



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5598

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

20 ILCS 505/5.40 new
20 ILCS 505/5.41 new

Amends the Children and Family Services Act. Provides that when a child is voluntarily placed in out-of-home care funded by the Department of Children and Family Services for the purpose of obtaining mental health treatment for the child or treatment for the child's developmental disability, the Department is prohibited from requesting, recommending, or requiring that a parent terminate his or her parental rights with respect to the child or that a parent or legal guardian transfer legal custody of the child to the Department. Provides that a child voluntarily placed in out-of-home care shall be placed pursuant to a voluntary placement agreement voluntarily entered into by the parents or legal guardian of the child. Provides that for a child to remain in out-of-home care for longer than 180 days, a juvenile court must make a judicial determination within the first 180 days of the placement that the placement is in the best interests of the child. Requires the Department to report annually to the General Assembly concerning (i) the number of children who were voluntarily placed in out-of-home care funded by the Department and (ii) the number of parents or legal guardians who relinquished custody of their child for the purpose of seeking mental health treatment for the child or treatment for the child's developmental disability. Contains provisions concerning: an interagency agreement between specified State agencies to prevent children from becoming wards of the State and entering the child welfare system solely for purpose of treatment of a child's serious mental illness, serious emotional disturbance, or developmental disability; certain protocols that must be included in the interagency agreement; and additional reporting requirements. Effective immediately.

LRB098 20085 KTG 55345 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 adding Sections 5.40 and 5.41 as follows:

6 (20 ILCS 505/5.40 new)

7 Sec. 5.40. Prohibition against relinquishment of custody
8 of a child when placement is for mental health treatment or
9 treatment of a developmental disability; voluntary placement
10 agreement.

11 (a) When a child is voluntarily placed in out-of-home care
12 funded by the Department for the purpose of obtaining mental
13 health treatment for the child or treatment for the child's
14 developmental disability, the Department is prohibited from
15 requesting, recommending, or requiring that a parent terminate
16 his or her parental rights with respect to the child or that a
17 parent or legal guardian transfer legal custody of the child to
18 the Department. Relinquishment of custody of a child described
19 in this Section shall not be a condition for receipt of
20 services or care delivered or funded by the Department.

21 (b) A child voluntarily placed pursuant to subsection (a)
22 shall be placed in an out-of-home placement pursuant to a
23 voluntary placement agreement voluntarily entered into by the

1 parents or legal guardian of the child. The agreement must
2 contain, at a minimum, the following:

3 (1) A statement that the parent or legal guardian of
4 the child is not transferring legal custody of the child to
5 the Department or terminating his or her parental rights.

6 (2) A statement specifying the legal status of the
7 child.

8 (3) A statement specifying the rights and obligations
9 of the parent of the child and the child's guardian or
10 custodian, if any.

11 (c) When a child is voluntarily placed pursuant to this
12 Section, the Department is responsible for the child's
13 placement and care. For a child to remain in out-of-home care
14 for longer than 180 days, a juvenile court must make a judicial
15 determination within the first 180 days of the placement that
16 the placement is in the best interests of the child. In
17 addition, the juvenile court shall hold a permanency hearing as
18 provided under Section 2-28 of the Juvenile Court Act of 1987
19 no later than 12 months after the child's original voluntary
20 placement and not less frequently than once every 6 months
21 thereafter during the continuation of the child's original
22 voluntary placement, to determine the future placement of the
23 child.

24 (d) The inability of a parent or legal guardian to care for
25 a child with a serious mental illness, serious emotional
26 disturbance, or developmental disability shall not in itself be

1 the basis for a finding of abuse or neglect of the child. A
2 planned abandonment or relinquishment of custody of a child at
3 a hospital or similar facility shall not be the basis for a
4 finding of abuse or neglect of the child if the Department
5 determines that the parents or legal guardian were reasonable
6 in their belief that taking the child home would endanger the
7 child or other family members.

8 (e) The Department shall not communicate to a parent or
9 legal guardian of a child that additional or different services
10 are available to the child if the child is found to be
11 neglected or if the parent or legal guardian surrenders custody
12 of the child to the Department.

13 (f) Not later than 4 months after the end of each State
14 fiscal year, the Department shall report the following to the
15 General Assembly: (i) the number of children who were
16 voluntarily placed pursuant to this Section; and (ii) the
17 number of parents or legal guardians who relinquished custody
18 of their child for the purpose of seeking mental health
19 treatment for the child or treatment for the child's
20 developmental disability. In this report, the Department shall
21 identify the reasons a child was unable to receive services
22 under the State agency that would be more suitable for
23 addressing the child's care needs related to the child's
24 illness or disability.

1 Sec. 5.41. Interagency agreement for treatment of a child
2 with a mental illness or developmental disability to avert
3 relinquishment of custody or voluntary placement.

4 The Department of Children and Family Services, the
5 Division of Mental Health and the Division of Developmental
6 Disabilities within the Department of Human Services, the
7 Department of Healthcare and Family Services, and the Illinois
8 State Board of Education shall enter into an interagency
9 agreement for the purpose of preventing children from becoming
10 wards of the State and entering the child welfare system solely
11 for purpose of treatment of a child's serious mental illness,
12 serious emotional disturbance, or developmental disability.

13 The interagency agreement shall include protocols designed
14 to get a child into care under the most appropriate State
15 agency that will address the child's care needs and keep the
16 family from entering into a voluntary placement agreement or
17 from relinquishing custody of the child. The interagency
18 agreement shall identify the criteria by which children with
19 special needs will receive services under the appropriate State
20 agency and each agency's responsibility throughout the
21 process, including budget responsibility.

22 The Department of Children and Family Services shall submit
23 a quarterly report to the General Assembly which includes the
24 following with respect to the quarter covered by the report:

25 (1) The number of children who were voluntarily placed
26 pursuant to Section 5.40 of this Act.

1 (2) The number of parents or legal guardians who
2 relinquished custody of their child because they were
3 seeking mental health treatment for the child or treatment
4 for the child's developmental disability.

5 (3) The causes of the voluntary placements reported,
6 the intervention services provided in the cases reported,
7 and the efforts made in those cases to avoid placement
8 under Section 5.40.

9 (4) The number of children who were unable to receive
10 services under the State agency that would be more suitable
11 for addressing the child's care needs related to the
12 child's illness or disability.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.