



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5867

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/5	from Ch. 23, par. 5005
325 ILCS 5/8.2	from Ch. 23, par. 2058.2
705 ILCS 405/2-23	from Ch. 37, par. 802-23
705 ILCS 405/2-28	from Ch. 37, par. 802-28

Amends the Children and Family Services Act and the Abused and Neglected Child Reporting Act. Provides that when a child is the subject of an action under the "Abused, Neglected or Dependent Minors" Article of the Juvenile Court Act of 1987 and the child's service plan calls for certain family preservation services, the court hearing the action under the Juvenile Court Act of 1987 may order the Department of Children and Family Services (DCFS) to provide the family preservation services set out in the plan, if those services are not provided with reasonable promptness. Amends the Juvenile Court Act of 1987. In provisions concerning dispositional orders with respect to abused, neglected, or dependent minors, makes changes concerning a court's findings and the service plan developed by DCFS; provides that unless otherwise specifically authorized by law, the court is not empowered to order specific placements, specific services, or specific service providers to be included in the plan. Makes other changes.

LRB095 16295 DRJ 42315 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

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

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

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

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

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

12 (a) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (G) (blank);

18 (H) (blank); and

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

1 place or maintain children:

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

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

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

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

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

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

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

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

12 (e) (Blank).

13 (f) (Blank).

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

18 (1) adoption;

19 (2) foster care;

20 (3) family counseling;

21 (4) protective services;

22 (5) (blank);

23 (6) homemaker service;

24 (7) return of runaway children;

25 (8) (blank);

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

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

4 (10) interstate services.

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

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

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

26 (1) case management;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 (1) the likelihood of prompt reunification;
- 20 (2) the past history of the family;
- 21 (3) the barriers to reunification being addressed by  
22 the family;
- 23 (4) the level of cooperation of the family;
- 24 (5) the foster parents' willingness to work with the  
25 family to reunite;
- 26 (6) the willingness and ability of the foster family to

1 provide an adoptive home or long-term placement;

2 (7) the age of the child;

3 (8) placement of siblings.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           directs the Department to perform such services; and

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

14 (a) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (G) (blank);

18 (H) (blank); and

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

1 place or maintain children:

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

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

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

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

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

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

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

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

12 (e) (Blank).

13 (f) (Blank).

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

18 (1) adoption;

19 (2) foster care;

20 (3) family counseling;

21 (4) protective services;

22 (5) (blank);

23 (6) homemaker service;

24 (7) return of runaway children;

25 (8) (blank);

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

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

4 (10) interstate services.

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

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

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

26 (1) case management;



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

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

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

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

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

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

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

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

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

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

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

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

19 As soon as is possible after the effective date of this  
20 amendatory Act of the 95th General Assembly, the Department  
21 shall enhance its program of family preservation services,  
22 including, but not limited to, respite care, to support intact,  
23 foster, and adoptive families when (i) the family is eligible  
24 for services from the Department pursuant to the Department's  
25 rules, (ii) the family is experiencing extreme hardships due to  
26 the difficulty and stress of caring for a child who has been

1 diagnosed with a pervasive developmental disorder, and (iii)  
2 the Department determines that those services are necessary to  
3 ensure the health and safety of the child. "Respite care" shall  
4 be defined in the Department's amended rules and regulations.  
5 The Department may refer the child or family to services  
6 available from other agencies in the community. Acceptance of  
7 these services shall be voluntary. The Department may develop  
8 and implement a public information campaign to alert health and  
9 social service providers and the general public about these  
10 special family preservation services. The nature and scope of  
11 the services offered and the number of families served under  
12 the special program implemented under this paragraph shall be  
13 determined by the level of funding that the Department annually  
14 allocates for this purpose. The term "pervasive developmental  
15 disorder" under this paragraph means a neurological condition,  
16 Asperger's Syndrome, and autism, as defined in the most recent  
17 edition of the Diagnostic and Statistical Manual of Mental  
18 Disorders of the American Psychiatric Association.

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

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

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

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

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

1 permanency for the child.

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

6 (1) the likelihood of prompt reunification;

7 (2) the past history of the family;

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

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

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

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

15 (7) the age of the child;

16 (8) placement of siblings.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

1 conducted in an expedited manner.

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

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

1 other property is for a specific purpose, the Department shall  
2 use the money or other property only for that purpose.

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

14 In disbursing funds from children's accounts, the  
15 Department shall:

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

24 (2) Calculate on a monthly basis the amounts paid from  
25 State funds for the child's board and care, medical care  
26 not covered under Medicaid, and social services; and

1 utilize funds from the child's account, as covered by  
2 regulation, to reimburse those costs. Monthly,  
3 disbursements from all children's accounts, up to 1/12 of  
4 \$13,000,000, shall be deposited by the Department into the  
5 General Revenue Fund and the balance over 1/12 of  
6 \$13,000,000 into the DCFS Children's Services Fund.

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

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

1 certificate; (ii) within one year after wardship terminated,  
2 obtained a certificate of graduation from a high school or the  
3 recognized equivalent of such a certificate; or (iii) within  
4 one year after wardship terminated, been determined by the  
5 Department to lack the ability to obtain a certificate of  
6 graduation from a high school, or the recognized equivalent of  
7 such a certificate, due to an impairment or disability. The  
8 Department shall establish by rule (i) procedures for verifying  
9 eligibility for the receipt of funds under this paragraph and  
10 for determining the amount of the stipend to be awarded and  
11 (ii) a process for disseminating the payments.

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



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

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

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

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

24           The Department shall provide written notification to the  
25 court of the specific arrangements for supervised visitation  
26 and projected monthly costs within 60 days of the court order.

1 The Department shall send to the court information related to  
2 the costs incurred except in cases where the court has  
3 determined the parties are financially unable to pay. The court  
4 may order additional periodic reports as appropriate.

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

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

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

21 (3) information containing details of the child's  
22 individualized educational plan when the child is  
23 receiving special education services.

24 The caretaker shall be informed of any known social or  
25 behavioral information (including, but not limited to,  
26 criminal background, fire setting, perpetuation of sexual

1 abuse, destructive behavior, and substance abuse) necessary to  
2 care for and safeguard the children to be placed or currently  
3 in the home. The Department may prepare a written summary of  
4 the information required by this paragraph, which may be  
5 provided to the foster or prospective adoptive parent in  
6 advance of a placement. The foster or prospective adoptive  
7 parent may review the supporting documents in the child's file  
8 in the presence of casework staff. In the case of an emergency  
9 placement, casework staff shall at least provide known  
10 information verbally, if necessary, and must subsequently  
11 provide the information in writing as required by this  
12 subsection.

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

1 level.

2 (u-5) Effective July 1, 1995, only foster care placements  
3 licensed as foster family homes pursuant to the Child Care Act  
4 of 1969 shall be eligible to receive foster care payments from  
5 the Department. Relative caregivers who, as of July 1, 1995,  
6 were approved pursuant to approved relative placement rules  
7 previously promulgated by the Department at 89 Ill. Adm. Code  
8 335 and had submitted an application for licensure as a foster  
9 family home may continue to receive foster care payments only  
10 until the Department determines that they may be licensed as a  
11 foster family home or that their application for licensure is  
12 denied or until September 30, 1995, whichever occurs first.

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

1 trained by personnel from the Department of State Police. In  
2 addition, one Office of the Inspector General investigator  
3 shall have training in the use of the criminal history  
4 information access system and have access to the terminal. The  
5 Department of Children and Family Services and its employees  
6 shall abide by rules and regulations established by the  
7 Department of State Police relating to the access and  
8 dissemination of this information.

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

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

1 Department shall request a check of that other state's child  
2 abuse and neglect registry.

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

24 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06;  
25 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;  
26 revised 10-30-07.)

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

3           (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

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

23           For purposes of this Act, the term "family preservation  
24 services" refers to all services to help families, including

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

20 Before July 1, 2000, appropriate family preservation  
21 services shall, subject to appropriation, be included in the  
22 service plan if the Department has determined that those  
23 services will ensure the child's health and safety, are in the  
24 child's best interests, and will not place the child in  
25 imminent risk of harm. Beginning July 1, 2000, appropriate  
26 family preservation services shall be uniformly available



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

19 The Department shall provide a preliminary report to the  
20 General Assembly no later than January 1, 1991, in regard to  
21 the provision of services authorized pursuant to this Section.  
22 The report shall include:

23 (a) the number of families and children served, by type  
24 of services;

25 (b) the outcome from the provision of such services,  
26 including the number of families which remained intact at

1 least 6 months following the termination of services;

2 (c) the number of families which have been subjects of  
3 founded reports of abuse following the termination of  
4 services;

5 (d) an analysis of general family circumstances in  
6 which family preservation services have been determined to  
7 be an effective intervention;

8 (e) information regarding the number of families in  
9 need of services but unserved due to budget or program  
10 criteria guidelines;

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

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

16 (h) recommendations regarding any proposed legislative  
17 changes to this program.

18 Each Department field office shall maintain on a local  
19 basis directories of services available to children and  
20 families in the local area where the Department office is  
21 located.

22 The Department shall refer children and families served  
23 pursuant to this Section to private agencies and governmental  
24 agencies, where available.

25 Where there are 2 equal proposals from both a  
26 not-for-profit and a for-profit agency to provide services, the

1 Department shall give preference to the proposal from the  
2 not-for-profit agency.

3 No service plan shall compel any child or parent to engage  
4 in any activity or refrain from any activity which is not  
5 reasonably related to remedying a condition or conditions that  
6 gave rise or which could give rise to any finding of child  
7 abuse or neglect.

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

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

12 (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

16 (a) A minor under 18 years of age found to be neglected  
17 or abused under Section 2-3 or dependent under Section 2-4  
18 may be (1) continued in the custody of his or her parents,  
19 guardian or legal custodian; (2) placed in accordance with  
20 Section 2-27; (3) restored to the custody of the parent,  
21 parents, guardian, or legal custodian, provided the court  
22 shall order the parent, parents, guardian, or legal  
23 custodian to cooperate with the Department of Children and  
24 Family Services and comply with the terms of an after-care

1 plan or risk the loss of custody of the child and the  
2 possible termination of their parental rights; or (4)  
3 ordered partially or completely emancipated in accordance  
4 with the provisions of the Emancipation of Minors Act.

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

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

22 However, in any case in which a minor is found by the  
23 court to be dependent under Section 2-4 of this Act,  
24 custody of the minor shall not be restored to any parent,  
25 guardian or legal custodian whose acts or omissions or both  
26 have been identified, pursuant to subsection (1) of Section

1           2-21, as forming the basis for the court's finding of  
2           dependency, until such time as a hearing is held on the  
3           issue of the fitness of such parent, guardian or legal  
4           custodian to care for the minor without endangering the  
5           minor's health or safety, and the court enters an order  
6           that such parent, guardian or legal custodian is fit to  
7           care for the minor.

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

15          (2) Any order of disposition may provide for protective  
16          supervision under Section 2-24 and may include an order of  
17          protection under Section 2-25.

18          Unless the order of disposition expressly so provides, it  
19          does not operate to close proceedings on the pending petition,  
20          but is subject to modification, not inconsistent with Section  
21          2-28, until final closing and discharge of the proceedings  
22          under Section 2-31.

23          (3) The court also shall enter any other orders necessary  
24          to fulfill the service plan, including, but not limited to, (i)  
25          orders requiring parties to cooperate with services, (ii)  
26          restraining orders controlling the conduct of any party likely

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

1 ~~with the court's findings. The new service plan shall be filed~~  
2 ~~with the court and served on all parties. The court shall~~  
3 ~~continue the matter until the new service plan is filed.~~

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

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

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

26 (7) The court may terminate the parental rights of a parent

1 at the initial dispositional hearing if all of the conditions  
2 in subsection (5) of Section 2-21 are met.

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

4 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

5 Sec. 2-28. Court review.

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



1 or legal custodian, until such time as an investigation is made  
2 as provided in paragraph (5) and a hearing is held on the issue  
3 of the fitness of such parent, guardian or legal custodian to  
4 care for the minor and the court enters an order that such  
5 parent, guardian or legal custodian is fit to care for the  
6 minor.

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

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

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

1 be in the best interests of the child, and why the other  
2 permanency goals are not appropriate. The caseworker must  
3 appear and testify at the permanency hearing. If a permanency  
4 hearing has not previously been scheduled by the court, the  
5 moving party shall move for the setting of a permanency hearing  
6 and the entry of an order within the time frames set forth in  
7 this subsection.

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

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

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

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

1 adjudication during which the parent's progress will again  
2 be reviewed.

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

5 (D) Adoption, provided that parental rights have been  
6 terminated or relinquished.

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

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

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

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

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

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

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

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

24           The court shall set a permanency goal that is in the best  
25           interest of the child. In determining that goal, the court  
26           shall consult with the minor in an age-appropriate manner

1 regarding the proposed permanency or transition plan for the  
2 minor. The court's determination shall include the following  
3 factors:

4 (1) Age of the child.

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

7 (3) Current placement of the child and the intent of  
8 the family regarding adoption.

9 (4) Emotional, physical, and mental status or  
10 condition of the child.

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

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

16 (7) Status of siblings of the minor.

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

26 The court shall make findings as to whether, in violation

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

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

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

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

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

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

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

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

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

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

24 (i) (Blank).

25 (ii) Whether the services required by the court and  
26 by any service plan prepared within the prior 6 months



1           have been provided and (A) if so, whether the services  
2           were reasonably calculated to facilitate the  
3           achievement of the permanency goal or (B) if not  
4           provided, why the services were not provided.

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

15          (iv) (Blank).

16          (v) (Blank).

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

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

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

1 approval of the court.

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

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

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

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

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

26 (a) Any agency of this State or any subdivision thereof

1 shall co-operate with the agent of the court in providing  
2 any information sought in the investigation.

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

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

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

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