

AN ACT concerning State government.

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

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

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

Sec. 5. Direct child welfare services; Department of Children and Family Services. To provide direct child welfare services when not available through other public or private child care or program facilities.

(a) For purposes of this Section:

(1) "Children" means persons found within the State who are under the age of 18 years. The term also includes persons under age 21 who:

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

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

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

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

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

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

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

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

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

home without endangering the child's health and safety;

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

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

(G) (blank);

(H) (blank); and

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

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

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

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

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

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

(e) (Blank).

(f) (Blank).

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

(1) adoption;

(2) foster care;

(3) family counseling;

(4) protective services;

(5) (blank);

(6) homemaker service;

(7) return of runaway children;

(8) (blank);

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

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

(10) interstate services.

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

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

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

- (1) case management;
- (2) homemakers;

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

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

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

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

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

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

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

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

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

outside of the State of Illinois.

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

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

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

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

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

The Department may, at its discretion except for those children also adjudicated neglected or dependent, accept for care and training any child who has been adjudicated addicted, as a truant minor in need of supervision or as a minor requiring authoritative intervention, under the Juvenile Court Act or the Juvenile Court Act of 1987, but no such child shall be committed to the Department by any court without the approval of the Department. A minor charged with a criminal offense under the Criminal Code of 1961 or the Criminal Code of 2012 or adjudicated delinquent shall not be placed in the custody of or committed to the Department by any court, except (i) a minor less than 15 years of age committed to the Department under Section 5-710 of the Juvenile Court Act of 1987, (ii) a minor for whom an independent basis of abuse, neglect, or dependency exists, which must be defined by departmental rule, or (iii) a minor for whom the court has granted a supplemental petition to reinstate wardship pursuant to subsection (2) of Section 2-33 of the Juvenile Court Act of 1987. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency.

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

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

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

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

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

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

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

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

- (1) the likelihood of prompt reunification;
 - (2) the past history of the family;
 - (3) the barriers to reunification being addressed by the family;
 - (4) the level of cooperation of the family;
 - (5) the foster parents' willingness to work with the family to reunite;
 - (6) the willingness and ability of the foster family to provide an adoptive home or long-term placement;
 - (7) the age of the child;
 - (8) placement of siblings.
- (m) The Department may assume temporary custody of any child if:

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

(2) the child is found in the State and neither a parent, guardian nor custodian of the child can be located. If the child is found in his or her residence without a parent, guardian, custodian or responsible caretaker, the Department may, instead of removing the child and assuming temporary custody, place an authorized representative of the Department in that residence until such time as a parent, guardian or custodian enters the home and expresses a willingness and apparent ability to ensure the child's health and safety and resume permanent charge of the child, or until a relative enters the home and is willing and able to ensure the child's health and safety and assume charge of the child until a parent, guardian or custodian enters the home and expresses such willingness and ability to ensure the child's safety and resume permanent charge. After a caretaker has remained in the home for a period not to exceed 12 hours, the Department must follow those procedures outlined in Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile Court Act of 1987.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Disabilities Education Improvement Act of 2004.

(z) The Department shall access criminal history record information as defined as "background information" in this subsection and criminal history record information as defined in the Illinois Uniform Conviction Information Act for each Department employee or Department applicant. Each Department employee or Department applicant shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and the Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history record check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the record check. The Department of State Police shall furnish, pursuant to positive identification, all Illinois conviction information to the Department of Children and Family Services.

For purposes of this subsection:

"Background information" means all of the following:

(i) Upon the request of the Department of Children and Family Services, conviction information obtained from the Department of State Police as a result of a fingerprint-based criminal history records check of the Illinois criminal history records database and the Federal

Bureau of Investigation criminal history records database concerning a Department employee or Department applicant.

(ii) Information obtained by the Department of Children and Family Services after performing a check of the Department of State Police's Sex Offender Database, as authorized by Section 120 of the Sex Offender Community Notification Law, concerning a Department employee or Department applicant.

(iii) Information obtained by the Department of Children and Family Services after performing a check of the Child Abuse and Neglect Tracking System (CANTS) operated and maintained by the Department.

"Department employee" means a full-time or temporary employee coded or certified within the State of Illinois Personnel System.

"Department applicant" means an individual who has conditional Department full-time or part-time work, a contractor, an individual used to replace or supplement staff, an academic intern, a volunteer in Department offices or on Department contracts, a work-study student, an individual or entity licensed by the Department, or an unlicensed service provider who works as a condition of a contract or an agreement and whose work may bring the unlicensed service provider into contact with Department clients or client records.

(Source: P.A. 96-134, eff. 8-7-09; 96-581, eff. 1-1-10; 96-600, eff. 8-21-09; 96-619, eff. 1-1-10; 96-760, eff. 1-1-10;

96-1000, eff. 7-2-10; 96-1189, eff. 7-22-10; 97-1150, eff. 1-25-13.)

Section 10. The Child Care Act of 1969 is amended by changing Section 4.1 and by adding Sections 2.28 and 2.29 as follows:

(225 ILCS 10/2.28 new)

Sec. 2.28. Non-licensed service provider. "Non-licensed service provider" means an individual or entity that contracts with the Department to provide child welfare services that enable the Department to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969, and the Children and Family Services Act.

(225 ILCS 10/2.29 new)

Sec. 2.29. Volunteer. "Volunteer" means a person who performs a service willingly and without pay.

(225 ILCS 10/4.1) (from Ch. 23, par. 2214.1)

Sec. 4.1. Criminal Background Investigations. The Department shall require that each child care facility license applicant as part of the application process, and each employee and volunteer of a child care facility or non-licensed service provider, as a condition of employment, authorize an investigation to determine if such applicant, ~~or~~ employee, or

volunteer has ever been charged with a crime and if so, the disposition of those charges; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Director shall request and receive information and assistance from any federal, State or local governmental agency as part of the authorized investigation. Each applicant, employee, or volunteer of a child care facility or non-licensed service provider shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant, ~~or child care facility~~ employee, or volunteer of a child care facility or non-licensed service provider upon request of the Department of Children and Family Services when the request is made in the form and manner required by the Department of State Police.

Information concerning convictions of a license applicant, employee, or volunteer of a child care facility or non-licensed

service provider investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon request, to such applicant, employee, or volunteer of a child care facility or non-licensed service provider prior to final action by the Department on the application. State conviction information provided by the Department of State Police regarding employees, ~~or~~ prospective employees, or volunteers of non-licensed service providers and child care facilities licensed under this Act shall be provided to the operator of such facility, and, upon request, to the employee, ~~or~~ prospective employee, or volunteer of a child care facility or non-licensed service provider. Any information concerning criminal charges and the disposition of such charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, and may not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or an a child care facility employee or volunteer of a child care facility or non-licensed service provider. Only information and standards which bear a reasonable and rational relation to the performance of a child care facility shall be used by the Department or any licensee. Any employee of the Department of Children and Family Services, Department of State Police, or a child care facility receiving confidential information under this Section who gives or causes to be given

any confidential information concerning any criminal convictions of an ~~a child care facility~~ applicant, ~~or child care facility~~ employee, or volunteer of a child care facility or non-licensed service provider, shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.

A child care facility may hire, on a probationary basis, any employee or volunteer of a child care facility or non-licensed service provider authorizing a criminal background investigation under this Section, pending the result of such investigation. Employees and volunteers of a child care facility or non-licensed service provider shall be notified prior to hiring that such employment may be terminated on the basis of criminal background information obtained by the facility.

(Source: P.A. 93-418, eff. 1-1-04.)

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