

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

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

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

11 (a) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (G) (blank);

17 (H) (blank); and

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

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

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

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

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

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

11 (e) (Blank).

12 (f) (Blank).

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

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

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

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

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

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

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

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

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

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

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

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

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

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

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

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

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

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 Section 5. The Abused and Neglected Child Reporting Act is
9 amended by changing Section 4 as follows:

10 (325 ILCS 5/4) (from Ch. 23, par. 2054)

11 Sec. 4. Persons required to report; privileged
12 communications; transmitting false report. Any physician,
13 resident, intern, hospital, hospital administrator and
14 personnel engaged in examination, care and treatment of
15 persons, surgeon, dentist, dentist hygienist, osteopath,
16 chiropractor, podiatrist, physician assistant, substance abuse
17 treatment personnel, funeral home director or employee,
18 coroner, medical examiner, emergency medical technician,
19 acupuncturist, crisis line or hotline personnel, school
20 personnel (including administrators and both certified and
21 non-certified school employees), educational advocate assigned
22 to a child pursuant to the School Code, truant officers, social
23 worker, social services administrator, domestic violence
24 program personnel, registered nurse, licensed practical nurse,

1 genetic counselor, respiratory care practitioner, advanced
2 practice nurse, home health aide, director or staff assistant
3 of a nursery school or a child day care center, recreational
4 program or facility personnel, law enforcement officer,
5 licensed professional counselor, licensed clinical
6 professional counselor, registered psychologist and assistants
7 working under the direct supervision of a psychologist,
8 psychiatrist, or field personnel of the Department of
9 Healthcare and Family Services, Juvenile Justice, Public
10 Health, Human Services (acting as successor to the Department
11 of Mental Health and Developmental Disabilities,
12 Rehabilitation Services, or Public Aid), Corrections, Human
13 Rights, or Children and Family Services, supervisor and
14 administrator of general assistance under the Illinois Public
15 Aid Code, probation officer, or any other foster parent,
16 homemaker or child care worker having reasonable cause to
17 believe a child known to them in their professional or official
18 capacity may be an abused child or a neglected child shall
19 immediately report or cause a report to be made to the
20 Department.

21 Any member of the clergy having reasonable cause to believe
22 that a child known to that member of the clergy in his or her
23 professional capacity may be an abused child as defined in item
24 (c) of the definition of "abused child" in Section 3 of this
25 Act shall immediately report or cause a report to be made to
26 the Department.

1 If an allegation is raised to a school board member during
2 the course of an open or closed school board meeting that a
3 child who is enrolled in the school district of which he or she
4 is a board member is an abused child as defined in Section 3 of
5 this Act, the member shall direct or cause the school board to
6 direct the superintendent of the school district or other
7 equivalent school administrator to comply with the
8 requirements of this Act concerning the reporting of child
9 abuse. For purposes of this paragraph, a school board member is
10 granted the authority in his or her individual capacity to
11 direct the superintendent of the school district or other
12 equivalent school administrator to comply with the
13 requirements of this Act concerning the reporting of child
14 abuse.

15 Whenever such person is required to report under this Act
16 in his capacity as a member of the staff of a medical or other
17 public or private institution, school, facility or agency, or
18 as a member of the clergy, he shall make report immediately to
19 the Department in accordance with the provisions of this Act
20 and may also notify the person in charge of such institution,
21 school, facility or agency, or church, synagogue, temple,
22 mosque, or other religious institution, or his designated agent
23 that such report has been made. Under no circumstances shall
24 any person in charge of such institution, school, facility or
25 agency, or church, synagogue, temple, mosque, or other
26 religious institution, or his designated agent to whom such

1 notification has been made, exercise any control, restraint,
2 modification or other change in the report or the forwarding of
3 such report to the Department.

4 The privileged quality of communication between any
5 professional person required to report and his patient or
6 client shall not apply to situations involving abused or
7 neglected children and shall not constitute grounds for failure
8 to report as required by this Act.

9 A member of the clergy may claim the privilege under
10 Section 8-803 of the Code of Civil Procedure.

11 In addition to the above persons required to report
12 suspected cases of abused or neglected children, any other
13 person may make a report if such person has reasonable cause to
14 believe a child may be an abused child or a neglected child.

15 Any person who enters into employment on and after July 1,
16 1986 and is mandated by virtue of that employment to report
17 under this Act, shall sign a statement on a form prescribed by
18 the Department, to the effect that the employee has knowledge
19 and understanding of the reporting requirements of this Act.
20 The statement shall be signed prior to commencement of the
21 employment. The signed statement shall be retained by the
22 employer. The cost of printing, distribution, and filing of the
23 statement shall be borne by the employer.

24 The Department shall provide copies of this Act, upon
25 request, to all employers employing persons who shall be
26 required under the provisions of this Section to report under

1 this Act.

2 Any person who knowingly transmits a false report to the
3 Department commits the offense of disorderly conduct under
4 subsection (a)(7) of Section 26-1 of the "Criminal Code of
5 1961". Any person who violates this provision a second or
6 subsequent time shall be guilty of a Class 3 felony.

7 Any person who knowingly and willfully violates any
8 provision of this Section other than a second or subsequent
9 violation of transmitting a false report as described in the
10 preceding paragraph, is guilty of a Class A misdemeanor for a
11 first violation and a Class 4 felony for a second or subsequent
12 violation; except that if the person acted as part of a plan or
13 scheme having as its object the prevention of discovery of an
14 abused or neglected child by lawful authorities for the purpose
15 of protecting or insulating any person or entity from arrest or
16 prosecution, the person is guilty of a Class 4 felony for a
17 first offense and a Class 3 felony for a second or subsequent
18 offense (regardless of whether the second or subsequent offense
19 involves any of the same facts or persons as the first or other
20 prior offense).

21 A child whose parent, guardian or custodian in good faith
22 selects and depends upon spiritual means through prayer alone
23 for the treatment or cure of disease or remedial care may be
24 considered neglected or abused, but not for the sole reason
25 that his parent, guardian or custodian accepts and practices
26 such beliefs.

1 A child shall not be considered neglected or abused solely
2 because the child is not attending school in accordance with
3 the requirements of Article 26 of the School Code, as amended.
4 (Source: P.A. 93-137, eff. 7-10-03; 93-356, eff. 7-24-03;
5 93-431, eff. 8-5-03; 93-1041, eff. 9-29-04; 94-888, eff.
6 6-20-06.)

7 Section 10. The Juvenile Court Act of 1987 is amended by
8 changing Section 2-28 as follows:

9 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

10 Sec. 2-28. Court review.

11 (1) The court may require any legal custodian or guardian
12 of the person appointed under this Act to report periodically
13 to the court or may cite him into court and require him or his
14 agency, to make a full and accurate report of his or its doings
15 in behalf of the minor. The custodian or guardian, within 10
16 days after such citation, shall make the report, either in
17 writing verified by affidavit or orally under oath in open
18 court, or otherwise as the court directs. Upon the hearing of
19 the report the court may remove the custodian or guardian and
20 appoint another in his stead or restore the minor to the
21 custody of his parents or former guardian or custodian.
22 However, custody of the minor shall not be restored to any
23 parent, guardian or legal custodian in any case in which the
24 minor is found to be neglected or abused under Section 2-3 or

1 dependent under Section 2-4 of this Act, unless the minor can
2 be cared for at home without endangering the minor's health or
3 safety and it is in the best interests of the minor, and if
4 such neglect, abuse, or dependency is found by the court under
5 paragraph (1) of Section 2-21 of this Act to have come about
6 due to the acts or omissions or both of such parent, guardian
7 or legal custodian, until such time as an investigation is made
8 as provided in paragraph (5) and a hearing is held on the issue
9 of the fitness of such parent, guardian or legal custodian to
10 care for the minor and the court enters an order that such
11 parent, guardian or legal custodian is fit to care for the
12 minor.

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

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

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

1 enable the minor to prepare for independent living. The
2 agency's written report must detail what progress or lack of
3 progress the parent has made in correcting the conditions
4 requiring the child to be in care; whether the child can be
5 returned home without jeopardizing the child's health, safety,
6 and welfare, and if not, what permanency goal is recommended to
7 be in the best interests of the child, and why the other
8 permanency goals are not appropriate. The caseworker must
9 appear and testify at the permanency hearing. If a permanency
10 hearing has not previously been scheduled by the court, the
11 moving party shall move for the setting of a permanency hearing
12 and the entry of an order within the time frames set forth in
13 this subsection.

14 At the permanency hearing, the court shall determine the
15 future status of the child. The court shall set one of the
16 following permanency goals:

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

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

24 (B-1) The minor will be in short-term care with a
25 continued goal to return home pending a status hearing.
26 When the court finds that a parent has not made reasonable

1 efforts or reasonable progress to date, the court shall
2 identify what actions the parent and the Department must
3 take in order to justify a finding of reasonable efforts or
4 reasonable progress and shall set a status hearing to be
5 held not earlier than 9 months from the date of
6 adjudication nor later than 11 months from the date of
7 adjudication during which the parent's progress will again
8 be reviewed.

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

11 (D) Adoption, provided that parental rights have been
12 terminated or relinquished.

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

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

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

23 In selecting any permanency goal, the court shall indicate
24 in writing the reasons the goal was selected and why the
25 preceding goals were ruled out. Where the court has selected a
26 permanency goal other than (A), (B), or (B-1), the Department

1 of Children and Family Services shall not provide further
2 reunification services, but shall provide services consistent
3 with the goal selected.

4 The court shall set a permanency goal that is in the best
5 interest of the child. In determining that goal, the court
6 shall consult with the minor in an age-appropriate manner
7 regarding the proposed permanency or transition plan for the
8 minor. The court's determination shall include the following
9 factors:

10 (1) Age of the child.

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

13 (3) Current placement of the child and the intent of
14 the family regarding adoption.

15 (4) Emotional, physical, and mental status or
16 condition of the child.

17 (5) Types of services previously offered and whether or
18 not the services were successful and, if not successful,
19 the reasons the services failed.

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

22 (7) Status of siblings of the minor.

23 The court shall consider (i) the permanency goal contained
24 in the service plan, (ii) the appropriateness of the services
25 contained in the plan and whether those services have been
26 provided, (iii) whether reasonable efforts have been made by

1 all the parties to the service plan to achieve the goal, and
2 (iv) whether the plan and goal have been achieved. All evidence
3 relevant to determining these questions, including oral and
4 written reports, may be admitted and may be relied on to the
5 extent of their probative value.

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

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

24 A guardian or custodian appointed by the court pursuant to
25 this Act shall file updated case plans with the court every 6
26 months.

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

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

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

10 (b) If the permanency goal of the minor cannot be
11 achieved immediately, the specific reasons for continuing
12 the minor in the care of the Department of Children and
13 Family Services or other agency for short term placement,
14 and the following determinations:

15 (i) (Blank).

16 (ii) Whether the services required by the court and
17 by any service plan prepared within the prior 6 months
18 have been provided and (A) if so, whether the services
19 were reasonably calculated to facilitate the
20 achievement of the permanency goal or (B) if not
21 provided, why the services were not provided.

22 (iii) Whether the minor's placement is necessary,
23 and appropriate to the plan and goal, recognizing the
24 right of minors to the least restrictive (most
25 family-like) setting available and in close proximity
26 to the parents' home consistent with the health,

1 safety, best interest and special needs of the minor
2 and, if the minor is placed out-of-State, whether the
3 out-of-State placement continues to be appropriate and
4 consistent with the health, safety, and best interest
5 of the minor.

6 (iv) (Blank).

7 (v) (Blank).

8 Any order entered pursuant to this subsection (3) shall be
9 immediately appealable as a matter of right under Supreme Court
10 Rule 304(b) (1).

11 (4) The minor or any person interested in the minor may
12 apply to the court for a change in custody of the minor and the
13 appointment of a new custodian or guardian of the person or for
14 the restoration of the minor to the custody of his parents or
15 former guardian or custodian.

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

17 (a) The Department, the minor, or the current foster
18 parent or relative caregiver seeking private guardianship
19 may file a motion for private guardianship of the minor.
20 Appointment of a guardian under this Section requires
21 approval of the court.

22 (b) The State's Attorney may file a motion to terminate
23 parental rights of any parent who has failed to make
24 reasonable efforts to correct the conditions which led to
25 the removal of the child or reasonable progress toward the
26 return of the child, as defined in subdivision (D)(m) of

1 Section 1 of the Adoption Act or for whom any other
2 unfitness ground for terminating parental rights as
3 defined in subdivision (D) of Section 1 of the Adoption Act
4 exists.

5 Custody of the minor shall not be restored to any parent,
6 guardian or legal custodian in any case in which the minor is
7 found to be neglected or abused under Section 2-3 or dependent
8 under Section 2-4 of this Act, unless the minor can be cared
9 for at home without endangering his or her health or safety and
10 it is in the best interest of the minor, and if such neglect,
11 abuse, or dependency is found by the court under paragraph (1)
12 of Section 2-21 of this Act to have come about due to the acts
13 or omissions or both of such parent, guardian or legal
14 custodian, until such time as an investigation is made as
15 provided in paragraph (5) and a hearing is held on the issue of
16 the health, safety and best interest of the minor and the
17 fitness of such parent, guardian or legal custodian to care for
18 the minor and the court enters an order that such parent,
19 guardian or legal custodian is fit to care for the minor. In
20 the event that the minor has attained 18 years of age and the
21 guardian or custodian petitions the court for an order
22 terminating his guardianship or custody, guardianship or
23 custody shall terminate automatically 30 days after the receipt
24 of the petition unless the court orders otherwise. No legal
25 custodian or guardian of the person may be removed without his
26 consent until given notice and an opportunity to be heard by

1 the court.

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

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

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

23 (b) The information derived from the investigation and
24 any conclusions or recommendations derived from the
25 information shall be provided to the parent, guardian, or
26 legal custodian seeking restoration of custody prior to the

1 hearing on fitness and the movant shall have an opportunity
2 at the hearing to refute the information or contest its
3 significance.

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

7 (Source: P.A. 91-357, eff. 7-29-99; 92-320, eff. 1-1-02.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.