



Sen. Shane Cultra

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1 AMENDMENT TO SENATE BILL 1993

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1993 by replacing  
3 everything after the enacting clause with the following:

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,

1 persons, groups of persons, associations, organizations,  
2 corporations, institutions, religious institutions, centers,  
3 or groups providing adoption services, but does not include any  
4 circuit court or duly appointed juvenile probation officer or  
5 youth counselor of the court who receives and places children  
6 under an order of the court.

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

8 Section 10. The Adoption Act is amended by changing Section  
9 4.1 as follows:

10 (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

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

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

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

24 (i) Shall be licensed in this State as a child welfare

1 agency as defined in Section 2.08 of the Child Care Act of  
2 1969; or

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

8 (iii) Shall be licensed as a child placement agency in  
9 a country other than the United States or, if located in  
10 such a country but not so licensed, shall provide  
11 information such as a license or court document which  
12 authorizes that agency to place children for adoption and  
13 to establish that such agency has legal authority to place  
14 children for adoption; or

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

1 which provides that such agency shall be liable for all  
2 costs associated with the placement of such child in the  
3 event a judgment of adoption is not entered, upon such  
4 terms and conditions as the Department deems appropriate.

5 (a-3) Notwithstanding other provisions of this Act, a  
6 church, synagogue, temple, mosque, or other religious  
7 institution that is an agency providing adoption services, as  
8 defined in Section 2.24 of the Child Care Act of 1969, and that  
9 is licensed as a child welfare agency, as defined in Section  
10 2.08 of the Child Care Act of 1969, may adopt faith-based  
11 policies and practices relating to the placement of children  
12 for adoption which provide for the placement of a child with a  
13 prospective adoptive parent who holds the same religious  
14 beliefs as those held by that religious institution; provided,  
15 however, that:

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

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

1 biological parent.

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

6 (4) If an agency uses religion as a factor in making  
7 placement decisions, this must be disclosed to all  
8 biological parents seeking counseling or placement  
9 services at the outset of services.

10 (5) In appointing a guardian of a child, and in  
11 granting an order of adoption of a child, the court shall,  
12 when practicable, appoint as guardian, and give custody  
13 through adoption, only to a person or persons of the same  
14 religious faith as that of the child.

15 (6) The provisions of paragraph (5) of this subsection  
16 shall be interpreted so as to assure that in the care,  
17 protection, adoption, guardianship, discipline, and  
18 control of any child, the child's religious faith shall be  
19 preserved and protected.

20 (7) Whenever a child is placed in the custody, or under  
21 the supervision or control, of a person or persons of a  
22 religious faith different from that of the child, or if a  
23 guardian of a child is appointed whose religious faith is  
24 different from that of the child, or if letters of adoption  
25 of a child are granted to a person or persons whose  
26 religious faith is different from that of the child or if a

1 child is placed with an authorized child welfare agency  
2 which is closely affiliated with a religious faith  
3 different from that of the child, the court or public  
4 official shall state or recite the facts which impelled the  
5 placement to be made contrary to the religious faith of the  
6 child or to any person whose religious faith is different  
7 from that of the child and the statement shall be a part of  
8 the record of the proceeding or documented in appropriate  
9 agency records, and subject to inspection by the Department  
10 of Children and Family Services or an authorized agency.  
11 This item shall not apply to institutions supported and  
12 controlled by the State or a subdivision thereof.

13 (8) The provisions of this subsection in relation to  
14 the protection of the religious faith of children shall  
15 also apply to a minor who is at least 16 years old but not  
16 yet 18 years old.

17 (9) The provisions of paragraphs (5), (6), (7), and (8)  
18 of this subsection shall, so far as consistent with the  
19 best interests of the child, and where practicable, be  
20 applied so as to give effect to the religious wishes of the  
21 birth mother, and of the birth father whose consent would  
22 be required for the child's adoption pursuant to the Act,  
23 if the child is born out of wedlock, or if born in wedlock,  
24 the religious wishes of the biological parents of the  
25 child, or if only one of the birth parents of an in wedlock  
26 child is then living, the religious wishes of the birth

1       parent then living. Religious wishes of a parent shall  
2       include wishes that the child receive a placement that is:  
3       in the same religion as the birth parent; in a different  
4       religion from the birth parent; not based on religion in  
5       any manner; or is based on religion, but only as a  
6       subordinate consideration.

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

18       The rules shall also provide that any agency that places  
19       children for adoption in this State may not, in any policy or  
20       practice relating to the placement of children for adoption,  
21       discriminate against any child or prospective adoptive parent  
22       on the basis of race.

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

26             (i) A copy of the agency's current license or other

1 form of authorization from the approving authority in the  
2 agency's state. If no such license or authorization is  
3 issued, the agency must provide a reference statement from  
4 the approving authority stating the agency is authorized to  
5 place children in foster care or adoption or both in its  
6 jurisdiction.

7 (ii) A description of the program, including home  
8 studies, placements, and supervisions that the child  
9 placing agency conducts within its geographical area, and,  
10 if applicable, adoptive placements and the finalization of  
11 adoptions. The child placing agency must accept continued  
12 responsibility for placement planning and replacement if  
13 the placement fails.

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

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

17 If the adoption is finalized prior to bringing or sending  
18 the child to Illinois, Department approval of the out-of-state  
19 child placing agency involved is not required under this  
20 Section, nor is compliance with the Interstate Compact on the  
21 Placement of Children.

22 (b) As an alternative to requiring the bond provided for in  
23 paragraph (a)(iv) of this Section, the Department of Children  
24 and Family Services may require the filing of such a bond by  
25 the individual or individuals seeking to adopt such a child  
26 through placement of such child by a child placement agency



1 located in a state which is not a party to the Interstate  
2 Compact on the Placement of Children.

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

6 (1) Documentation that the child is legally free for  
7 adoption prior to entry into the United States shall be  
8 submitted.

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

12 (3) Verification that the adoptive family has been  
13 licensed as a foster family home pursuant to the Child Care  
14 Act of 1969, as now or hereafter amended, shall be  
15 provided.

16 (4) A valid home study conducted by a licensed child  
17 welfare agency that complies with guidelines established  
18 by the United States Immigration and Naturalization  
19 Service at 8 CFR 204.4(d)(2)(i), as now or hereafter  
20 amended, shall be submitted. A home study is considered  
21 valid if it contains:

22 (i) A factual evaluation of the financial,  
23 physical, mental and moral capabilities of the  
24 prospective parent or parents to rear and educate the  
25 child properly.

26 (ii) A detailed description of the living

1 accommodations where the prospective parent or parents  
2 currently reside.

3 (iii) A detailed description of the living  
4 accommodations in the United States where the child  
5 will reside, if known.

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

9 (5) The placing agency located in a non-compact state  
10 or a family desiring to adopt through an authorized  
11 placement party in a non-compact state or a foreign country  
12 shall file with the Department of Children and Family  
13 Services a bond with surety in the amount of \$5,000 as  
14 protection that a foreign-born child accepted for care or  
15 supervision not become a public charge upon the State of  
16 Illinois.

17 (6) In lieu of the \$5,000 bond, the placement agency  
18 may sign a binding agreement with the Department of  
19 Children and Family Services to assume full liability for  
20 all placements should, for any reason, the adoption be  
21 disrupted or not be completed, including financial and  
22 planning responsibility until the child is either returned  
23 to the country of its origin or placed with a new adoptive  
24 family in the United States and that adoption is finalized.

25 (7) Compliance with the requirements of the Interstate  
26 Compact on the Placement of Children, when applicable,

1 shall be demonstrated.

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

12 (d) The Department of Children and Family Services shall  
13 maintain the office of Intercountry Adoption Coordinator,  
14 shall maintain and protect the rights of families and children  
15 participating in adoption of foreign born children, and shall  
16 develop ongoing programs of support and services to such  
17 families and children. The Intercountry Adoption Coordinator  
18 shall determine that all preadoption requirements have been met  
19 and report such information to the Department of Immigration  
20 and Naturalization.

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