

SB0201



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0201

Introduced 2/17/2021, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7
225 ILCS 10/4

from Ch. 23, par. 5007
from Ch. 23, par. 2214

Amends the Children and Family Services Act. Requires a fictive kin with whom a child is placed to apply for licensure as a foster family home within 30 days (rather than 6 months) of the child's placement with the fictive kin. Removes a provision prohibiting the Department of Children and Family Services from removing a child from the home of a fictive kin on the basis that the fictive kin fails to apply for licensure within 6 months of the child's placement with the fictive kin, or fails to meet the standard for licensure. Amends the Child Care Act of 1969. Provides that any relative who receives a child or children for placement by the Department on a full-time basis shall apply within 30 days of placement for a license to operate a foster family home. Effective immediately.

LRB102 05105 KTG 15125 b

A BILL FOR

1 AN ACT concerning children.

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 changing Section 7 as follows:

6 (20 ILCS 505/7) (from Ch. 23, par. 5007)

7 Sec. 7. Placement of children; considerations.

8 (a) In placing any child under this Act, the Department
9 shall place the child, as far as possible, in the care and
10 custody of some individual holding the same religious belief
11 as the parents of the child, or with some child care facility
12 which is operated by persons of like religious faith as the
13 parents of such child.

14 (a-5) In placing a child under this Act, the Department
15 shall place the child with the child's sibling or siblings
16 under Section 7.4 of this Act unless the placement is not in
17 each child's best interest, or is otherwise not possible under
18 the Department's rules. If the child is not placed with a
19 sibling under the Department's rules, the Department shall
20 consider placements that are likely to develop, preserve,
21 nurture, and support sibling relationships, where doing so is
22 in each child's best interest.

23 (b) In placing a child under this Act, the Department may

1 place a child with a relative if the Department determines
2 that the relative will be able to adequately provide for the
3 child's safety and welfare based on the factors set forth in
4 the Department's rules governing relative placements, and that
5 the placement is consistent with the child's best interests,
6 taking into consideration the factors set out in subsection
7 (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

8 When the Department first assumes custody of a child, in
9 placing that child under this Act, the Department shall make
10 reasonable efforts to identify, locate, and provide notice to
11 all adult grandparents and other adult relatives of the child
12 who are ready, willing, and able to care for the child. At a
13 minimum, these efforts shall be renewed each time the child
14 requires a placement change and it is appropriate for the
15 child to be cared for in a home environment. The Department
16 must document its efforts to identify, locate, and provide
17 notice to such potential relative placements and maintain the
18 documentation in the child's case file.

19 If the Department determines that a placement with any
20 identified relative is not in the child's best interests or
21 that the relative does not meet the requirements to be a
22 relative caregiver, as set forth in Department rules or by
23 statute, the Department must document the basis for that
24 decision and maintain the documentation in the child's case
25 file.

26 If, pursuant to the Department's rules, any person files

1 an administrative appeal of the Department's decision not to
2 place a child with a relative, it is the Department's burden to
3 prove that the decision is consistent with the child's best
4 interests.

5 When the Department determines that the child requires
6 placement in an environment, other than a home environment,
7 the Department shall continue to make reasonable efforts to
8 identify and locate relatives to serve as visitation resources
9 for the child and potential future placement resources, except
10 when the Department determines that those efforts would be
11 futile or inconsistent with the child's best interests.

12 If the Department determines that efforts to identify and
13 locate relatives would be futile or inconsistent with the
14 child's best interests, the Department shall document the
15 basis of its determination and maintain the documentation in
16 the child's case file.

17 If the Department determines that an individual or a group
18 of relatives are inappropriate to serve as visitation
19 resources or possible placement resources, the Department
20 shall document the basis of its determination and maintain the
21 documentation in the child's case file.

22 When the Department determines that an individual or a
23 group of relatives are appropriate to serve as visitation
24 resources or possible future placement resources, the
25 Department shall document the basis of its determination,
26 maintain the documentation in the child's case file, create a

1 visitation or transition plan, or both, and incorporate the
2 visitation or transition plan, or both, into the child's case
3 plan. For the purpose of this subsection, any determination as
4 to the child's best interests shall include consideration of
5 the factors set out in subsection (4.05) of Section 1-3 of the
6 Juvenile Court Act of 1987.

7 The Department may not place a child with a relative, with
8 the exception of certain circumstances which may be waived as
9 defined by the Department in rules, if the results of a check
10 of the Law Enforcement Agencies Data System (LEADS) identifies
11 a prior criminal conviction of the relative or any adult
12 member of the relative's household for any of the following
13 offenses under the Criminal Code of 1961 or the Criminal Code
14 of 2012:

- 15 (1) murder;
- 16 (1.1) solicitation of murder;
- 17 (1.2) solicitation of murder for hire;
- 18 (1.3) intentional homicide of an unborn child;
- 19 (1.4) voluntary manslaughter of an unborn child;
- 20 (1.5) involuntary manslaughter;
- 21 (1.6) reckless homicide;
- 22 (1.7) concealment of a homicidal death;
- 23 (1.8) involuntary manslaughter of an unborn child;
- 24 (1.9) reckless homicide of an unborn child;
- 25 (1.10) drug-induced homicide;
- 26 (2) a sex offense under Article 11, except offenses

1 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
2 11-40, and 11-45;

3 (3) kidnapping;

4 (3.1) aggravated unlawful restraint;

5 (3.2) forcible detention;

6 (3.3) aiding and abetting child abduction;

7 (4) aggravated kidnapping;

8 (5) child abduction;

9 (6) aggravated battery of a child as described in
10 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;

11 (7) criminal sexual assault;

12 (8) aggravated criminal sexual assault;

13 (8.1) predatory criminal sexual assault of a child;

14 (9) criminal sexual abuse;

15 (10) aggravated sexual abuse;

16 (11) heinous battery as described in Section 12-4.1 or
17 subdivision (a) (2) of Section 12-3.05;

18 (12) aggravated battery with a firearm as described in
19 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
20 (e) (4) of Section 12-3.05;

21 (13) tampering with food, drugs, or cosmetics;

22 (14) drug-induced infliction of great bodily harm as
23 described in Section 12-4.7 or subdivision (g) (1) of
24 Section 12-3.05;

25 (15) aggravated stalking;

26 (16) home invasion;

- 1 (17) vehicular invasion;
- 2 (18) criminal transmission of HIV;
- 3 (19) criminal abuse or neglect of an elderly person or
4 person with a disability as described in Section 12-21 or
5 subsection (b) of Section 12-4.4a;
- 6 (20) child abandonment;
- 7 (21) endangering the life or health of a child;
- 8 (22) ritual mutilation;
- 9 (23) ritualized abuse of a child;
- 10 (24) an offense in any other state the elements of
11 which are similar and bear a substantial relationship to
12 any of the foregoing offenses.

13 For the purpose of this subsection, "relative" shall
14 include any person, 21 years of age or over, other than the
15 parent, who (i) is currently related to the child in any of the
16 following ways by blood or adoption: grandparent, sibling,
17 great-grandparent, uncle, aunt, nephew, niece, first cousin,
18 second cousin, godparent, great-uncle, or great-aunt; or (ii)
19 is the spouse of such a relative; or (iii) is the child's
20 step-father, step-mother, or adult step-brother or
21 step-sister; or (iv) is a fictive kin; "relative" also
22 includes a person related in any of the foregoing ways to a
23 sibling of a child, even though the person is not related to
24 the child, when the child and its sibling are placed together
25 with that person. For children who have been in the
26 guardianship of the Department, have been adopted, and are

1 subsequently returned to the temporary custody or guardianship
2 of the Department, a "relative" may also include any person
3 who would have qualified as a relative under this paragraph
4 prior to the adoption, but only if the Department determines,
5 and documents, that it would be in the child's best interests
6 to consider this person a relative, based upon the factors for
7 determining best interests set forth in subsection (4.05) of
8 Section 1-3 of the Juvenile Court Act of 1987. A relative with
9 whom a child is placed pursuant to this subsection may, but is
10 not required to, apply for licensure as a foster family home
11 pursuant to the Child Care Act of 1969; provided, however,
12 that as of July 1, 1995, foster care payments shall be made
13 only to licensed foster family homes pursuant to the terms of
14 Section 5 of this Act.

15 Notwithstanding any other provision under this subsection
16 to the contrary, a fictive kin with whom a child is placed
17 pursuant to this subsection shall apply for licensure as a
18 foster family home pursuant to the Child Care Act of 1969
19 within 30 days ~~6 months~~ of the child's placement with the
20 fictive kin. The Department shall conduct an assessment of the
21 home within 90 days of placement. ~~The Department shall not~~
22 ~~remove a child from the home of a fictive kin on the basis that~~
23 ~~the fictive kin fails to apply for licensure within 6 months of~~
24 ~~the child's placement with the fictive kin, or fails to meet~~
25 ~~the standard for licensure.~~ All other requirements established
26 under the rules and procedures of the Department concerning

1 the placement of a child, for whom the Department is legally
2 responsible, with a relative shall apply. By June 1, 2015, the
3 Department shall promulgate rules establishing criteria and
4 standards for placement, identification, and licensure of
5 fictive kin.

6 For purposes of this subsection, "fictive kin" means any
7 individual, unrelated by birth or marriage, who:

8 (i) is shown to have significant and close personal or
9 emotional ties with the child or the child's family prior
10 to the child's placement with the individual; or

11 (ii) is the current foster parent of a child in the
12 custody or guardianship of the Department pursuant to this
13 Act and the Juvenile Court Act of 1987, if the child has
14 been placed in the home for at least one year and has
15 established a significant and family-like relationship
16 with the foster parent, and the foster parent has been
17 identified by the Department as the child's permanent
18 connection, as defined by Department rule.

19 The provisions added to this subsection (b) by Public Act
20 98-846 shall become operative on and after June 1, 2015.

21 (c) In placing a child under this Act, the Department
22 shall ensure that the child's health, safety, and best
23 interests are met. In rejecting placement of a child with an
24 identified relative, the Department shall ensure that the
25 child's health, safety, and best interests are met. In
26 evaluating the best interests of the child, the Department

1 shall take into consideration the factors set forth in
2 subsection (4.05) of Section 1-3 of the Juvenile Court Act of
3 1987.

4 The Department shall consider the individual needs of the
5 child and the capacity of the prospective foster or adoptive
6 parents to meet the needs of the child. When a child must be
7 placed outside his or her home and cannot be immediately
8 returned to his or her parents or guardian, a comprehensive,
9 individualized assessment shall be performed of that child at
10 which time the needs of the child shall be determined. Only if
11 race, color, or national origin is identified as a legitimate
12 factor in advancing the child's best interests shall it be
13 considered. Race, color, or national origin shall not be
14 routinely considered in making a placement decision. The
15 Department shall make special efforts for the diligent
16 recruitment of potential foster and adoptive families that
17 reflect the ethnic and racial diversity of the children for
18 whom foster and adoptive homes are needed. "Special efforts"
19 shall include contacting and working with community
20 organizations and religious organizations and may include
21 contracting with those organizations, utilizing local media
22 and other local resources, and conducting outreach activities.

23 (c-1) At the time of placement, the Department shall
24 consider concurrent planning, as described in subsection (1-1)
25 of Section 5, so that permanency may occur at the earliest
26 opportunity. Consideration should be given so that if

1 reunification fails or is delayed, the placement made is the
2 best available placement to provide permanency for the child.
3 To the extent that doing so is in the child's best interests as
4 set forth in subsection (4.05) of Section 1-3 of the Juvenile
5 Court Act of 1987, the Department should consider placements
6 that will permit the child to maintain a meaningful
7 relationship with his or her parents.

8 (d) The Department may accept gifts, grants, offers of
9 services, and other contributions to use in making special
10 recruitment efforts.

11 (e) The Department in placing children in adoptive or
12 foster care homes may not, in any policy or practice relating
13 to the placement of children for adoption or foster care,
14 discriminate against any child or prospective adoptive or
15 foster parent on the basis of race.

16 (Source: P.A. 99-143, eff. 7-27-15; 99-340, eff. 1-1-16;
17 99-642, eff. 7-28-16; 99-836, eff. 1-1-17; 100-101, eff.
18 8-11-17.)

19 Section 10. The Child Care Act of 1969 is amended by
20 changing Section 4 as follows:

21 (225 ILCS 10/4) (from Ch. 23, par. 2214)

22 Sec. 4. License requirement; application; notice.

23 (a) Any person, group of persons or corporation who or
24 which receives children or arranges for care or placement of

1 one or more children unrelated to the operator must apply for a
2 license to operate one of the types of facilities defined in
3 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
4 relative, as defined in Section 2.17 of this Act, who receives
5 a child or children for placement by the Department on a
6 full-time basis shall apply within 30 days of placement ~~may~~
7 ~~apply~~ for a license to operate a foster family home as defined
8 in Section 2.17 of this Act.

9 (a-5) Any agency, person, group of persons, association,
10 organization, corporation, institution, center, or group
11 providing adoption services must be licensed by the Department
12 as a child welfare agency as defined in Section 2.08 of this
13 Act. "Providing adoption services" as used in this Act,
14 includes facilitating or engaging in adoption services.

15 (b) Application for a license to operate a child care
16 facility must be made to the Department in the manner and on
17 forms prescribed by it. An application to operate a foster
18 family home shall include, at a minimum: a completed written
19 form; written authorization by the applicant and all adult
20 members of the applicant's household to conduct a criminal
21 background investigation; medical evidence in the form of a
22 medical report, on forms prescribed by the Department, that
23 the applicant and all members of the household are free from
24 communicable diseases or physical and mental conditions that
25 affect their ability to provide care for the child or
26 children; the names and addresses of at least 3 persons not

1 related to the applicant who can attest to the applicant's
2 moral character; the name and address of at least one relative
3 who can attest to the applicant's capability to care for the
4 child or children; and fingerprints submitted by the applicant
5 and all adult members of the applicant's household.

6 (b-5) Prior to submitting an application for a foster
7 family home license, a quality of care concerns applicant as
8 defined in Section 2.22a of this Act must submit a preliminary
9 application to the Department in the manner and on forms
10 prescribed by it. The Department shall explain to the quality
11 of care concerns applicant the grounds for requiring a
12 preliminary application. The preliminary application shall
13 include a list of (i) all children placed in the home by the
14 Department who were removed by the Department for reasons
15 other than returning to a parent and the circumstances under
16 which they were removed and (ii) all children placed by the
17 Department who were subsequently adopted by or placed in the
18 private guardianship of the quality of care concerns applicant
19 who are currently under 18 and who no longer reside in the home
20 and the reasons why they no longer reside in the home. The
21 preliminary application shall also include, if the quality of
22 care concerns applicant chooses to submit, (1) a response to
23 the quality of care concerns, including any reason the
24 concerns are invalid, have been addressed or ameliorated, or
25 no longer apply and (2) affirmative documentation
26 demonstrating that the quality of care concerns applicant's

1 home does not pose a risk to children and that the family will
2 be able to meet the physical and emotional needs of children.
3 The Department shall verify the information in the preliminary
4 application and review (i) information regarding any prior
5 licensing complaints, (ii) information regarding any prior
6 child abuse or neglect investigations, and (iii) information
7 regarding any involuntary foster home holds placed on the home
8 by the Department. Foster home applicants with quality of care
9 concerns are presumed unsuitable for future licensure.

10 Notwithstanding the provisions of this subsection (b-5),
11 the Department may make an exception and issue a foster family
12 license to a quality of care concerns applicant if the
13 Department is satisfied that the foster family home does not
14 pose a risk to children and that the foster family will be able
15 to meet the physical and emotional needs of children. In
16 making this determination, the Department must obtain and
17 carefully review all relevant documents and shall obtain
18 consultation from its Clinical Division as appropriate and as
19 prescribed by Department rule and procedure. The Department
20 has the authority to deny a preliminary application based on
21 the record of quality of care concerns of the foster family
22 home. In the alternative, the Department may (i) approve the
23 preliminary application, (ii) approve the preliminary
24 application subject to obtaining additional information or
25 assessments, or (iii) approve the preliminary application for
26 purposes of placing a particular child or children only in the

1 foster family home. If the Department approves a preliminary
2 application, the foster family shall submit an application for
3 licensure as described in subsection (b) of this Section. The
4 Department shall notify the quality of care concerns applicant
5 of its decision and the basis for its decision in writing.

6 (c) The Department shall notify the public when a child
7 care institution, maternity center, or group home licensed by
8 the Department undergoes a change in (i) the range of care or
9 services offered at the facility, (ii) the age or type of
10 children served, or (iii) the area within the facility used by
11 children. The Department shall notify the public of the change
12 in a newspaper of general circulation in the county or
13 municipality in which the applicant's facility is or is
14 proposed to be located.

15 (d) If, upon examination of the facility and investigation
16 of persons responsible for care of children and, in the case of
17 a foster home, taking into account information obtained for
18 purposes of evaluating a preliminary application, if
19 applicable, the Department is satisfied that the facility and
20 responsible persons reasonably meet standards prescribed for
21 the type of facility for which application is made, it shall
22 issue a license in proper form, designating on that license
23 the type of child care facility and, except for a child welfare
24 agency, the number of children to be served at any one time.

25 (e) The Department shall not issue or renew the license of
26 any child welfare agency providing adoption services, unless

1 the agency (i) is officially recognized by the United States
2 Internal Revenue Service as a tax-exempt organization
3 described in Section 501(c)(3) of the Internal Revenue Code of
4 1986 (or any successor provision of federal tax law) and (ii)
5 is in compliance with all of the standards necessary to
6 maintain its status as an organization described in Section
7 501(c)(3) of the Internal Revenue Code of 1986 (or any
8 successor provision of federal tax law). The Department shall
9 grant a grace period of 24 months from the effective date of
10 this amendatory Act of the 94th General Assembly for existing
11 child welfare agencies providing adoption services to obtain
12 501(c)(3) status. The Department shall permit an existing
13 child welfare agency that converts from its current structure
14 in order to be recognized as a 501(c)(3) organization as
15 required by this Section to either retain its current license
16 or transfer its current license to a newly formed entity, if
17 the creation of a new entity is required in order to comply
18 with this Section, provided that the child welfare agency
19 demonstrates that it continues to meet all other licensing
20 requirements and that the principal officers and directors and
21 programs of the converted child welfare agency or newly
22 organized child welfare agency are substantially the same as
23 the original. The Department shall have the sole discretion to
24 grant a one year extension to any agency unable to obtain
25 501(c)(3) status within the timeframe specified in this
26 subsection (e), provided that such agency has filed an

1 application for 501(c)(3) status with the Internal Revenue
2 Service within the 2-year timeframe specified in this
3 subsection (e).

4 (Source: P.A. 101-63, eff. 7-12-19.)

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