody of the
5 child shall terminate.

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

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

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

18 (o) The Department shall establish an administrative
19 review and appeal process for children and families who request
20 or receive child welfare services from the Department. Children
21 who are wards of the Department and are placed by private child
22 welfare agencies, and foster families with whom those children
23 are placed, shall be afforded the same procedural and appeal
24 rights as children and families in the case of placement by the
25 Department, including the right to an initial review of a
26 private agency decision by that agency. The Department shall

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

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

1 fiscal year.

2 (q) The Department may receive and use, in their entirety,
3 for the benefit of children any gift, donation or bequest of
4 money or other property which is received on behalf of such
5 children, or any financial benefits to which such children are
6 or may become entitled while under the jurisdiction or care of
7 the Department. If the person who gives, donates, or bequeaths
8 money or other property that is received by the Department for
9 the benefit of children provides in writing that the money or
10 other property is for a specific purpose, the Department shall
11 use the money or other property only for that purpose.

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 Subject to appropriation, the Department shall provide a
22 stipend in the amount of up to \$1,500 to youths who, on or
23 after January 1, 2009, cease to be wards of the Department
24 pursuant to Section 2-31 of the Juvenile Court Act of 1987 and
25 who meet the qualifications set out in this paragraph. The
26 stipend shall be paid by voucher to promote successful

1 transition outcomes by supporting training, housing, and
2 living expenses. All or part of the stipend may also be used to
3 pay the fee for drivers education to prepare the youth to take
4 an examination given by the Secretary of State for a driver's
5 license or permit. In order to be eligible for this benefit, a
6 youth must have: (A) at the time wardship terminated, reached
7 the age of 18 years or older; and (B) either (i) at the time
8 wardship terminated, obtained a certificate of graduation from
9 a high school or the recognized equivalent of such a
10 certificate; (ii) within one year after wardship terminated,
11 obtained a certificate of graduation from a high school or the
12 recognized equivalent of such a certificate, or (iii) within
13 one year after wardship terminated, been determined by DCFS to
14 lack the ability to obtain a certificate of graduation from a
15 high school, or the recognized equivalent of such a
16 certificate, due to an impairment or disability. The Department
17 shall establish (i) procedures for verifying eligibility for
18 the receipt of funds under this paragraph and for determining
19 the amount of the stipend to be awarded and (ii) a process for
20 disseminating the payments.

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 (x) Notwithstanding any other rulemaking authority that
8 may exist, neither the Governor nor any agency or agency head
9 under the jurisdiction of the Governor has any authority to
10 make or promulgate rules to implement or enforce the provisions
11 of this amendatory Act of the 95th General Assembly. If,
12 however, the Governor believes that rules are necessary to
13 implement or enforce the provisions of this amendatory Act of
14 the 95th General Assembly, the Governor may suggest rules to
15 the General Assembly by filing them with the Clerk of the House
16 and the Secretary of the Senate and by requesting that the
17 General Assembly authorize such rulemaking by law, enact those
18 suggested rules into law, or take any other appropriate action
19 in the General Assembly's discretion. Nothing contained in this
20 amendatory Act of the 95th General Assembly shall be
21 interpreted to grant rulemaking authority under any other
22 Illinois statute where such authority is not otherwise
23 explicitly given. For the purposes of this amendatory Act of
24 the 95th General Assembly, "rules" is given the meaning
25 contained in Section 1-70 of the Illinois Administrative
26 Procedure Act, and "agency" and "agency head" are given the

1 meanings contained in Sections 1-20 and 1-25 of the Illinois
2 Administrative Procedure Act to the extent that such
3 definitions apply to agencies or agency heads under the
4 jurisdiction of the Governor.

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

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

10 (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

11 Sec. 8.2. If the Child Protective Service Unit determines,
12 following an investigation made pursuant to Section 7.4 of this
13 Act, that there is credible evidence that the child is abused
14 or neglected, the Department shall assess the family's need for
15 services, and, as necessary, develop, with the family, an
16 appropriate service plan for the family's voluntary acceptance
17 or refusal. In any case where there is evidence that the
18 perpetrator of the abuse or neglect is an addict or alcoholic
19 as defined in the Alcoholism and Other Drug Abuse and
20 Dependency Act, the Department, when making referrals for drug
21 or alcohol abuse services, shall make such referrals to
22 facilities licensed by the Department of Human Services or the
23 Department of Public Health. The Department shall comply with
24 Section 8.1 by explaining its lack of legal authority to compel

1 the acceptance of services and may explain its concomitant
2 authority to petition the Circuit court under the Juvenile
3 Court Act of 1987 or refer the case to the local law
4 enforcement authority or State's attorney for criminal
5 prosecution.

6 For purposes of this Act, the term "family preservation
7 services" refers to all services to help families, including
8 adoptive and extended families. Family preservation services
9 shall be offered, where safe and appropriate, to prevent the
10 placement of children in substitute care when the children can
11 be cared for at home or in the custody of the person
12 responsible for the children's welfare without endangering the
13 children's health or safety, to reunite them with their
14 families if so placed when reunification is an appropriate
15 goal, or to maintain an adoptive placement. The term
16 "homemaker" includes emergency caretakers, homemakers,
17 caretakers, housekeepers and chore services. The term
18 "counseling" includes individual therapy, infant stimulation
19 therapy, family therapy, group therapy, self-help groups, drug
20 and alcohol abuse counseling, vocational counseling and
21 post-adoptive services. The term "day care" includes
22 protective day care and day care to meet educational,
23 prevocational or vocational needs. The term "emergency
24 assistance and advocacy" includes coordinated services to
25 secure emergency cash, food, housing and medical assistance or
26 advocacy for other subsistence and family protective needs.

1 Before July 1, 2000, appropriate family preservation
2 services shall, subject to appropriation, be included in the
3 service plan if the Department has determined that those
4 services will ensure the child's health and safety, are in the
5 child's best interests, and will not place the child in
6 imminent risk of harm. Beginning July 1, 2000, appropriate
7 family preservation services shall be uniformly available
8 throughout the State. The Department shall promptly notify
9 children and families of the Department's responsibility to
10 offer and provide family preservation services as identified in
11 the service plan. Such plans may include but are not limited
12 to: case management services; homemakers; counseling; parent
13 education; day care; emergency assistance and advocacy
14 assessments; respite care; in-home health care; transportation
15 to obtain any of the above services; and medical assistance.
16 Nothing in this paragraph shall be construed to create a
17 private right of action or claim on the part of any individual
18 or child welfare agency, except that when a child is the
19 subject of an action under Article II of the Juvenile Court Act
20 of 1987 and the child's service plan calls for certain family
21 preservation services, the court hearing the action under
22 Article II of the Juvenile Court Act of 1987 may order the
23 Department to provide the family preservation services set out
24 in the plan, if those services are not provided with reasonable
25 promptness and if those services are available.

26 Notwithstanding any other rulemaking authority that may

1 exist, neither the Governor nor any agency or agency head under
2 the jurisdiction of the Governor has any authority to make or
3 promulgate rules to implement or enforce the provisions of this
4 amendatory Act of the 95th General Assembly. If, however, the
5 Governor believes that rules are necessary to implement or
6 enforce the provisions of this amendatory Act of the 95th
7 General Assembly, the Governor may suggest rules to the General
8 Assembly by filing them with the Clerk of the House and the
9 Secretary of the Senate and by requesting that the General
10 Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 The Department shall provide a preliminary report to the
25 General Assembly no later than January 1, 1991, in regard to
26 the provision of services authorized pursuant to this Section.

1 The report shall include:

2 (a) the number of families and children served, by type
3 of services;

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

7 (c) the number of families which have been subjects of
8 founded reports of abuse following the termination of
9 services;

10 (d) an analysis of general family circumstances in
11 which family preservation services have been determined to
12 be an effective intervention;

13 (e) information regarding the number of families in
14 need of services but unserved due to budget or program
15 criteria guidelines;

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

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

21 (h) recommendations regarding any proposed legislative
22 changes to this program.

23 Each Department field office shall maintain on a local
24 basis directories of services available to children and
25 families in the local area where the Department office is
26 located.

1 The Department shall refer children and families served
2 pursuant to this Section to private agencies and governmental
3 agencies, where available.

4 Where there are 2 equal proposals from both a
5 not-for-profit and a for-profit agency to provide services, the
6 Department shall give preference to the proposal from the
7 not-for-profit agency.

8 No service plan shall compel any child or parent to engage
9 in any activity or refrain from any activity which is not
10 reasonably related to remedying a condition or conditions that
11 gave rise or which could give rise to any finding of child
12 abuse or neglect.

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

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

17 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

21 (a) A minor under 18 years of age found to be neglected
22 or abused under Section 2-3 or dependent under Section 2-4
23 may be (1) continued in the custody of his or her parents,
24 guardian or legal custodian; (2) placed in accordance with

1 Section 2-27; (3) restored to the custody of the parent,
2 parents, guardian, or legal custodian, provided the court
3 shall order the parent, parents, guardian, or legal
4 custodian to cooperate with the Department of Children and
5 Family Services and comply with the terms of an after-care
6 plan or risk the loss of custody of the child and the
7 possible termination of their parental rights; or (4)
8 ordered partially or completely emancipated in accordance
9 with the provisions of the Emancipation of Minors Act.

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

22 (b) A minor under 18 years of age found to be dependent
23 under Section 2-4 may be (1) placed in accordance with
24 Section 2-27 or (2) ordered partially or completely
25 emancipated in accordance with the provisions of the
26 Emancipation of Minors Act.

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

13 (c) When the court awards guardianship to the
14 Department of Children and Family Services, the court shall
15 order the parents to cooperate with the Department of
16 Children and Family Services, comply with the terms of the
17 service plans, and correct the conditions that require the
18 child to be in care, or risk termination of their parental
19 rights.

20 (2) Any order of disposition may provide for protective
21 supervision under Section 2-24 and may include an order of
22 protection under Section 2-25.

23 Unless the order of disposition expressly so provides, it
24 does not operate to close proceedings on the pending petition,
25 but is subject to modification, not inconsistent with Section
26 2-28, until final closing and discharge of the proceedings

1 under Section 2-31.

2 (3) The court also shall enter any other orders necessary
3 to fulfill the service plan, including, but not limited to, (i)
4 orders requiring parties to cooperate with services, (ii)
5 restraining orders controlling the conduct of any party likely
6 to frustrate the achievement of the goal, and (iii) visiting
7 orders. Unless otherwise specifically authorized by law, the
8 court is not empowered under this subsection (3) to order
9 specific placements, specific services, or specific service
10 providers to be included in the plan. If, after receiving
11 evidence, the court determines that the services contained in
12 the plan are not reasonably calculated to facilitate
13 achievement of the permanency goal, the court shall put in
14 writing the factual basis supporting the determination and
15 enter specific findings based on the evidence. The court also
16 shall enter an order for the Department to develop and
17 implement a new service plan or to implement changes to the
18 current service plan consistent with the court's findings. The
19 new service plan shall be filed with the court and served on
20 all parties within 45 days after the date of the order. The
21 court shall continue the matter until the new service plan is
22 filed. Unless otherwise specifically authorized by law, the
23 court is not empowered under this subsection (3) or under
24 subsection (2) to order specific placements, specific
25 services, or specific service providers to be included in the
26 plan. Notwithstanding any other rulemaking authority that may

1 exist, neither the Governor nor any agency or agency head under
2 the jurisdiction of the Governor has any authority to make or
3 promulgate rules to implement or enforce the provisions of this
4 amendatory Act of the 95th General Assembly. If, however, the
5 Governor believes that rules are necessary to implement or
6 enforce the provisions of this amendatory Act of the 95th
7 General Assembly, the Governor may suggest rules to the General
8 Assembly by filing them with the Clerk of the House and the
9 Secretary of the Senate and by requesting that the General
10 Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this paragraph, "rules"
17 is given the meaning contained in Section 1-70 of the Illinois
18 Administrative Procedure Act, and "agency" and "agency head"
19 are given the meanings contained in Sections 1-20 and 1-25 of
20 the Illinois Administrative Procedure Act to the extent that
21 such definitions apply to agencies or agency heads under the
22 jurisdiction of the Governor. ~~If the court concludes that the~~
23 ~~Department of Children and Family Services has abused its~~
24 ~~discretion in setting the current service plan or permanency~~
25 ~~goal for the minor, the court shall enter specific findings in~~
26 ~~writing based on the evidence and shall enter an order for the~~

1 ~~Department to develop and implement a new permanency goal and~~
2 ~~service plan consistent with the court's findings. The new~~
3 ~~service plan shall be filed with the court and served on all~~
4 ~~parties. The court shall continue the matter until the new~~
5 ~~service plan is filed.~~

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

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

23 (6) Whenever the order of disposition requires the minor to
24 attend school or participate in a program of training, the
25 truant officer or designated school official shall regularly
26 report to the court if the minor is a chronic or habitual

1 truuant under Section 26-2a of the School Code.

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

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

6 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

7 Sec. 2-28. Court review.

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

1 paragraph (1) of Section 2-21 of this Act to have come about
2 due to the acts or omissions or both of such parent, guardian
3 or legal custodian, until such time as an investigation is made
4 as provided in paragraph (5) and a hearing is held on the issue
5 of the fitness of such parent, guardian or legal custodian to
6 care for the minor and the court enters an order that such
7 parent, guardian or legal custodian is fit to care for the
8 minor.

9 (2) The first permanency hearing shall be conducted by the
10 judge. Subsequent permanency hearings may be heard by a judge
11 or by hearing officers appointed or approved by the court in
12 the manner set forth in Section 2-28.1 of this Act. The initial
13 hearing shall be held (a) within 12 months from the date
14 temporary custody was taken, (b) if the parental rights of both
15 parents have been terminated in accordance with the procedure
16 described in subsection (5) of Section 2-21, within 30 days of
17 the order for termination of parental rights and appointment of
18 a guardian with power to consent to adoption, or (c) in
19 accordance with subsection (2) of Section 2-13.1. Subsequent
20 permanency hearings shall be held every 6 months or more
21 frequently if necessary in the court's determination following
22 the initial permanency hearing, in accordance with the
23 standards set forth in this Section, until the court determines
24 that the plan and goal have been achieved. Once the plan and
25 goal have been achieved, if the minor remains in substitute
26 care, the case shall be reviewed at least every 6 months

1 thereafter, subject to the provisions of this Section, unless
2 the minor is placed in the guardianship of a suitable relative
3 or other person and the court determines that further
4 monitoring by the court does not further the health, safety or
5 best interest of the child and that this is a stable permanent
6 placement. The permanency hearings must occur within the time
7 frames set forth in this subsection and may not be delayed in
8 anticipation of a report from any source or due to the agency's
9 failure to timely file its written report (this written report
10 means the one required under the next paragraph and does not
11 mean the service plan also referred to in that paragraph).

12 The public agency that is the custodian or guardian of the
13 minor, or another agency responsible for the minor's care,
14 shall ensure that all parties to the permanency hearings are
15 provided a copy of the most recent service plan prepared within
16 the prior 6 months at least 14 days in advance of the hearing.
17 If not contained in the plan, the agency shall also include a
18 report setting forth (i) any special physical, psychological,
19 educational, medical, emotional, or other needs of the minor or
20 his or her family that are relevant to a permanency or
21 placement determination and (ii) for any minor age 16 or over,
22 a written description of the programs and services that will
23 enable the minor to prepare for independent living. The
24 agency's written report must detail what progress or lack of
25 progress the parent has made in correcting the conditions
26 requiring the child to be in care; whether the child can be

1 returned home without jeopardizing the child's health, safety,
2 and welfare, and if not, what permanency goal is recommended to
3 be in the best interests of the child, and why the other
4 permanency goals are not appropriate. The caseworker must
5 appear and testify at the permanency hearing. If a permanency
6 hearing has not previously been scheduled by the court, the
7 moving party shall move for the setting of a permanency hearing
8 and the entry of an order within the time frames set forth in
9 this subsection.

10 At the permanency hearing, the court shall determine the
11 future status of the child. The court shall set one of the
12 following permanency goals:

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

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

20 (B-1) The minor will be in short-term care with a
21 continued goal to return home pending a status hearing.
22 When the court finds that a parent has not made reasonable
23 efforts or reasonable progress to date, the court shall
24 identify what actions the parent and the Department must
25 take in order to justify a finding of reasonable efforts or
26 reasonable progress and shall set a status hearing to be

1 held not earlier than 9 months from the date of
2 adjudication nor later than 11 months from the date of
3 adjudication during which the parent's progress will again
4 be reviewed.

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

7 (D) Adoption, provided that parental rights have been
8 terminated or relinquished.

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

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

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

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

26 Notwithstanding any other provision in this Section, the

1 court may select the goal of long-term foster care as a
2 permanency goal if:

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

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

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

26 The court shall set a permanency goal that is in the best

1 interest of the child. In determining that goal, the court
2 shall consult with the minor in an age-appropriate manner
3 regarding the proposed permanency or transition plan for the
4 minor. The court's determination shall include the following
5 factors:

6 (1) Age of the child.

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

9 (3) Current placement of the child and the intent of
10 the family regarding adoption.

11 (4) Emotional, physical, and mental status or
12 condition of the child.

13 (5) Types of services previously offered and whether or
14 not the services were successful and, if not successful,
15 the reasons the services failed.

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

18 (7) Status of siblings of the minor.

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

1 extent of their probative value.

2 The court shall make findings as to whether, in violation
3 of Section 8.2 of the Abused and Neglected Child Reporting Act,
4 any portion of the service plan compels a child or parent to
5 engage in any activity or refrain from any activity that is not
6 reasonably related to remedying a condition or conditions that
7 gave rise or which could give rise to any finding of child
8 abuse or neglect.

9 If the permanency goal is to return home, the court shall
10 make findings that identify any problems that are causing
11 continued placement of the children away from the home and
12 identify what outcomes would be considered a resolution to
13 these problems. The court shall explain to the parents that
14 these findings are based on the information that the court has
15 at that time and may be revised, should additional evidence be
16 presented to the court.

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 Notwithstanding any other rulemaking authority that may
16 exist, neither the Governor nor any agency or agency head under
17 the jurisdiction of the Governor has any authority to make or
18 promulgate rules to implement or enforce the provisions of this
19 amendatory Act of the 95th General Assembly. If, however, the
20 Governor believes that rules are necessary to implement or
21 enforce the provisions of this amendatory Act of the 95th
22 General Assembly, the Governor may suggest rules to the General
23 Assembly by filing them with the Clerk of the House and the
24 Secretary of the Senate and by requesting that the General
25 Assembly authorize such rulemaking by law, enact those
26 suggested rules into law, or take any other appropriate action

1 in the General Assembly's discretion. Nothing contained in this
2 amendatory Act of the 95th General Assembly shall be
3 interpreted to grant rulemaking authority under any other
4 Illinois statute where such authority is not otherwise
5 explicitly given. For the purposes of this paragraph, "rules"
6 is given the meaning contained in Section 1-70 of the Illinois
7 Administrative Procedure Act, and "agency" and "agency head"
8 are given the meanings contained in Sections 1-20 and 1-25 of
9 the Illinois Administrative Procedure Act to the extent that
10 such definitions apply to agencies or agency heads under the
11 jurisdiction of the Governor.

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

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

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

23 (i) (Blank).

24 (ii) Whether the services required by the court and
25 by any service plan prepared within the prior 6 months
26 have been provided and (A) if so, whether the services

1 were reasonably calculated to facilitate the
2 achievement of the permanency goal or (B) if not
3 provided, why the services were not provided.

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

14 (iv) (Blank).

15 (v) (Blank).

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

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

22 (a) The Department, the minor, or the current foster
23 parent or relative caregiver seeking private guardianship
24 may file a motion for private guardianship of the minor.
25 Appointment of a guardian under this Section requires
26 approval of the court.

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

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

1 terminating his guardianship or custody, guardianship or
2 custody shall terminate automatically 30 days after the receipt
3 of the petition unless the court orders otherwise. No legal
4 custodian or guardian of the person may be removed without his
5 consent until given notice and an opportunity to be heard by
6 the court.

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

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

25 (a) Any agency of this State or any subdivision thereof
26 shall co-operate with the agent of the court in providing

1 any information sought in the investigation.

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

9 (c) All information obtained from any investigation
10 shall be confidential as provided in Section 5-150 of this
11 Act.

12 (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;
13 revised 11-19-07.)

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.