



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1993

Introduced 2/10/2011, by Sen. Shane Cultra

SYNOPSIS AS INTRODUCED:

225 ILCS 10/2.08
750 ILCS 50/4.1

from Ch. 23, par. 2212.08
from Ch. 40, par. 1506

Amends the Child Care Act of 1969. Includes religious institutions in the definition of "child welfare agency". Amends the Adoption Act. Provides that a church, synagogue, temple, mosque, or other religious institution that is an agency providing adoption services and that is licensed as a child welfare agency, as those terms are defined in the Child Care Act of 1969, may adopt faith-based policies and practices relating to the placement of children for adoption that provide for the placement of a child with a prospective adoptive parent who holds the same religious beliefs as those held by that religious institution provided that: the best interest of the child must always be the primary factor in placement decisions; an agency's religious preference for placement must never override the birth parent's religious preference in making a placement decision; if an agency uses religion as a factor in making a placement decision, this must be disclosed to prospective adoptive applicants before any fees are accepted by the agency; if an agency uses religion as a factor in making a placement decision, this must be disclosed to all birth parents seeking counseling or placement services at the outset of services; a placement when practicable shall be made to an agency under the control of persons of the same religious faith as that of the child or in the custody of someone of the same religious faith as that of the child. Provides for an adoption placement, when practicable, with a person of the same religious faith as the parent or the child. Defines "expressed religious wishes". Makes other similar changes.

LRB097 07268 AJO 47939 b

1 AN ACT concerning adoption.

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

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Section 2.08 as follows:

6 (225 ILCS 10/2.08) (from Ch. 23, par. 2212.08)

7 Sec. 2.08. "Child welfare agency" means a public or private
8 child care facility, receiving any child or children for the
9 purpose of placing or arranging for the placement or free care
10 of the child or children in foster family homes, unlicensed
11 pre-adoptive and adoptive homes, or other facilities for child
12 care, apart from the custody of the child's or children's
13 parents. The term "child welfare agency" includes all agencies
14 established and maintained by a municipality or other political
15 subdivision of the State of Illinois to protect, guard, train
16 or care for children outside their own homes and all agencies,
17 persons, groups of persons, associations, organizations,
18 corporations, institutions, religious institutions, centers,
19 or groups providing adoption services, but does not include any
20 circuit court or duly appointed juvenile probation officer or
21 youth counselor of the court who receives and places children
22 under an order of the court.

23 (Source: P.A. 94-586, eff. 8-15-05.)

1 Section 10. The Adoption Act is amended by changing Section
2 4.1 as follows:

3 (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

4 Sec. 4.1. Except for children placed with relatives by the
5 Department of Children and Family Services pursuant to
6 subsection (b) of Section 7 of the Children and Family Services
7 Act, placements under this Act shall comply with the Child Care
8 Act of 1969 and the Interstate Compact on the Placement of
9 Children. Placements of children born outside the United States
10 or a territory thereof shall comply with rules promulgated by
11 the United States Department of Immigration and
12 Naturalization.

13 Rules promulgated by the Department of Children and Family
14 Services shall include but not be limited to the following:

15 (a) Any agency providing adoption services as defined in
16 Section 2.24 of the Child Care Act of 1969 in this State:

17 (i) Shall be licensed in this State as a child welfare
18 agency as defined in Section 2.08 of the Child Care Act of
19 1969; or

20 (ii) Shall be licensed as a child placement agency in a
21 state which is a party to the Interstate Compact on the
22 Placement of Children and shall be approved by the
23 Department to place children into Illinois in accordance
24 with subsection (a-5) of this Section; or

1 (iii) Shall be licensed as a child placement agency in
2 a country other than the United States or, if located in
3 such a country but not so licensed, shall provide
4 information such as a license or court document which
5 authorizes that agency to place children for adoption and
6 to establish that such agency has legal authority to place
7 children for adoption; or

8 (iv) Shall be a child placement agency which is so
9 licensed in a non-compact state and shall be approved by
10 the Department to place children into Illinois in
11 accordance with subsection (a-5) of this Section, if such
12 agency first files with the Department of Children and
13 Family Services a bond with surety in the amount of \$5,000
14 for each such child to ensure that such child shall not
15 become a public charge upon this State. Such bond shall
16 remain in effect until a judgment for adoption is entered
17 with respect to such child pursuant to this Act. The
18 Department of Children and Family Services may accept, in
19 lieu of such bond, a written agreement with such agency
20 which provides that such agency shall be liable for all
21 costs associated with the placement of such child in the
22 event a judgment of adoption is not entered, upon such
23 terms and conditions as the Department deems appropriate.

24 (a-3) Notwithstanding other provisions of this Act, a
25 church, synagogue, temple, mosque, or other religious
26 institution that is an agency providing adoption services, as

1 defined in Section 2.24 of the Child Care Act of 1969, and that
2 is licensed as a child welfare agency, as defined in Section
3 2.08 of the Child Care Act of 1969, may adopt faith-based
4 policies and practices relating to the placement of children
5 for adoption which provide for the placement of a child with a
6 prospective adoptive parent who holds the same religious
7 beliefs as those held by that religious institution; provided,
8 however, that:

9 (1) The best interest of the child must always be the
10 primary factor in placement decisions.

11 (2) An agency's religious preference for placement
12 must never override the religious faith of the child in
13 making a placement decision; in the absence of expressed
14 religious wishes, as defined in this subsection, a
15 determination of the religious wishes, if any, of the
16 biological parent shall be made upon other facts in the
17 particular case, and if there is no evidence to the
18 contrary, it shall be presumed that the biological parent
19 wishes the child to be reared in the religion of the
20 biological parent.

21 (3) If an agency uses religion as a factor in making a
22 placement decision, this must be disclosed to prospective
23 adoptive applicants before any fees are accepted by the
24 agency.

25 (4) If an agency uses religion as a factor in making
26 placement decisions, this must be disclosed to all

1 biological parents seeking counseling or placement
2 services at the outset of services.

3 (5) Whenever a child is placed by an agency providing
4 adoption services, other than an institution supported and
5 controlled by the State or a subdivision thereof, the
6 placement shall be made, when practicable, to an authorized
7 agency under the control of persons of the same religious
8 faith as that of the child.

9 (6) Whenever a child is placed in a family, home,
10 institution, agency boarding home, group home, an
11 authorized agency, or in the custody of any person other
12 than that of a relative of the child within the second
13 degree, the placement shall when practicable be to, with,
14 or in the custody of a person or persons of the same
15 religious faith as that of the child or to an authorized
16 agency under the control of persons of the same religious
17 faith as that of the child.

18 (7) In appointing a guardian of a child, and in
19 granting an order of adoption of a child, the court shall,
20 when practicable, appoint as guardian, and give custody
21 through adoption, only to a person or persons of the same
22 religious faith as that of the child.

23 (8) The provisions of paragraphs (5), (6), or (7) of
24 this subsection shall be interpreted so as to assure that
25 in the care, protection, adoption, guardianship,
26 discipline, and control of any child, the child's religious

1 faith shall be preserved and protected.

2 (9) Whenever a child is placed in the custody, or under
3 the supervision or control, of a person or persons of a
4 religious faith different from that of the child, or if a
5 guardian of a child is appointed whose religious faith is
6 different from that of the child, or if letters of adoption
7 of a child are granted to a person or persons whose
8 religious faith is different from that of the child or if a
9 child is placed with an authorized child welfare agency
10 which is closely affiliated with a religious faith
11 different from that of the child, the court or public
12 official shall state or recite the facts which impelled the
13 placement to be made contrary to the religious faith of the
14 child or to any person whose religious faith is different
15 from that of the child and the statement shall be a part of
16 the record of the proceeding or documented in appropriate
17 agency records, and subject to inspection by the Department
18 of Children and Family Services or an authorized agency.
19 This item shall not apply to institutions supported and
20 controlled by the State or a subdivision thereof.

21 (10) The provisions of this subsection in relation to
22 the protection of the religious faith of children shall
23 also apply to a minor who is at least 16 years old but not
24 yet 18 years old.

25 (11) The provisions of paragraphs (5), (6), (7), (8),
26 (9), and (10) of this subsection shall, so far as

1 consistent with the best interests of the child, and where
2 practicable, be applied so as to give effect to the
3 religious wishes of the birth mother, and of the birth
4 father whose consent would be required for the child's
5 adoption pursuant to the Act, if the child is born out of
6 wedlock, or if born in wedlock, the religious wishes of the
7 biological parents of the child, or if only one of the
8 birth parents of an in wedlock child is then living, the
9 religious wishes of the birth parent then living. Religious
10 wishes of a parent shall include wishes that the child
11 receive a placement that is: in the same religion as the
12 birth parent; in a different religion from the birth
13 parent; not based on religion in any manner; or is based on
14 religion, but only as a subordinate consideration.

15 "Expressed religious wishes" of a birth parent shall mean
16 those which have been set forth in a writing signed by the
17 birth parent, except that, in a non-agency adoption, such
18 writing shall be an affidavit of the biological parent. In the
19 absence of expressed religious wishes, as defined in this
20 subdivision, determination of the religious wishes, if any, of
21 the biological parent, shall be made upon the other facts of
22 the particular case, and, if there is no evidence to the
23 contrary, it shall be presumed that the biological parent
24 wishes the child to be reared in the religion of the birth
25 parent.

26 The rules shall also provide that any agency that places

1 children for adoption in this State may not, in any policy or
2 practice relating to the placement of children for adoption,
3 discriminate against any child or prospective adoptive parent
4 on the basis of race.

5 (a-5) Out-of-state private placing agencies that seek to
6 place children into Illinois for the purpose of foster care or
7 adoption shall provide all of the following to the Department:

8 (i) A copy of the agency's current license or other
9 form of authorization from the approving authority in the
10 agency's state. If no such license or authorization is
11 issued, the agency must provide a reference statement from
12 the approving authority stating the agency is authorized to
13 place children in foster care or adoption or both in its
14 jurisdiction.

15 (ii) A description of the program, including home
16 studies, placements, and supervisions that the child
17 placing agency conducts within its geographical area, and,
18 if applicable, adoptive placements and the finalization of
19 adoptions. The child placing agency must accept continued
20 responsibility for placement planning and replacement if
21 the placement fails.

22 (iii) Notification to the Department of any
23 significant child placing agency changes after approval.

24 (iv) Any other information the Department may require.

25 If the adoption is finalized prior to bringing or sending
26 the child to Illinois, Department approval of the out-of-state

1 child placing agency involved is not required under this
2 Section, nor is compliance with the Interstate Compact on the
3 Placement of Children.

4 (b) As an alternative to requiring the bond provided for in
5 paragraph (a)(iv) of this Section, the Department of Children
6 and Family Services may require the filing of such a bond by
7 the individual or individuals seeking to adopt such a child
8 through placement of such child by a child placement agency
9 located in a state which is not a party to the Interstate
10 Compact on the Placement of Children.

11 (c) In the case of any foreign-born child brought to the
12 United States for adoption in this State, the following
13 preadoption requirements shall be met:

14 (1) Documentation that the child is legally free for
15 adoption prior to entry into the United States shall be
16 submitted.

17 (2) A medical report on the child, by authorized
18 medical personnel in the country of the child's origin,
19 shall be provided when such personnel are available.

20 (3) Verification that the adoptive family has been
21 licensed as a foster family home pursuant to the Child Care
22 Act of 1969, as now or hereafter amended, shall be
23 provided.

24 (4) A valid home study conducted by a licensed child
25 welfare agency that complies with guidelines established
26 by the United States Immigration and Naturalization

1 Service at 8 CFR 204.4(d)(2)(i), as now or hereafter
2 amended, shall be submitted. A home study is considered
3 valid if it contains:

4 (i) A factual evaluation of the financial,
5 physical, mental and moral capabilities of the
6 prospective parent or parents to rear and educate the
7 child properly.

8 (ii) A detailed description of the living
9 accommodations where the prospective parent or parents
10 currently reside.

11 (iii) A detailed description of the living
12 accommodations in the United States where the child
13 will reside, if known.

14 (iv) A statement or attachment recommending the
15 proposed adoption signed by an official of the child
16 welfare agency which has conducted the home study.

17 (5) The placing agency located in a non-compact state
18 or a family desiring to adopt through an authorized
19 placement party in a non-compact state or a foreign country
20 shall file with the Department of Children and Family
21 Services a bond with surety in the amount of \$5,000 as
22 protection that a foreign-born child accepted for care or
23 supervision not become a public charge upon the State of
24 Illinois.

25 (6) In lieu of the \$5,000 bond, the placement agency
26 may sign a binding agreement with the Department of

1 Children and Family Services to assume full liability for
2 all placements should, for any reason, the adoption be
3 disrupted or not be completed, including financial and
4 planning responsibility until the child is either returned
5 to the country of its origin or placed with a new adoptive
6 family in the United States and that adoption is finalized.

7 (7) Compliance with the requirements of the Interstate
8 Compact on the Placement of Children, when applicable,
9 shall be demonstrated.

10 (8) When a child is adopted in a foreign country and a
11 final, complete and valid Order of Adoption is issued in
12 that country, as determined by both the United States
13 Department of State and the United States Department of
14 Justice, this State shall not impose any additional
15 preadoption requirements. The adoptive family, however,
16 must comply with applicable requirements of the United
17 States Department of Immigration and Naturalization as
18 provided in 8 CFR 204.4 (d)(2)(ii), as now or hereafter
19 amended.

20 (d) The Department of Children and Family Services shall
21 maintain the office of Intercountry Adoption Coordinator,
22 shall maintain and protect the rights of families and children
23 participating in adoption of foreign born children, and shall
24 develop ongoing programs of support and services to such
25 families and children. The Intercountry Adoption Coordinator
26 shall determine that all preadoption requirements have been met

1 and report such information to the Department of Immigration
2 and Naturalization.

3 (Source: P.A. 94-586, eff. 8-15-05.)