



Youth and Family Committee

**Filed: 3/5/2009**

09600HB0529ham001

LRB096 04768 JAM 23082 a

1 AMENDMENT TO HOUSE BILL 529

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 529 by replacing  
3 everything after the enacting clause with the following:

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

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

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

11 (a) For purposes of this Section:

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

15 (A) were committed to the Department pursuant to  
16 the Juvenile Court Act or the Juvenile Court Act of

1 1987, as amended, prior to the age of 18 and who  
2 continue under the jurisdiction of the court; or

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

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

15 (3) "Child welfare services" means public social  
16 services which are directed toward the accomplishment of  
17 the following purposes:

18 (A) protecting and promoting the health, safety  
19 and welfare of children, including homeless, dependent  
20 or neglected children;

21 (B) remedying, or assisting in the solution of  
22 problems which may result in, the neglect, abuse,  
23 exploitation or delinquency of children;

24 (C) preventing the unnecessary separation of  
25 children from their families by identifying family  
26 problems, assisting families in resolving their

1           problems, and preventing the breakup of the family  
2           where the prevention of child removal is desirable and  
3           possible when the child can be cared for at home  
4           without endangering the child's health and safety;

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

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

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

23          (G) (blank);

24          (H) (blank); and

25          (I) placing and maintaining children in facilities  
26          that provide separate living quarters for children

1 under the age of 18 and for children 18 years of age  
2 and older, unless a child 18 years of age is in the  
3 last year of high school education or vocational  
4 training, in an approved individual or group treatment  
5 program, in a licensed shelter facility, or secure  
6 child care facility. The Department is not required to  
7 place or maintain children:

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

9 (ii) who are persons with a developmental  
10 disability, as defined in the Mental Health and  
11 Developmental Disabilities Code, or

12 (iii) who are female children who are  
13 pregnant, pregnant and parenting or parenting, or

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

18 (b) Nothing in this Section shall be construed to authorize  
19 the expenditure of public funds for the purpose of performing  
20 abortions.

21 (c) The Department shall establish and maintain  
22 tax-supported child welfare services and extend and seek to  
23 improve voluntary services throughout the State, to the end  
24 that services and care shall be available on an equal basis  
25 throughout the State to children requiring such services.

26 (d) The Director may authorize advance disbursements for

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

18 (e) (Blank).

19 (f) (Blank).

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

24 (1) adoption;

25 (2) foster care;

26 (3) family counseling;

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

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

20 (h) If the Department finds that there is no appropriate  
21 program or facility within or available to the Department for a  
22 ward and that no licensed private facility has an adequate and  
23 appropriate program or none agrees to accept the ward, the  
24 Department shall create an appropriate individualized,  
25 program-oriented plan for such ward. The plan may be developed  
26 within the Department or through purchase of services by the

1 Department to the extent that it is within its statutory  
2 authority to do.

3 (i) Service programs shall be available throughout the  
4 State and shall include but not be limited to the following  
5 services:

6 (1) case management;

7 (2) homemakers;

8 (3) counseling;

9 (4) parent education;

10 (5) day care; and

11 (6) emergency assistance and advocacy.

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

14 (1) comprehensive family-based services;

15 (2) assessments;

16 (3) respite care; and

17 (4) in-home health services.

18 The Department shall provide transportation for any of the  
19 services it makes available to children or families or for  
20 which it refers children or families.

21 (j) The Department may provide categories of financial  
22 assistance and education assistance grants, and shall  
23 establish rules and regulations concerning the assistance and  
24 grants, to persons who adopt physically or mentally  
25 handicapped, older and other hard-to-place children who (i)  
26 immediately prior to their adoption were legal wards of the

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

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



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

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

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

13 (l) ~~The~~ ~~Before July 1, 2000, the Department may provide,~~  
14 ~~and beginning July 1, 2000, the~~ Department shall offer family  
15 preservation services, as defined in Section 8.2 of the Abused  
16 and Neglected Child Reporting Act, to help families, including  
17 adoptive and extended families. Family preservation services  
18 shall be offered (i) to prevent the placement of children in  
19 substitute care when the children can be cared for at home or  
20 in the custody of the person responsible for the children's  
21 welfare, (ii) to reunite children with their families, or (iii)  
22 to maintain an adoptive placement. Family preservation  
23 services shall only be offered when doing so will not endanger  
24 the children's health or safety. With respect to children who  
25 are in substitute care pursuant to the Juvenile Court Act of  
26 1987, family preservation services shall not be offered if a

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

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

1 in the community, even if the report is determined to be  
2 unfounded, if the conditions in the child's or family's home  
3 are reasonably likely to subject the child or family to future  
4 reports of suspected child abuse or neglect. Acceptance of such  
5 services shall be voluntary.

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

25 (1-1) The legislature recognizes that the best interests of  
26 the child require that the child be placed in the most

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

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

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

1 such a finding.

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

8 The Department shall adopt rules addressing concurrent  
9 planning for reunification and permanency. The Department  
10 shall consider the following factors when determining  
11 appropriateness of concurrent planning:

- 12 (1) the likelihood of prompt reunification;
- 13 (2) the past history of the family;
- 14 (3) the barriers to reunification being addressed by  
15 the family;
- 16 (4) the level of cooperation of the family;
- 17 (5) the foster parents' willingness to work with the  
18 family to reunite;
- 19 (6) the willingness and ability of the foster family to  
20 provide an adoptive home or long-term placement;
- 21 (7) the age of the child;
- 22 (8) placement of siblings.

23 (m) The Department may assume temporary custody of any  
24 child if:

- 25 (1) it has received a written consent to such temporary  
26 custody signed by the parents of the child or by the parent

1           having custody of the child if the parents are not living  
2           together or by the guardian or custodian of the child if  
3           the child is not in the custody of either parent, or

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

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

22          The Department shall have the authority, responsibilities  
23          and duties that a legal custodian of the child would have  
24          pursuant to subsection (9) of Section 1-3 of the Juvenile Court  
25          Act of 1987. Whenever a child is taken into temporary custody  
26          pursuant to an investigation under the Abused and Neglected

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

10 The Department shall ensure that any child taken into  
11 custody is scheduled for an appointment for a medical  
12 examination.

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

1 the Department with respect to the temporary custody of the  
2 child shall terminate.

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

17 (n) The Department may place children under 18 years of age  
18 in licensed child care facilities when in the opinion of the  
19 Department, appropriate services aimed at family preservation  
20 have been unsuccessful and cannot ensure the child's health and  
21 safety or are unavailable and such placement would be for their  
22 best interest. Payment for board, clothing, care, training and  
23 supervision of any child placed in a licensed child care  
24 facility may be made by the Department, by the parents or  
25 guardians of the estates of those children, or by both the  
26 Department and the parents or guardians, except that no



1 payments shall be made by the Department for any child placed  
2 in a licensed child care facility for board, clothing, care,  
3 training and supervision of such a child that exceed the  
4 average per capita cost of maintaining and of caring for a  
5 child in institutions for dependent or neglected children  
6 operated by the Department. However, such restriction on  
7 payments does not apply in cases where children require  
8 specialized care and treatment for problems of severe emotional  
9 disturbance, physical disability, social adjustment, or any  
10 combination thereof and suitable facilities for the placement  
11 of such children are not available at payment rates within the  
12 limitations set forth in this Section. All reimbursements for  
13 services delivered shall be absolutely inalienable by  
14 assignment, sale, attachment, garnishment or otherwise.

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

1 administrative review and an appeal hearing a complaint made by  
2 (i) a child or foster family concerning a decision following an  
3 initial review by a private child welfare agency or (ii) a  
4 prospective adoptive parent who alleges a violation of  
5 subsection (j-5) of this Section. An appeal of a decision  
6 concerning a change in the placement of a child shall be  
7 conducted in an expedited manner.

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

25 (q) The Department may receive and use, in their entirety,  
26 for the benefit of children any gift, donation or bequest of

1 money or other property which is received on behalf of such  
2 children, or any financial benefits to which such children are  
3 or may become entitled while under the jurisdiction or care of  
4 the Department.

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

16 In disbursing funds from children's accounts, the  
17 Department shall:

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

26 (2) Calculate on a monthly basis the amounts paid from

1 State funds for the child's board and care, medical care  
2 not covered under Medicaid, and social services; and  
3 utilize funds from the child's account, as covered by  
4 regulation, to reimburse those costs. Monthly,  
5 disbursements from all children's accounts, up to 1/12 of  
6 \$13,000,000, shall be deposited by the Department into the  
7 General Revenue Fund and the balance over 1/12 of  
8 \$13,000,000 into the DCFS Children's Services Fund.

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

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

1 ensure that such agent maintains the confidentiality of the  
2 person seeking to adopt the child and of the child.

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

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

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

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

26 The Department shall provide written notification to the

1 court of the specific arrangements for supervised visitation  
2 and projected monthly costs within 60 days of the court order.  
3 The Department shall send to the court information related to  
4 the costs incurred except in cases where the court has  
5 determined the parties are financially unable to pay. The court  
6 may order additional periodic reports as appropriate.

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

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

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

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

26 The caretaker shall be informed of any known social or

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

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

1 prospective adoptive parent or parents or other caretaker shall  
2 be reviewed and approved regarding accuracy at the supervisory  
3 level.

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

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



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

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

23 (v-2) Prior to final approval for placement of a child, the  
24 Department shall check its child abuse and neglect registry for  
25 information concerning prospective foster and adoptive  
26 parents, and any adult living in the home. If any prospective

1 foster or adoptive parent or other adult living in the home has  
2 resided in another state in the preceding 5 years, the  
3 Department shall request a check of that other state's child  
4 abuse and neglect registry.

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

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

1 95-10, eff. 6-30-07; 95-601, eff. 9-11-07; 95-642, eff. 6-1-08;  
2 95-876, eff. 8-21-08.)

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

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

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

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

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

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

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

- 25 (a) the number of families and children served, by type  
26 of services;

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

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

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

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

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

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

18 (h) recommendations regarding any proposed legislative  
19 changes to this program.

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

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

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

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

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

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

14           (705 ILCS 405/2-23) (from Ch. 37, par. 802-23)

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

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

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

1           custodian to cooperate with the Department of Children and  
2           Family Services and comply with the terms of an after-care  
3           plan or risk the loss of custody of the child and the  
4           possible termination of their parental rights; or (4)  
5           ordered partially or completely emancipated in accordance  
6           with the provisions of the Emancipation of Minors Act.

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

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

24          However, in any case in which a minor is found by the  
25          court to be dependent under Section 2-4 of this Act,  
26          custody of the minor shall not be restored to any parent,



1 guardian or legal custodian whose acts or omissions or both  
2 have been identified, pursuant to subsection (1) of Section  
3 2-21, as forming the basis for the court's finding of  
4 dependency, until such time as a hearing is held on the  
5 issue of the fitness of such parent, guardian or legal  
6 custodian to care for the minor without endangering the  
7 minor's health or safety, and the court enters an order  
8 that such parent, guardian or legal custodian is fit to  
9 care for the minor.

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

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

20 Unless the order of disposition expressly so provides, it  
21 does not operate to close proceedings on the pending petition,  
22 but is subject to modification, not inconsistent with Section  
23 2-28, until final closing and discharge of the proceedings  
24 under Section 2-31.

25 (3) The court also shall enter any other orders necessary  
26 to fulfill the service plan, including, but not limited to, (i)

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

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

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

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

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

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

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

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

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

7 Sec. 2-28. Court review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (H) Notwithstanding any other provision in this Section,



1 the court may select the goal of continuing foster care as a  
2 permanency goal if:

3 (1) The Department of Children and Family Services has  
4 custody and guardianship of the minor;

5 (2) The court has ruled out all other permanency goals  
6 based on the child's best interest;

7 (3) The court has found compelling reasons, based on  
8 written documentation reviewed by the court, to place the  
9 minor in continuing foster care. Compelling reasons  
10 include:

11 (a) the child does not wish to be adopted or to be  
12 placed in the guardianship of his or her relative or  
13 foster care placement;

14 (b) the child exhibits an extreme level of need  
15 such that the removal of the child from his or her  
16 placement would be detrimental to the child; or

17 (c) the child who is the subject of the permanency  
18 hearing has existing close and strong bonds with a  
19 sibling, and achievement of another permanency goal  
20 would substantially interfere with the subject child's  
21 sibling relationship, taking into consideration the  
22 nature and extent of the relationship, and whether  
23 ongoing contact is in the subject child's best  
24 interest, including long-term emotional interest, as  
25 compared with the legal and emotional benefit of  
26 permanence;

1           (4) The child has lived with the relative or foster  
2           parent for at least one year; and

3           (5) The relative or foster parent currently caring for  
4           the child is willing and capable of providing the child  
5           with a stable and permanent environment.

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

12                 (1) Age of the child.

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

15                 (3) Current placement of the child and the intent of  
16                 the family regarding adoption.

17                 (4) Emotional, physical, and mental status or  
18                 condition of the child.

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

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

24                 (7) Status of siblings of the minor.

25          The court shall consider (i) the permanency goal contained  
26          in the service plan, (ii) the appropriateness of the services

1 contained in the plan and whether those services have been  
2 provided, (iii) whether reasonable efforts have been made by  
3 all the parties to the service plan to achieve the goal, and  
4 (iv) whether the plan and goal have been achieved. All evidence  
5 relevant to determining these questions, including oral and  
6 written reports, may be admitted and may be relied on to the  
7 extent of their probative value.

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

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

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

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

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

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

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

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

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

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

6 (i) (Blank).

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

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

23 (iv) (Blank).

24 (v) (Blank).

25 (4) The minor or any person interested in the minor may  
26 apply to the court for a change in custody of the minor and the

1 appointment of a new custodian or guardian of the person or for  
2 the restoration of the minor to the custody of his parents or  
3 former guardian or custodian.

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

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

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

19 Custody of the minor shall not be restored to any parent,  
20 guardian or legal custodian in any case in which the minor is  
21 found to be neglected or abused under Section 2-3 or dependent  
22 under Section 2-4 of this Act, unless the minor can be cared  
23 for at home without endangering his or her health or safety and  
24 it is in the best interest of the minor, and if such neglect,  
25 abuse, or dependency is found by the court under paragraph (1)  
26 of Section 2-21 of this Act to have come about due to the acts

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

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

23 (5) Whenever a parent, guardian, or legal custodian files a  
24 motion for restoration of custody of the minor, and the minor  
25 was adjudicated neglected, abused, or dependent as a result of  
26 physical abuse, the court shall cause to be made an

1 investigation as to whether the movant has ever been charged  
2 with or convicted of any criminal offense which would indicate  
3 the likelihood of any further physical abuse to the minor.  
4 Evidence of such criminal convictions shall be taken into  
5 account in determining whether the minor can be cared for at  
6 home without endangering his or her health or safety and  
7 fitness of the parent, guardian, or legal custodian.

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

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

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

21 (Source: P.A. 95-10, eff. 6-30-07; 95-182, eff. 8-14-07;  
22 95-876, eff. 8-21-08.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.".