



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4567**

Introduced 2/1/2012, by Rep. Rich Brauer

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/5

from Ch. 23, par. 5005

Amends the Children and Family Services Act. Requires the Department of Children and Family Services to file in the appropriate circuit court a petition requesting the appointment of the Office of State Guardian as guardian of any person with an intellectual or developmental disability who has reached the age of 21 and is receiving child residential services in a facility licensed by the Department. Provides that, if appointed by the court, the State Guardian shall serve as guardian of the person from the date upon which the person reaches the age of 21 until the day before his or her 22nd birthday. Requires the Department to file its petition in a timely manner to ensure that guardianship, if granted by the court, commences on the date of the affected person's 21st birthday. Effective immediately.

LRB097 17632 KTG 62839 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

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

7 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 21 who:

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

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

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

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

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

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

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

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

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

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

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

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

16 (G) (blank);

17 (H) (blank); and

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

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

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

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

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

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

11 (e) (Blank).

12 (f) (Blank).

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

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

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

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

3 (10) interstate services.

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

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

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

25 (1) case management;

26 (2) homemakers;

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

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

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

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

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



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

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

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

24 (j-5) The Department shall not deny or delay the placement  
25 of a child for adoption if an approved family is available  
26 either outside of the Department region handling the case, or

1 outside of the State of Illinois.

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

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

1 hearing the action under Article II of the Juvenile Court Act  
2 of 1987 may order the Department to provide the services set  
3 out in the plan, if those services are not provided with  
4 reasonable promptness and if those services are available.

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

1 subsection (a-5) of Section 7.4 of the Abused and Neglected  
2 Child Reporting Act.

3 The Department may, at its discretion except for those  
4 children also adjudicated neglected or dependent, accept for  
5 care and training any child who has been adjudicated addicted,  
6 as a truant minor in need of supervision or as a minor  
7 requiring authoritative intervention, under the Juvenile Court  
8 Act or the Juvenile Court Act of 1987, but no such child shall  
9 be committed to the Department by any court without the  
10 approval of the Department. A minor charged with a criminal  
11 offense under the Criminal Code of 1961 or adjudicated  
12 delinquent shall not be placed in the custody of or committed  
13 to the Department by any court, except (i) a minor less than 15  
14 years of age committed to the Department under Section 5-710 of  
15 the Juvenile Court Act of 1987, (ii) a minor for whom an  
16 independent basis of abuse, neglect, or dependency exists,  
17 which must be defined by departmental rule, or (iii) a minor  
18 for whom the court has granted a supplemental petition to  
19 reinstate wardship pursuant to subsection (2) of Section 2-33  
20 of the Juvenile Court Act of 1987. An independent basis exists  
21 when the allegations or adjudication of abuse, neglect, or  
22 dependency do not arise from the same facts, incident, or  
23 circumstances which give rise to a charge or adjudication of  
24 delinquency.

25 As soon as is possible after August 7, 2009 (the effective  
26 date of Public Act 96-134), the Department shall develop and

1 implement a special program of family preservation services to  
2 support intact, foster, and adoptive families who are  
3 experiencing extreme hardships due to the difficulty and stress  
4 of caring for a child who has been diagnosed with a pervasive  
5 developmental disorder if the Department determines that those  
6 services are necessary to ensure the health and safety of the  
7 child. The Department may offer services to any family whether  
8 or not a report has been filed under the Abused and Neglected  
9 Child Reporting Act. The Department may refer the child or  
10 family to services available from other agencies in the  
11 community if the conditions in the child's or family's home are  
12 reasonably likely to subject the child or family to future  
13 reports of suspected child abuse or neglect. Acceptance of  
14 these services shall be voluntary. The Department shall develop  
15 and implement a public information campaign to alert health and  
16 social service providers and the general public about these  
17 special family preservation services. The nature and scope of  
18 the services offered and the number of families served under  
19 the special program implemented under this paragraph shall be  
20 determined by the level of funding that the Department annually  
21 allocates for this purpose. The term "pervasive developmental  
22 disorder" under this paragraph means a neurological condition,  
23 including but not limited to, Asperger's Syndrome and autism,  
24 as defined in the most recent edition of the Diagnostic and  
25 Statistical Manual of Mental Disorders of the American  
26 Psychiatric Association.

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

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

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

1 reasonable efforts are no longer appropriate. The Department is  
2 not required to provide further reunification services after  
3 such a finding.

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

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

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

25 (m) The Department may assume temporary custody of any  
26 child if:

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

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

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

24          The Department shall have the authority, responsibilities  
25          and duties that a legal custodian of the child would have  
26          pursuant to subsection (9) of Section 1-3 of the Juvenile Court



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

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

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

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

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

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

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

17 (n-1) The Department shall provide or authorize child  
18 welfare services, aimed at assisting minors to achieve  
19 sustainable self-sufficiency as independent adults, for any  
20 minor eligible for the reinstatement of wardship pursuant to  
21 subsection (2) of Section 2-33 of the Juvenile Court Act of  
22 1987, whether or not such reinstatement is sought or allowed,  
23 provided that the minor consents to such services and has not  
24 yet attained the age of 21. The Department shall have  
25 responsibility for the development and delivery of services  
26 under this Section. An eligible youth may access services under

1 this Section through the Department of Children and Family  
2 Services or by referral from the Department of Human Services.  
3 Youth participating in services under this Section shall  
4 cooperate with the assigned case manager in developing an  
5 agreement identifying the services to be provided and how the  
6 youth will increase skills to achieve self-sufficiency. A  
7 homeless shelter is not considered appropriate housing for any  
8 youth receiving child welfare services under this Section. The  
9 Department shall continue child welfare services under this  
10 Section to any eligible minor until the minor becomes 21 years  
11 of age, no longer consents to participate, or achieves  
12 self-sufficiency as identified in the minor's service plan. The  
13 Department of Children and Family Services shall create clear,  
14 readable notice of the rights of former foster youth to child  
15 welfare services under this Section and how such services may  
16 be obtained. The Department of Children and Family Services and  
17 the Department of Human Services shall disseminate this  
18 information statewide. The Department shall adopt regulations  
19 describing services intended to assist minors in achieving  
20 sustainable self-sufficiency as independent adults.

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

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

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

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

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

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

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

24 (1) Establish standards in accordance with State and  
25 federal laws for disbursing money from children's  
26 accounts. In all circumstances, the Department's

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

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

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

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

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

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

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

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



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

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

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

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

26                 (2) a copy of the child's portion of the client service

1 plan, including any visitation arrangement, and all  
2 amendments or revisions to it as related to the child; and

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

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

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

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

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

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

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

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

1 assault, battery, or a drug-related offense committed within  
2 the past 5 years.

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

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

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

6 (x) The Department shall conduct annual credit history  
7 checks to determine the financial history of children placed  
8 under its guardianship pursuant to the Juvenile Court Act of  
9 1987. The Department shall conduct such credit checks starting  
10 when a ward turns 12 years old and each year thereafter for the  
11 duration of the guardianship as terminated pursuant to the  
12 Juvenile Court Act of 1987. The Department shall determine if  
13 financial exploitation of the child's personal information has  
14 occurred. If financial exploitation appears to have taken place  
15 or is presently ongoing, the Department shall notify the proper  
16 law enforcement agency, the proper State's Attorney, or the  
17 Attorney General.

18 (y) Beginning on the effective date of this amendatory Act  
19 of the 96th General Assembly, a child with a disability who  
20 receives residential and educational services from the  
21 Department shall be eligible to receive transition services in  
22 accordance with Article 14 of the School Code from the age of  
23 14.5 through age 21, inclusive, notwithstanding the child's  
24 residential services arrangement. For purposes of this  
25 subsection, "child with a disability" means a child with a  
26 disability as defined by the federal Individuals with

1 Disabilities Education Improvement Act of 2004.

2 (z) The Department shall file in the appropriate circuit  
3 court a petition requesting the appointment of the Office of  
4 State Guardian, or the State Guardian's authorized designee, as  
5 guardian of any person with an intellectual or developmental  
6 disability who has reached the age of 21 and is receiving child  
7 residential services in a facility licensed by the Department.  
8 If appointed by the court, the State Guardian shall serve as  
9 guardian of the person from the date upon which the person  
10 reaches the age of 21 until the day before his or her 22nd  
11 birthday. The Department must file its petition in a timely  
12 manner to ensure that guardianship, if granted by the court,  
13 commences on the date of the affected person's 21st birthday.

14 (Source: P.A. 95-10, eff. 6-30-07; 95-601, eff. 9-11-07;  
15 95-642, eff. 6-1-08; 95-876, eff. 8-21-08; 96-134, eff. 8-7-09;  
16 96-581, eff. 1-1-10; 96-600, eff. 8-21-09; 96-619, eff. 1-1-10;  
17 96-760, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1189, eff.  
18 7-22-10.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.