



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0903

Introduced 2/10/2009, by Rep. Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

New Act	
20 ILCS 505/6b	from Ch. 23, par. 5006b
325 ILCS 5/3	from Ch. 23, par. 2053
325 ILCS 5/5	from Ch. 23, par. 2055
325 ILCS 5/7.16a new	
325 ILCS 5/8.2	from Ch. 23, par. 2058.2
325 ILCS 5/9	from Ch. 23, par. 2059
705 ILCS 405/2-9	from Ch. 37, par. 802-9

Amends the Children and Family Services Act, the Abused and neglected Child Reporting Act, and the Juvenile Court Act of 1987. Provides that the amendatory provisions may be cited as the Family Protection Act of 2009. Provides that the Department of Children and Family Services shall provide case tracking and maintain and provide in its annual report statistical records concerning the number of families subject to safety plans. Provides that "safety plan" means any request made orally or in writing by a designated employee of the Department or a person acting at the Department's behest that a family abide by conditions limiting, restricting, or modifying their usual interaction with their child, including but not limited to a request that a child, parent, or guardian relocate from the family home, that another person reside in the family home, or that a parent or guardian have no unsupervised contact with a child. Sets forth conditions for taking or retaining temporary protective custody of a child. Adds provisions concerning safety plans. Adds provisions concerning review of a Department action restricting a person's access to a family member or requiring a change of living arrangements. Provides for a "no probable cause" hearing under the Juvenile Court Act of 1987. Makes other changes.

LRB096 04540 DRJ 14595 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning families and children.

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

4 Section 1. Short title. This Act may be cited as the Family
5 Protection Act of 2009.

6 Section 5. Findings. The Legislature finds and declares all
7 of the following:

8 (a) The policy of the State of Illinois is that family life
9 is sacrosanct, that the State shall not intervene in the
10 private lives of families except when essential to protect the
11 health and safety of children, that parents have the right and
12 duty of the care and custody of their children except if the
13 State possesses objective reasonable evidence establishing
14 that the parents are endangering the child or blatantly
15 disregarding their duties of care, and that, except in
16 emergency circumstances when there is no time to secure
17 judicial review, the State shall secure judicial authority
18 before taking intrusive action affecting the family while, in
19 emergencies, judicial review should occur as promptly as
20 possible after the child's safety is assured.

21 (b) The State of Illinois possesses awesome coercive powers
22 to intervene in family life when the circumstances so demand,
23 and those powers are to be exercised cautiously and with

1 restraint so that children are not wrongfully separated from
2 the parents and siblings without due process of law.

3 (c) The right to be secure from undue threats and
4 misrepresentations is a right of all citizens against arbitrary
5 governmental action, and threats of separating children from
6 parents are particularly frightening and traumatic to parents
7 and families.

8 (d) Several federal courts have determined that offering a
9 parent the choice of leaving his own home or having his child
10 taken into foster care, absent evidence of wrongdoing by the
11 parent, is blatantly coercive.

12 (e) The General Assembly repudiates the suggestion that any
13 parent, faced with the choice of having his child placed into
14 state protective custody if he does not make an alternative plan
15 for the child's care, is making a per se voluntary choice
16 between equally palatable options.

17 (f) A cornerstone of our democracy is that governmental
18 actions require a factual basis, notice, and an opportunity to
19 be heard.

20 (g) The Department of Children and Family Services has
21 lawful judicial and administrative procedures available to
22 afford the full protection of children without resort to
23 coercive means that deprive families of due process of law.

24 Section 10. The Children and Family Services Act is amended
25 by changing Section 6b as follows:

1 (20 ILCS 505/6b) (from Ch. 23, par. 5006b)

2 Sec. 6b. Case tracking system.

3 (1) The Department shall establish and operate a case
4 tracking system which shall be designed to monitor and evaluate
5 family preservation, family reunification and placement
6 services.

7 (2) The Department shall establish and operate the case
8 tracking system for the Department clients for whom the
9 Department is providing or paying for such services. The
10 Department shall work with the courts in the development of a
11 cooperative case tracking system.

12 (3) The Department shall determine the basic elements and
13 access and provide for records of the case tracking system to
14 not be open to the general public.

15 (4) The Department shall use the case tracking system to
16 determine whether any child reported to the Department under
17 Section 3.5 of the Intergovernmental Missing Child Recovery Act
18 of 1984 matches a Department ward and whether that child had
19 been abandoned within the previous 2 months.

20 (5) The Department shall provide case tracking and maintain
21 and provide in its annual report statistical records concerning
22 the number of families subject to safety plans as defined in
23 Section 3 of the Abused and Neglected Child Reporting Act. The
24 Department shall record and provide in its annual report the
25 number of families subject to safety plans, the average

1 duration of safety plans, the number of safety plan cases in
2 which protective custody was taken, and the number of safety
3 plan cases with indicated or unfounded outcomes. In order to
4 track safety plans, every safety plan with a duration of 5 days
5 or more shall be submitted to a child protection manager and a
6 sworn certification shall be provided by that person stating
7 that the plan has been determined to be the least restrictive
8 possible and that the Department possesses objective
9 reasonable evidence of abuse or neglect by the person or
10 persons restricted by the plan.

11 (Source: P.A. 89-213, eff. 1-1-96.)

12 Section 15. The Abused and Neglected Child Reporting Act is
13 amended by changing Sections 3, 5, 8.2, and 9 and by adding
14 Section 7.16a as follows:

15 (325 ILCS 5/3) (from Ch. 23, par. 2053)

16 Sec. 3. Definitions. As used in this Act, unless the
17 context otherwise requires:

18 "Child" means any person under the age of 18 years, unless
19 legally emancipated by reason of marriage or entry into a
20 branch of the United States armed services.

21 "Department" means Department of Children and Family
22 Services.

23 "Local law enforcement agency" means the police of a city,
24 town, village or other incorporated area or the sheriff of an

1 unincorporated area or any sworn officer of the Illinois
2 Department of State Police.

3 "Abused child" means a child whose parent or immediate
4 family member, or any person responsible for the child's
5 welfare, or any individual residing in the same home as the
6 child, or a paramour of the child's parent:

7 (a) inflicts, causes to be inflicted, or allows to be
8 inflicted upon such child physical injury, by other than
9 accidental means, which causes death, disfigurement,
10 impairment of physical or emotional health, or loss or
11 impairment of any bodily function;

12 (b) creates a substantial risk of physical injury to
13 such child by other than accidental means which would be
14 likely to cause death, disfigurement, impairment of
15 physical or emotional health, or loss or impairment of any
16 bodily function;

17 (c) commits or allows to be committed any sex offense
18 against such child, as such sex offenses are defined in the
19 Criminal Code of 1961, as amended, and extending those
20 definitions of sex offenses to include children under 18
21 years of age;

22 (d) commits or allows to be committed an act or acts of
23 torture upon such child;

24 (e) inflicts excessive corporal punishment;

25 (f) commits or allows to be committed the offense of
26 female genital mutilation, as defined in Section 12-34 of

1 the Criminal Code of 1961, against the child; or

2 (g) causes to be sold, transferred, distributed, or
3 given to such child under 18 years of age, a controlled
4 substance as defined in Section 102 of the Illinois
5 Controlled Substances Act in violation of Article IV of the
6 Illinois Controlled Substances Act or in violation of the
7 Methamphetamine Control and Community Protection Act,
8 except for controlled substances that are prescribed in
9 accordance with Article III of the Illinois Controlled
10 Substances Act and are dispensed to such child in a manner
11 that substantially complies with the prescription.

12 A child shall not be considered abused for the sole reason
13 that the child has been relinquished in accordance with the
14 Abandoned Newborn Infant Protection Act.

15 "Neglected child" means any child who is not receiving the
16 proper or necessary nourishment or medically indicated
17 treatment including food or care not provided solely on the
18 basis of the present or anticipated mental or physical
19 impairment as determined by a physician acting alone or in
20 consultation with other physicians or otherwise is not
21 receiving the proper or necessary support or medical or other
22 remedial care recognized under State law as necessary for a
23 child's well-being, or other care necessary for his or her
24 well-being, including adequate food, clothing and shelter; or
25 who is abandoned by his or her parents or other person
26 responsible for the child's welfare without a proper plan of

1 care; or who has been provided with interim crisis intervention
2 services under Section 3-5 of the Juvenile Court Act of 1987
3 and whose parent, guardian, or custodian refuses to permit the
4 child to return home and no other living arrangement agreeable
5 to the parent, guardian, or custodian can be made, and the
6 parent, guardian, or custodian has not made any other
7 appropriate living arrangement for the child; or who is a
8 newborn infant whose blood, urine, or meconium contains any
9 amount of a controlled substance as defined in subsection (f)
10 of Section 102 of the Illinois Controlled Substances Act or a
11 metabolite thereof, with the exception of a controlled
12 substance or metabolite thereof whose presence in the newborn
13 infant is the result of medical treatment administered to the
14 mother or the newborn infant. A child shall not be considered
15 neglected for the sole reason that the child's parent or other
16 person responsible for his or her welfare has left the child in
17 the care of an adult relative for any period of time. A child
18 shall not be considered neglected for the sole reason that the
19 child has been relinquished in accordance with the Abandoned
20 Newborn Infant Protection Act. A child shall not be considered
21 neglected or abused for the sole reason that such child's
22 parent or other person responsible for his or her welfare
23 depends upon spiritual means through prayer alone for the
24 treatment or cure of disease or remedial care as provided under
25 Section 4 of this Act. A child shall not be considered
26 neglected or abused solely because the child is not attending

1 school in accordance with the requirements of Article 26 of The
2 School Code, as amended.

3 "Child Protective Service Unit" means certain specialized
4 State employees of the Department assigned by the Director to
5 perform the duties and responsibilities as provided under
6 Section 7.2 of this Act.

7 "Person responsible for the child's welfare" means the
8 child's parent; guardian; foster parent; relative caregiver;
9 any person responsible for the child's welfare in a public or
10 private residential agency or institution; any person
11 responsible for the child's welfare within a public or private
12 profit or not for profit child care facility; or any other
13 person responsible for the child's welfare at the time of the
14 alleged abuse or neglect, or any person who came to know the
15 child through an official capacity or position of trust,
16 including but not limited to health care professionals,
17 educational personnel, recreational supervisors, members of
18 the clergy, and volunteers or support personnel in any setting
19 where children may be subject to abuse or neglect.

20 "Safety plan" (which is synonymous with a "protective plan"
21 or "family living conditions plan") means any request made
22 orally or in writing by a designated employee of the Department
23 or a person acting at the Department's behest, including but
24 not limited to persons acting on behalf of a Multidisciplinary
25 Pediatric Education and Evaluation Consortium or a Child
26 Advocacy Center established pursuant to State law, that a

1 family abide by conditions limiting, restricting, or modifying
2 their usual interaction with their child, including but not
3 limited to a request that a child, parent, or guardian relocate
4 from the family home, that another person reside in the family
5 home, or that a parent or guardian have no unsupervised contact
6 with a child, except that a safety plan does not include such
7 requests made pursuant to the Juvenile Court Act of 1987.

8 "Temporary protective custody" means custody within a
9 hospital or other medical facility or a place previously
10 designated for such custody by the Department, subject to
11 review by the Court, including a licensed foster home, group
12 home, or other institution; but such place shall not be a jail
13 or other place for the detention of criminal or juvenile
14 offenders.

15 "An unfounded report" means any report made under this Act
16 for which it is determined after an investigation that no
17 credible evidence of abuse or neglect exists.

18 "An indicated report" means a report made under this Act if
19 an investigation determines that credible evidence of the
20 alleged abuse or neglect exists.

21 "An undetermined report" means any report made under this
22 Act in which it was not possible to initiate or complete an
23 investigation on the basis of information provided to the
24 Department.

25 "Subject of report" means any child reported to the central
26 register of child abuse and neglect established under Section

1 7.7 of this Act and his or her parent, guardian or other person
2 responsible who is also named in the report.

3 "Perpetrator" means a person who, as a result of
4 investigation, has been determined by the Department to have
5 caused child abuse or neglect.

6 "Member of the clergy" means a clergyman or practitioner of
7 any religious denomination accredited by the religious body to
8 which he or she belongs.

9 The term "voluntary" is defined in accordance with the
10 requirement that a totality of circumstances be considered
11 (including the intelligence, age, education, experience,
12 income, mental or physical disability, and all other factors
13 recognized by law as affecting an individual's state of mind in
14 entering into agreements and the absence of threats, pressure,
15 or promises). For a person's agreement to be deemed voluntary,
16 such person shall be afforded accurate information as to the
17 reasonably anticipated legal and practical consequences of a
18 decision or agreement and the reasonably anticipated
19 consequences if no decision or agreement is made. The term
20 voluntary also requires that any agreement or decision deemed
21 to be voluntary shall be revocable at any time without penalty.

22 (Source: P.A. 94-556, eff. 9-11-05; 95-443, eff. 1-1-08.)

23 (325 ILCS 5/5) (from Ch. 23, par. 2055)

24 Sec. 5. Temporary protective custody; safety plans. An
25 officer of a local law enforcement agency, designated employee

1 of the Department, or a physician treating a child may take or
2 retain temporary protective custody of the child without the
3 consent of the person responsible for the child's welfare, if
4 (1) he has reason to believe that the child cannot be cared for
5 at home or in the custody of the person responsible for the
6 child's welfare without endangering the child's health or
7 safety; and (2) there is not time to apply for a court order
8 under the Juvenile Court Act of 1987 for temporary custody of
9 the child. No designated employee of the Department shall take
10 or retain temporary protective custody of the child and no
11 person shall state that he or she or any other person will do
12 so except upon approval for such action by the child protection
13 manager or the Director's designee certifying that: (i) there
14 is no time to secure a court order; (ii) there is an immediate
15 danger to the child; and (iii) there is objectively reasonable
16 suspicion that a child has been or will be abused or neglected
17 by his or her parent or guardian such that the protection of
18 the child requires such action prior to judicial authorization.
19 No officer of a local law enforcement agency, designated
20 employee of the Department, or physician acting pursuant to
21 this Section may request or require that a parent, guardian, or
22 relative of a child abide by any condition respecting the care
23 and custody of a child under representation that failure to do
24 so will result in the removal of the child unless that person
25 possesses probable cause or objectively reasonable suspicion
26 of abuse or neglect by the person bound by the requirement. No

1 person acting pursuant to this Section shall maintain a child
2 in temporary protective custody or enforce a safety plan
3 condition after the Department or authorized person has
4 information establishing that there no longer exists immediate
5 danger to the child if the temporary protective custody or
6 safety plan condition is removed or there is no longer an
7 objectively reasonable suspicion that a child has been or will
8 be abused or neglected by his or her parent or guardian. If the
9 Department or authorized person has applied for a court order
10 for the temporary custody of the child and the application has
11 been rejected by the State's Attorney or public official
12 reviewing the application, it shall promptly inform the parent
13 or guardian of such decision. Every safety plan with a duration
14 of 5 days or more shall be reviewed by a child protection
15 manager, and a sworn certification shall be provided by such
16 person that the plan has been determined to be the least
17 restrictive possible and the Department possesses objective
18 reasonable evidence of abuse or neglect by the persons
19 restricted by the safety plan. Notwithstanding the
20 requirements of this Section, the Department, its designees,
21 and any person acting at the behest of the Department may
22 secure a voluntary safety plan that comports with the
23 definition of "voluntary" as set forth in Section 3 of this
24 Act. Each safety plan form shall be accompanied by a statement
25 of the rights to review available to the persons subject to the
26 plan.

1 The person taking or retaining a child in temporary
2 protective custody shall immediately make every reasonable
3 effort to notify the person responsible for the child's welfare
4 and shall immediately notify the Department. The Department
5 shall provide to the temporary caretaker of a child any
6 information in the Department's possession concerning the
7 positive results of a test performed on the child to determine
8 the presence of the antibody or antigen to Human
9 Immunodeficiency Virus (HIV), or of HIV infection, as well as
10 any communicable diseases or communicable infections that the
11 child has. The temporary caretaker of a child shall not
12 disclose to another person any information received by the
13 temporary caretaker from the Department concerning the results
14 of a test performed on the child to determine the presence of
15 the antibody or antigen to HIV, or of HIV infection, except
16 pursuant to Section 9 of the AIDS Confidentiality Act, as now
17 or hereafter amended. The Department shall promptly initiate
18 proceedings under the Juvenile Court Act of 1987 for the
19 continued temporary custody of the child.

20 Where the physician keeping a child in his custody does so
21 in his capacity as a member of the staff of a hospital or
22 similar institution, he shall notify the person in charge of
23 the institution or his designated agent, who shall then become
24 responsible for the further care of such child in the hospital
25 or similar institution under the direction of the Department.

26 Said care includes, but is not limited to the granting of

1 permission to perform emergency medical treatment to a minor
2 where the treatment itself does not involve a substantial risk
3 of harm to the minor and the failure to render such treatment
4 will likely result in death or permanent harm to the minor, and
5 there is not time to apply for a court order under the Juvenile
6 Court Act of 1987.

7 Any person authorized and acting in good faith in the
8 removal of a child under this Section shall have immunity from
9 any liability, civil or criminal that might otherwise be
10 incurred or imposed as a result of such removal. Any physician
11 authorized and acting in good faith and in accordance with
12 acceptable medical practice in the treatment of a child under
13 this Section shall have immunity from any liability, civil or
14 criminal, that might otherwise be incurred or imposed as a
15 result of granting permission for emergency treatment.

16 With respect to any child taken into temporary protective
17 custody pursuant to this Section, the Department of Children
18 and Family Services Guardianship Administrator or his designee
19 shall be deemed the child's legally authorized representative
20 for purposes of consenting to an HIV test if deemed necessary
21 and appropriate by the Department's Guardianship Administrator
22 or designee and obtaining and disclosing information
23 concerning such test pursuant to the AIDS Confidentiality Act
24 if deemed necessary and appropriate by the Department's
25 Guardianship Administrator or designee and for purposes of
26 consenting to the release of information pursuant to the

1 Illinois Sexually Transmissible Disease Control Act if deemed
2 necessary and appropriate by the Department's Guardianship
3 Administrator or designee.

4 Any person who administers an HIV test upon the consent of
5 the Department of Children and Family Services Guardianship
6 Administrator or his designee, or who discloses the results of
7 such tests to the Department's Guardianship Administrator or
8 his designee, shall have immunity from any liability, civil,
9 criminal or otherwise, that might result by reason of such
10 actions. For the purpose of any proceedings, civil or criminal,
11 the good faith of any persons required to administer or
12 disclose the results of tests, or permitted to take such
13 actions, shall be presumed.

14 (Source: P.A. 90-28, eff. 1-1-98.)

15 (325 ILCS 5/7.16a new)

16 Sec. 7.16a. Right to review of restrictions on family
17 members in Circuit Court or through administrative hearing.

18 (a) Any family member who through Departmental action is
19 subjected to a safety plan, service plan, or other condition
20 restricting his or her access to a family member or requiring a
21 change of living arrangements (including that another relative
22 reside in the home or that parents or children leave their home
23 and reside elsewhere) shall be notified of the basis for the
24 request (including the objectively reasonable evidence in the
25 Department's possession) and his or her available rights of

1 review. The person may request immediate review of the
2 condition or conditions by making a demand for release of
3 conditions upon the Director of the Department, who shall be
4 deemed to have released the condition or conditions if the
5 demand is not acted upon within 48 hours after the demand,
6 exclusive of weekends and holidays. A family member who makes a
7 demand for release of conditions shall not be considered to be
8 in violation of the safety plan, service plan, or Department
9 condition by virtue of making the demand, and the making of
10 such a demand or the release of a condition or conditions (by
11 Department action or inaction) shall not result in the taking
12 of protective custody of any child. If the Director denies the
13 request for release of conditions, an expedited administrative
14 hearing shall be convened within 5 business days after the
15 denial, and a final decision of the Director shall be rendered
16 within 7 days after the date on which the expedited
17 administrative hearing is commenced.

18 (b) Upon expedited administrative review, the
19 administrative law judge shall recommend a determination as to
20 whether there is an objectively reasonable basis for believing
21 the child is abused or neglected within the meaning of this Act
22 and the Juvenile Court Act of 1987. If the Director agrees with
23 and recommends a determination that there is not objectively
24 reasonable suspicion, all safety plan conditions shall be
25 directed to be lifted forthwith. If the administrative law
26 judge recommends a determination that there is objectively

1 reasonable suspicion, he or she shall further recommend a
2 determination as to whether the safety plan conditions are
3 narrowly tailored to the protection of the child and are the
4 least intrusive. The Director shall review these
5 recommendations and, if the Director agrees, the Director shall
6 direct that the safety plan conditions be revised accordingly
7 to state the conditions under which the safety plan conditions
8 should be lifted. The Department shall comply with the final
9 decision of the Director forthwith. The final administrative
10 hearing decision finding objectively reasonable suspicion and
11 maintaining any safety plan condition may be challenged without
12 further exhaustion of administrative or judicial remedies by
13 any of the following means:

14 (1) Filing a petition in the Juvenile Court for a "no
15 probable cause" hearing pursuant to Section 2-9 of the
16 Juvenile Court Act of 1987.

17 (2) Commencing an injunctive or declaratory judgment
18 action seeking a determination that the Department lacks a
19 basis for requiring the challenged condition.

20 (3) Filing an action pursuant to the Administrative
21 Review Law.

22 The choice of forum shall be left to the discretion of the
23 family member seeking to challenge the condition.

24 (325 ILCS 5/8.2) (from Ch. 23, par. 2058.2)

25 Sec. 8.2. If the Child Protective Service Unit determines,

1 following an investigation made pursuant to Section 7.4 of this
2 Act and after gathering and weighing all available inculpatory
3 and exculpatory evidence, that there is credible evidence that
4 the child is abused or neglected, the Department shall assess
5 the family's need for services, and, as necessary, develop,
6 with the family, an appropriate service plan for the family's
7 voluntary acceptance or voluntary refusal. Receipt of such
8 services shall be voluntary as defined in this Act, except that
9 if the Department possesses objectively reasonable evidence of
10 abuse or neglect, then the Department shall notify the family
11 of its authority to seek an appropriate order of protection
12 under the Juvenile Court Act of 1987 if services are declined.
13 The Department shall not represent to a family that the
14 Department will take judicial action under the Juvenile Court
15 Act of 1987 in order to secure restrictive conditions unless
16 the conditions sought are necessary to protect the health and
17 safety or wellbeing of a child.

18 In any case where there is evidence that the perpetrator of
19 the abuse or neglect is an addict or alcoholic as defined in
20 the Alcoholism and Other Drug Abuse and Dependency Act, the
21 Department, when making referrals for drug or alcohol abuse
22 services, shall make such referrals to facilities licensed by
23 the Department of Human Services or the Department of Public
24 Health. The Department shall comply with Section 8.1 by
25 explaining its lack of legal authority to compel the acceptance
26 of services and may explain its concomitant authority to

1 petition the Circuit court under the Juvenile Court Act of 1987
2 or refer the case to the local law enforcement authority or
3 State's attorney for criminal prosecution.

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

25 Before July 1, 2000, appropriate family preservation
26 services shall, subject to appropriation, be included in the

1 service plan if the Department has determined that those
2 services will ensure the child's health and safety, are in the
3 child's best interests, and will not place the child in
4 imminent risk of harm. Beginning July 1, 2000, appropriate
5 family preservation services shall be uniformly available
6 throughout the State. The Department shall promptly notify
7 children and families of the Department's responsibility to
8 offer and provide family preservation services as identified in
9 the service plan. Such plans may include but are not limited
10 to: case management services; homemakers; counseling; parent
11 education; day care; emergency assistance and advocacy
12 assessments; respite care; in-home health care; transportation
13 to obtain any of the above services; and medical assistance.
14 Nothing in this paragraph shall be construed to create a
15 private right of action or claim on the part of any individual
16 or child welfare agency.

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

21 (a) the number of families and children served, by type
22 of services;

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

26 (c) the number of families which have been subjects of

1 founded reports of abuse following the termination of
2 services;

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

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

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

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

14 (h) recommendations regarding any proposed legislative
15 changes to this program.

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

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

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

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

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

8 (325 ILCS 5/9) (from Ch. 23, par. 2059)

9 Sec. 9. Any person, institution or agency, under this Act,
10 participating in good faith in the making of a report or
11 referral, or in the investigation of such a report or referral
12 or in the taking of photographs and x-rays or in the retaining
13 a child in temporary protective custody in accordance with
14 Section 5 of this Act or in making a disclosure of information
15 concerning reports of child abuse and neglect in compliance
16 with Sections 4.2 and 11.1 of this Act or Section 4 of this
17 Act, as it relates to disclosure by school personnel and except
18 in cases of wilful or wanton misconduct, shall have immunity
19 from any liability, civil, criminal or that otherwise might
20 result by reason of such actions. For the purpose of any
21 proceedings, civil or criminal, the good faith of any persons
22 required to report or refer, or permitted to report, cases of
23 suspected child abuse or neglect or permitted to refer
24 individuals under this Act or required to disclose information
25 concerning reports of child abuse and neglect in compliance

1 with Sections 4.2 and 11.1 of this Act, shall be presumed.

2 (Source: P.A. 95-908, eff. 8-26-08.)

3 Section 20. The Juvenile Court Act of 1987 is amended by
4 changing Section 2-9 as follows:

5 (705 ILCS 405/2-9) (from Ch. 37, par. 802-9)

6 Sec. 2-9. Setting of temporary custody hearing; "no
7 probable cause" hearing; notice; release.

8 (1) Unless sooner released, a minor as defined in Section
9 2-3 or 2-4 of this Act taken into temporary protective custody
10 must be brought before a judicial officer within 48 hours,
11 exclusive of Saturdays, Sundays and court-designated holidays,
12 for a temporary custody hearing to determine whether he shall
13 be further held in custody.

14 (2) Any person who is subject to a safety plan as defined
15 in Section 3 of the Abused and Neglected Child Reporting Act
16 may request a "no probable cause" hearing by filing a petition
17 for a declaration that there is no probable cause to believe a
18 child is abused, neglected, or dependent within the meaning of
19 this Act. Within 48 hours after the filing of a petition for a
20 declaration of no probable cause, the court shall set the
21 matter for hearing within 3 business days, appointing such
22 counsel for the parent as would be required had the State
23 initiated a petition for adjudication of wardship, but
24 reserving appointment of counsel or a guardian ad litem, or

1 both, for the minor pursuant to Section 2-17 until after a
2 determination of probable cause has been rendered. The
3 Department or other persons responsible for requiring the
4 safety plan shall appear and testify as to the probable cause
5 to believe that a child (whose care is the subject of the
6 safety plan) is abused, neglected, or dependent. If the
7 Department or other person responsible for requiring the safety
8 plan fails to appear at the hearing, or if at the hearing the
9 court determines there is an insufficient basis to establish
10 probable cause, the court shall declare the safety plan null
11 and void and direct that the Department or other person may
12 initiate a renewed safety plan only upon the filing of a
13 petition for adjudication of wardship based on additional
14 evidence not available at the time of the no probable cause
15 hearing. Any such renewed safety plan shall remain in effect
16 only through the date of a renewed temporary custody or
17 probable cause hearing. If the court determines that probable
18 cause exists, the State shall determine whether a petition for
19 adjudication of wardship should be filed, and, if it determines
20 that such a petition should be filed, the court shall proceed
21 to adjudicate the petition, except that no further litigation
22 as to the issue of probable cause shall be required to sustain
23 the petition.

24 (3) ~~(2)~~ If the probation officer or such other public
25 officer designated by the court determines that the minor
26 should be retained in custody, he shall cause a petition to be

1 filed as provided in Section 2-13 of this Article, and the
2 clerk of the court shall set the matter for hearing on the
3 temporary custody hearing calendar. When a parent, guardian,
4 custodian or responsible relative is present and so requests,
5 the temporary custody hearing shall be held immediately if the
6 court is in session, otherwise at the earliest feasible time.
7 The petitioner through counsel or such other public officer
8 designated by the court shall insure notification to the
9 minor's parent, guardian, custodian or responsible relative of
10 the time and place of the hearing by the best practicable
11 notice, allowing for oral notice in place of written notice
12 only if provision of written notice is unreasonable under the
13 circumstances.

14 (4) ~~(3)~~ The minor must be released from temporary
15 protective custody at the expiration of the 48 hour period
16 specified by this Section if not brought before a judicial
17 officer within that period.

18 (Source: P.A. 87-759.)