

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3138

Introduced 2/18/2025, by Rep. Suzanne M. Ness

SYNOPSIS AS INTRODUCED:

New Act

Creates the Temporary Immunity for Child Welfare Agencies Act. Creates immunity from civil liability for a licensed child welfare agency that provides service for youth in foster care for a 2-year period unless the agency's acts or omissions constitute willful and wanton conduct. Provides that the immunity extends to the agency's employees, volunteers, and agents acting within the scope of their employment. Defines a "child welfare agency" to mean a public or private child care facility that receives a child or children for the purpose of placing or arranging for the placement or free care of the child or children in foster family homes, unlicensed pre-adoptive and adoptive homes, adoption-only homes, or other facilities for child care apart from the custody of the child's or children's parents. The term "child welfare agency" includes (i) all agencies established and maintained by a municipality or other political subdivision of the State to protect, guard, train or care for children outside their own homes; and (ii) all agencies, persons, groups of persons, organizations, corporations, institutions, centers, or group providing adoption services but does not include a circuit court, appointed juvenile probation officer, or youth counselor of the court who receive and place children under an order of the court. Creates the Child Welfare Agency Liability Task Force to develop and recommend a permanent solution to address the unavailability of liability insurance for child welfare agencies in the State. Requires that the Task Force submit its first report to the General Assembly no later than December 26, 2026. Effective immediately.

LRB104 09527 JRC 19590 b

1 AN ACT concerning civil law.

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

4 Section 1. Short title. This Act may be cited as the
5 Temporary Immunity for Child Welfare Agencies Act.

6 Section 5. Purpose. The purpose of this Act is to ensure
7 that child welfare agencies in the State can provide for the
8 uninterrupted delivery of child welfare services for youth in
9 foster care.

10 Section 10. Definitions. As used in this Act:

11 "Child welfare agency" means a public or private child
12 care facility that receives a child or children for the
13 purpose of placing or arranging for the placement or free care
14 of the child or children in foster family homes, unlicensed
15 pre-adoptive and adoptive homes, adoption-only homes, or other
16 facilities for child care apart from the custody of the
17 child's or children's parents. The term "child welfare agency"
18 includes (i) all agencies established and maintained by a
19 municipality or other political subdivision of the State to
20 protect, guard, train, or care for children outside their own
21 homes; and (ii) all agencies, persons, groups of persons,
22 organizations, corporations, institutions, centers, or group

1 providing adoption services. It does not include any circuit
2 court, appointed juvenile probation officer, or youth
3 counselor of the court who receive and place children under an
4 order of the court.

5 "Willful and wanton conduct" as used in this Act means a
6 course of action that shows actual or deliberate intention to
7 cause harm or which, if not intentional, shows an utter
8 indifference to or conscious disregard for the safety of
9 others or their property. This definition applies in any case
10 in which a "willful and wanton" exception is incorporated into
11 immunity under this Act.

12 Section 15. Child welfare agency limited immunity.

13 (a) For 2 years after the effective date of this Act, a
14 child welfare agency acting within the scope of its
15 contractual obligations to provide foster care services to
16 children and families of Illinois has limited immunity from
17 civil liability, including civil damages.

18 (b) A child welfare agency is not liable for its acts or
19 omissions in the execution of its contractual obligations with
20 the Department of Children and Family Services unless the act
21 or omission constitutes willful and wanton conduct.

22 (c) The limited immunity granted under this Act extends to
23 a child welfare agency's employees, volunteers, and agents
24 acting within their employment unless the act or omission
25 constitutes willful and wanton conduct.

1 Section 20. Child welfare agency compliance.

2 (a) For the immunity granted under this Act to apply, the
3 child welfare agency must be a licensed child welfare agency
4 as defined in the Children and Family Services Act and in good
5 standing with the State.

6 (b) Nothing in this Act relieves the child welfare agency
7 of the protections or obligations established under the
8 Children and Family Services Act.

9 Section 25. Inspector General oversight and authority.

10 (a) The Inspector General appointed under Section 35.5 of
11 the Children and Family Services Act shall use its authority
12 under that Act to conduct investigations into allegations of
13 or incidents of possible misconduct, misfeasance, malfeasance,
14 or violations of rules, procedures, or laws by any child
15 welfare agency while this Act is effective.

16 (b) The Inspector General retains all authority granted
17 under the Children and Family Services Act to investigate
18 allegations made against any child welfare agency or its
19 employees while this Act is effective, including, but not
20 limited to, imposing sanctions for violations.

21 Section 30. Child Welfare Agency Liability Task Force.

22 (a) The Child Welfare Agency Liability Task Force is
23 created. The mission of the Child Welfare Agency Liability

1 Task Force is to develop and recommend a permanent solution to
2 address the unavailability of liability insurance for child
3 welfare agencies in the State.

4 (b) The Task Force shall consist of the following members:

5 (1) The Director of Department of Insurance or the
6 Director's designee, who shall serve as chair;

7 (2) One member appointed by the Senate President;

8 (3) One member appointed by the Minority Leader of the
9 Senate;

10 (4) One member appointed by the Speaker of the House;

11 (5) One member appointed by the Minority Leader of the
12 House;

13 (6) The Director of Children and Family Services or
14 the Director's designee;

15 (7) One representative from the insurance industry
16 with expertise in liability coverage;

17 (8) One representative from a statewide organization
18 that advocates on behalf of Illinois attorneys; and

19 (9) One representative from a statewide organization
20 that advocates on behalf of the community-based services
21 for children and families.

22 Initial appointments to the Task Force shall be made no
23 more than 3 months after the effective date of this Act. If a
24 vacancy occurs in the Task Force membership, the vacancy shall
25 be filled in the same manner as the original appointment until
26 the Task Force is dissolved. Task Force members serve without

1 compensation.

2 (c) The Task Force shall hold its first meeting within 30
3 days after all Task Force members have been appointed and then
4 on a monthly basis thereafter.

5 (d) The Task Force shall evaluate and develop a long-term
6 solution to address the unavailability of liability insurance
7 for child welfare agencies in the State.

8 (e) The Task Force shall submit its first report to the
9 General Assembly no later than December 31, 2026.

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