



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4807

Introduced 2/6/2024, by Rep. Suzanne M. Ness

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7

from Ch. 23, par. 5007

Amends the Children and Family Services Act. Provides that whenever a child is placed in the substitute care of the Department of Children and Family Services, and the child has previously been in substitute care, the Department may consider a child's former foster parent as a placement option for the child. Provides that if the Department determines that it is not in the best interest of the child to be placed with the former foster parent, the Department shall document the basis for its decision and maintain the documentation in the child's case file. Provides that the fact that the former foster parent is licensed through an agency other than the agency assigned to the child's case shall not be a basis for determining that placement with the former foster parent is not in the child's best interest. Provides that the fact that the former foster parent is no longer licensed to provide foster care shall not be a basis for determining that placement with the former foster parent is not in the child's best interest, if the former foster parent is eligible to receive a permit issued by the Department under the Child Care Act of 1969 and the former foster parent is willing to make timely and sufficient application for a foster care license. Provides that the provisions of the amendatory Act do not apply if a court previously found that the child's placement in the former foster home was not necessary or appropriate, or if the child was previously removed from the care of the former foster parent because of abuse or neglect.

LRB103 39240 KTG 69392 b

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 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, parent's sibling, sibling's child, first
18 cousin, second cousin, godparent, or grandparent's sibling; or
19 (ii) is the spouse of such a relative; or (iii) is the child's
20 step-parent, or adult step-sibling; or (iv) is a fictive kin;
21 "relative" also includes a person related in any of the
22 foregoing ways to a sibling of a child, even though the person
23 is not related to the child, when the child and the child's
24 sibling are placed together with that person. For children who
25 have been in the guardianship of the Department, have been
26 adopted, and are subsequently returned to the temporary

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

14 Notwithstanding any other provision under this subsection
15 to the contrary, a fictive kin with whom a child is placed
16 pursuant to this subsection shall apply for licensure as a
17 foster family home pursuant to the Child Care Act of 1969
18 within 6 months of the child's placement with the fictive kin.
19 The Department shall not remove a child from the home of a
20 fictive kin on the basis that the fictive kin fails to apply
21 for licensure within 6 months of the child's placement with
22 the fictive kin, or fails to meet the standard for licensure.
23 All other requirements established under the rules and
24 procedures of the Department concerning the placement of a
25 child, for whom the Department is legally responsible, with a
26 relative shall apply. By June 1, 2015, the Department shall

1 promulgate rules establishing criteria and standards for
2 placement, identification, and licensure of fictive kin.

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

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

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

16 The provisions added to this subsection (b) by Public Act
17 98-846 shall become operative on and after June 1, 2015.

18 (c) In placing a child under this Act, the Department
19 shall ensure that the child's health, safety, and best
20 interests are met. In rejecting placement of a child with an
21 identified relative, the Department shall ensure that the
22 child's health, safety, and best interests are met. In
23 evaluating the best interests of the child, the Department
24 shall take into consideration the factors set forth in
25 subsection (4.05) of Section 1-3 of the Juvenile Court Act of
26 1987.

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

20 (c-1) At the time of placement, the Department shall
21 consider concurrent planning, as described in subsection (1-1)
22 of Section 5, so that permanency may occur at the earliest
23 opportunity. Consideration should be given so that if
24 reunification fails or is delayed, the placement made is the
25 best available placement to provide permanency for the child.
26 To the extent that doing so is in the child's best interests as

1 set forth in subsection (4.05) of Section 1-3 of the Juvenile
2 Court Act of 1987, the Department should consider placements
3 that will permit the child to maintain a meaningful
4 relationship with the child's parents.

5 (c-2) Whenever a child is placed in the substitute care of
6 the Department, and the child has previously been in
7 substitute care, the Department may consider a child's former
8 foster parent as a placement option for the child. If the
9 Department determines that it is not in the best interest of
10 the child to be placed with the former foster parent, the
11 Department shall document the basis for its decision and
12 maintain the documentation in the child's case file. The fact
13 that the former foster parent is licensed through an agency
14 other than the agency assigned to the child's case shall not be
15 a basis for determining that placement with the former foster
16 parent is not in the child's best interest. The fact that the
17 former foster parent is no longer licensed to provide foster
18 care shall not be a basis for determining that placement with
19 the former foster parent is not in the child's best interest,
20 if the former foster parent is eligible to receive a permit
21 issued by the Department under the Child Care Act of 1969 and
22 the former foster parent is willing to make timely and
23 sufficient application for a foster care license. This
24 subsection does not apply if a court previously found that the
25 child's placement in the former foster home was not necessary
26 or appropriate under Section 2-28 of the Juvenile Court Act of

1 1987, or if the child was previously removed from the care of
2 the former foster parent because of abuse or neglect.

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

6 (e) The Department in placing children in adoptive or
7 foster care homes may not, in any policy or practice relating
8 to the placement of children for adoption or foster care,
9 discriminate against any child or prospective adoptive or
10 foster parent on the basis of race.

11 (Source: P.A. 103-22, eff. 8-8-23.)