



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4964

by Rep. Litesa E. Wallace

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7.8 new

Amends the Children and Family Services Act. Requires the Department of Children and Family Services to place youth in care in the least restrictive and most family-like setting that is consistent with the youth's needs and best interests. Creates a private right of action for: (i) a youth in care who remains in a psychiatric hospital for more than 14 days beyond the time the youth was clinically ready for discharge or beyond medical necessity; and (ii) a youth in care who remains in a detention center or Department of Juvenile Justice facility for more than 14 days after the youth could have been released. Provides that a youth aggrieved by any violation of this provision is entitled to damages in the amount of \$600 per day for each day the youth remained psychiatrically hospitalized beyond necessity or remained in a detention center or Department of Juvenile Justice facility after the youth could have been released. Provides that the Department of Children and Family Services shall not be relieved of its liability or obligation to pay damages because the youth was placed in a shelter or in another type of placement that was not identified as an appropriate placement. Provides that the remedies are in addition to any remedies available under local, State, or federal law.

LRB100 18498 KTG 33715 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 Section 7.8 as follows:

6 (20 ILCS 505/7.8 new)

7 Sec. 7.8. Youth in care; private right of action.

8 (a) The Department shall place youth in care, as defined in
9 Section 4d of this Act, in the least restrictive and most
10 family-like setting that is consistent with the youth's needs
11 and best interests.

12 (b) A youth in care who remains in a psychiatric hospital
13 for more than 14 days beyond the time the youth was clinically
14 ready for discharge or beyond medical necessity shall have a
15 private right of action against the Department for failure to
16 place the youth in a placement type that is consistent with the
17 youth's needs and best interests as required under subsection
18 (a). A youth aggrieved by any violation of this subsection (b)
19 is entitled to recover damages in the amount of \$600 per day
20 for each day the youth remained psychiatrically hospitalized
21 beyond necessity beginning on the first day after the youth was
22 clinically or medically ready for discharge and continuing up
23 to the date upon which the youth was eventually placed in a

1 placement type that is consistent with the youth's needs and
2 best interests as required under subsection (a). Placement of
3 the youth in a shelter or in another type of placement that was
4 not identified as an appropriate placement for the youth shall
5 not relieve the Department of its liability and obligation to
6 pay damages to the youth as provided under this subsection (b).

7 (c) A youth in care who:

8 (1) remains in a detention center or Department of
9 Juvenile Justice facility for more than 14 days after:

10 (A) the youth could have been released or was
11 recommended to be released;

12 (B) the youth's scheduled or anticipated release
13 date; or

14 (C) the youth was not presented to the Prisoner
15 Review Board on the youth's scheduled hearing date for
16 aftercare release because the Department did not have
17 an approved placement for the youth; or

18 (2) remains in a detention center or Department of
19 Juvenile Justice facility solely because the Department
20 cannot locate an appropriate placement for the youth;
21 shall have a private right of action against the Department for
22 failure to place the youth in a placement type that is
23 consistent with the youth's needs and best interests as
24 required under subsection (a). A youth aggrieved by any
25 violation of this subsection (c) is entitled to recover damages
26 in the amount of \$600 per day for each day the youth remained

1 in a detention center or Department of Juvenile Justice
2 facility after the youth could have been released beginning on
3 the first day after the youth could have been released and
4 continuing up to the date upon which the youth was eventually
5 placed in a placement type that is consistent with the youth's
6 needs and best interests as required under subsection (a).
7 Placement of the youth in a shelter or in another type of
8 placement that was not identified as an appropriate placement
9 for the youth shall not relieve the Department of its liability
10 and obligation to pay damages to the youth as provided under
11 this subsection (c).

12 (d) The remedies provided in this Section are in addition
13 to any remedies available under local, State, or federal law.