

1 AN ACT in relation to parental rights.

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 Parental Rights Termination Investigation Agency Act.

6 Section 5. Definition. In this Act, "Agency" means the
7 Parental Rights Termination Investigation Agency established
8 under Section 10.

9 Section 10. Agency established. The Parental Rights
10 Termination Investigation Agency is established in the
11 Executive Branch of the State Government. The Agency shall be
12 under the supervision and direction of a Director appointed
13 by the Governor with the advice and consent of the Senate.
14 The Director shall serve at the pleasure of the Governor. The
15 Director is entitled to an annual salary as set by the
16 Governor from time to time or as set by the Compensation
17 Review Board, whichever is greater. If set by the Governor,
18 the Director's annual salary may not exceed 85% of the
19 Governor's annual salary. The Director, in accordance with
20 the Personnel Code, shall employ and direct personnel as
21 necessary to carry out the purposes of this Act.

22 Section 15. Investigation of cases of termination of
23 parental rights.

24 (a) A person whose parental rights have been terminated
25 in a proceeding under the Juvenile Court Act of 1987 may
26 request the Agency to investigate the circumstances of that
27 termination of parental rights if all of the following
28 criteria are met:

29 (1) The person alleges that his or her parental

1 rights were terminated as a result of negligence by the
2 Department of Children and Family Services in
3 investigating or prosecuting the case for termination of
4 the person's parental rights, in that the Department
5 ignored, or failed to properly investigate, or failed to
6 bring to the court's attention, evidence mitigating
7 against termination of those rights.

8 (2) The person wants his or her parental rights
9 restored and wants custody of his or her child or
10 children with respect to whom the parental rights were
11 terminated.

12 (3) Not more than 3 years have elapsed since the
13 termination of the person's parental rights.

14 (4) A judgment of adoption has not been entered
15 with respect to the child with respect to whom the person
16 wants his or her parental rights restored, nor is there a
17 petition for adoption pending with respect to the child.

18 (b) As part of an investigation under this Section, the
19 Agency shall determine whether there is reasonable cause to
20 believe that the Department of Children and Family Services
21 was negligent in investigating or prosecuting the case for
22 termination of the person's parental rights, in that it
23 ignored, or failed to properly investigate, or failed to
24 bring to the court's attention, evidence mitigating against
25 termination of the person's parental rights. If the Agency
26 determines that there is such reasonable cause, then upon the
27 person's request, the Director shall prepare a statement to
28 be attached to a petition for restoration of parental rights
29 as provided in Section 2-29.5, 3-30.5, or 4-27.5 of the
30 Juvenile Court Act of 1987.

31 Section 20. Agency's access to information;
32 confidentiality.

33 (a) For the purpose of conducting investigations

1 authorized under this Act, the Agency is entitled to access
2 to the records described in Section 11 of the Abused and
3 Neglected Child Reporting Act and to the juvenile court
4 records relating to a minor who is or has been the subject of
5 a proceeding under the Juvenile Court Act of 1987.

6 (b) All records generated from investigations conducted
7 by the Agency under this Act are confidential and may not be
8 disclosed except to a court in connection with a proceeding
9 for the restoration of parental rights under Section 2-29.5,
10 3-30.5, or 4-27.5 of the Juvenile Court Act of 1987.

11 Section 90. The Abused and Neglected Child Reporting Act
12 is amended by changing Section 11.1 as follows:

13 (325 ILCS 5/11.1) (from Ch. 23, par. 2061.1)
14 Sec. 11.1. Access to records.

15 (a) A person shall have access to the records described
16 in Section 11 only in furtherance of purposes directly
17 connected with the administration of this Act or the
18 Intergovernmental Missing Child Recovery Act of 1984. Those
19 persons and purposes for access include:

20 (1) Department staff in the furtherance of their
21 responsibilities under this Act, or for the purpose of
22 completing background investigations on persons or
23 agencies licensed by the Department or with whom the
24 Department contracts for the provision of child welfare
25 services.

26 (2) A law enforcement agency investigating known or
27 suspected child abuse or neglect, known or suspected
28 involvement with child pornography, known or suspected
29 criminal sexual assault, known or suspected criminal
30 sexual abuse, or any other sexual offense when a child is
31 alleged to be involved.

32 (3) The Department of State Police when

1 administering the provisions of the Intergovernmental
2 Missing Child Recovery Act of 1984.

3 (4) A physician who has before him a child whom he
4 reasonably suspects may be abused or neglected.

5 (5) A person authorized under Section 5 of this Act
6 to place a child in temporary protective custody when
7 such person requires the information in the report or
8 record to determine whether to place the child in
9 temporary protective custody.

10 (6) A person having the legal responsibility or
11 authorization to care for, treat, or supervise a child or
12 a parent, guardian, or other person responsible for the
13 child's welfare who is the subject of a report.

14 (7) Except in regard to harmful or detrimental
15 information as provided in Section 7.19, any subject of
16 the report, and if the subject of the report is a minor,
17 his guardian or guardian ad litem.

18 (8) A court, upon its finding that access to such
19 records may be necessary for the determination of an
20 issue before such court; however, such access shall be
21 limited to in camera inspection, unless the court
22 determines that public disclosure of the information
23 contained therein is necessary for the resolution of an
24 issue then pending before it.

25 (8.1) A probation officer or other authorized
26 representative of a probation or court services
27 department conducting an investigation ordered by a court
28 under the Juvenile Court Act of 1987.

29 (9) A grand jury, upon its determination that
30 access to such records is necessary in the conduct of its
31 official business.

32 (10) Any person authorized by the Director, in
33 writing, for audit or bona fide research purposes.

34 (11) Law enforcement agencies, coroners or medical

1 examiners, physicians, courts, school superintendents and
2 child welfare agencies in other states who are
3 responsible for child abuse or neglect investigations or
4 background investigations.

5 (12) The Department of Professional Regulation, the
6 State Board of Education and school superintendents in
7 Illinois, who may use or disclose information from the
8 records as they deem necessary to conduct investigations
9 or take disciplinary action, as provided by law.

10 (13) A coroner or medical examiner who has reason
11 to believe that a child has died as the result of abuse
12 or neglect.

13 (14) The Director of a State-operated facility when
14 an employee of that facility is the perpetrator in an
15 indicated report.

16 (15) The operator of a licensed child care facility
17 or a facility licensed by the Department of Human
18 Services (as successor to the Department of Alcoholism
19 and Substance Abuse) in which children reside when a
20 current or prospective employee of that facility is the
21 perpetrator in an indicated child abuse or neglect
22 report, pursuant to Section 4.3 of the Child Care Act of
23 1969.

24 (16) Members of a multidisciplinary team in the
25 furtherance of its responsibilities under subsection (b)
26 of Section 7.1. All reports concerning child abuse and
27 neglect made available to members of such
28 multidisciplinary teams and all records generated as a
29 result of such reports shall be confidential and shall
30 not be disclosed, except as specifically authorized by
31 this Act or other applicable law. It is a Class A
32 misdemeanor to permit, assist or encourage the
33 unauthorized release of any information contained in such
34 reports or records. Nothing contained in this Section

1 prevents the sharing of reports or records relating or
2 pertaining to the death of a minor under the care of or
3 receiving services from the Department of Children and
4 Family Services and under the jurisdiction of the
5 juvenile court with the juvenile court, the State's
6 Attorney, and the minor's attorney.

7 (17) The Department of Human Services, as provided
8 in Section 17 of the Disabled Persons Rehabilitation Act.

9 (18) Any other agency or investigative body,
10 including the Department of Public Health and a local
11 board of health, authorized by State law to conduct an
12 investigation into the quality of care provided to
13 children in hospitals and other State regulated care
14 facilities. The access to and release of information
15 from such records shall be subject to the approval of the
16 Director of the Department or his designee.

17 (19) The person appointed, under Section 2-17 of
18 the Juvenile Court Act of 1987, as the guardian ad litem
19 of a minor who is the subject of a report or records
20 under this Act.

21 (20) The Parental Rights Termination Investigation
22 Agency, established under the Parental Rights Termination
23 Investigation Agency Act, for the purpose of conducting
24 investigations authorized under that Act.

25 (b) Nothing contained in this Act prevents the sharing
26 or disclosure of information or records relating or
27 pertaining to juveniles subject to the provisions of the
28 Serious Habitual Offender Comprehensive Action Program when
29 that information is used to assist in the early
30 identification and treatment of habitual juvenile offenders.

31 (c) To the extent that persons or agencies are given
32 access to information pursuant to this Section, those persons
33 or agencies may give this information to and receive this
34 information from each other in order to facilitate an

1 investigation conducted by those persons or agencies.
2 (Source: P.A. 90-15, eff. 6-13-97; 91-357, eff. 7-29-99.)

3 Section 95. The Juvenile Court Act of 1987 is amended by
4 changing Section 1-8 and adding Sections 2-29.5, 3-30.5, and
5 4-27.5 as follows:

6 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

7 Sec. 1-8. Confidentiality and accessibility of juvenile
8 court records.

9 (A) Inspection and copying of juvenile court records
10 relating to a minor who is the subject of a proceeding under
11 this Act shall be restricted to the following:

12 (1) The minor who is the subject of record, his
13 parents, guardian and counsel.

14 (2) Law enforcement officers and law enforcement
15 agencies when such information is essential to executing
16 an arrest or search warrant or other compulsory process,
17 or to conducting an ongoing investigation or relating to
18 a minor who has been adjudicated delinquent and there has
19 been a previous finding that the act which constitutes
20 the previous offense was committed in furtherance of
21 criminal activities by a criminal street gang.

22 Before July 1, 1994, for the purposes of this
23 Section, "criminal street gang" means any ongoing
24 organization, association, or group of 3 or more persons,
25 whether formal or informal, having as one of its primary
26 activities the commission of one or more criminal acts
27 and that has a common name or common identifying sign,
28 symbol or specific color apparel displayed, and whose
29 members individually or collectively engage in or have
30 engaged in a pattern of criminal activity.

31 Beginning July 1, 1994, for purposes of this
32 Section, "criminal street gang" has the meaning ascribed

1 to it in Section 10 of the Illinois Streetgang Terrorism
2 Omnibus Prevention Act.

3 (3) Judges, hearing officers, prosecutors,
4 probation officers, social workers or other individuals
5 assigned by the court to conduct a pre-adjudication or
6 predisposition investigation, and individuals responsible
7 for supervising or providing temporary or permanent care
8 and custody for minors pursuant to the order of the
9 juvenile court when essential to performing their
10 responsibilities.

11 (4) Judges, prosecutors and probation officers:

12 (a) in the course of a trial when institution
13 of criminal proceedings has been permitted or
14 required under Section 5-805; or

15 (b) when criminal proceedings have been
16 permitted or required under Section 5-805 and a
17 minor is the subject of a proceeding to determine
18 the amount of bail; or

19 (c) when criminal proceedings have been
20 permitted or required under Section 5-805 and a
21 minor is the subject of a pre-trial investigation,
22 pre-sentence investigation or fitness hearing, or
23 proceedings on an application for probation; or

24 (d) when a minor becomes 17 years of age or
25 older, and is the subject of criminal proceedings,
26 including a hearing to determine the amount of bail,
27 a pre-trial investigation, a pre-sentence
28 investigation, a fitness hearing, or proceedings on
29 an application for probation.

30 (5) Adult and Juvenile Prisoner Review Boards.

31 (6) Authorized military personnel.

32 (7) Victims, their subrogees and legal
33 representatives; however, such persons shall have access
34 only to the name and address of the minor and information

1 pertaining to the disposition or alternative adjustment
2 plan of the juvenile court.

3 (8) Persons engaged in bona fide research, with the
4 permission of the presiding judge of the juvenile court
5 and the chief executive of the agency that prepared the
6 particular records; provided that publication of such
7 research results in no disclosure of a minor's identity
8 and protects the confidentiality of the record.

9 (9) The Secretary of State to whom the Clerk of the
10 Court shall report the disposition of all cases, as
11 required in Section 6-204 of the Illinois Vehicle Code.
12 However, information reported relative to these offenses
13 shall be privileged and available only to the Secretary
14 of State, courts, and police officers.

15 (10) The administrator of a bonafide substance
16 abuse student assistance program with the permission of
17 the presiding judge of the juvenile court.

18 (11) Mental health professionals on behalf of the
19 Illinois Department of Corrections or the Department of
20 Human Services or prosecutors who are evaluating,
21 prosecuting, or investigating a potential or actual
22 petition brought under the Sexually Persons Commitment
23 Act relating to a person who is the subject of juvenile
24 court records or the respondent to a petition brought
25 under the Sexually Violent Persons Commitment Act, who is
26 the subject of juvenile court records sought. Any
27 records and any information obtained from those records
28 under this paragraph (11) may be used only in sexually
29 violent persons commitment proceedings.

30 (12) The Parental Rights Termination Investigation
31 Agency, established under the Parental Rights Termination
32 Investigation Agency Act, for the purpose of conducting
33 investigations authorized under that Act.

34 (B) A minor who is the victim in a juvenile proceeding

1 shall be provided the same confidentiality regarding
2 disclosure of identity as the minor who is the subject of
3 record.

4 (C) Except as otherwise provided in this subsection (C),
5 juvenile court records shall not be made available to the
6 general public but may be inspected by representatives of
7 agencies, associations and news media or other properly
8 interested persons by general or special order of the court.
9 The State's Attorney, the minor, his parents, guardian and
10 counsel shall at all times have the right to examine court
11 files and records.

12 (1) The court shall allow the general public to
13 have access to the name, address, and offense of a minor
14 who is adjudicated a delinquent minor under this Act
15 under either of the following circumstances:

16 (A) The adjudication of delinquency was based
17 upon the minor's commission of first degree murder,
18 attempt to commit first degree murder, aggravated
19 criminal sexual assault, or criminal sexual assault;
20 or

21 (B) The court has made a finding that the
22 minor was at least 13 years of age at the time the
23 act was committed and the adjudication of
24 delinquency was based upon the minor's commission
25 of: (i) an act in furtherance of the commission of a
26 felony as a member of or on behalf of a criminal
27 street gang, (ii) an act involving the use of a
28 firearm in the commission of a felony, (iii) an act
29 that would be a Class X felony offense under or the
30 minor's second or subsequent Class 2 or greater
31 felony offense under the Cannabis Control Act if
32 committed by an adult, (iv) an act that would be a
33 second or subsequent offense under Section 402 of
34 the Illinois Controlled Substances Act if committed

1 by an adult, or (v) an act that would be an offense
2 under Section 401 of the Illinois Controlled
3 Substances Act if committed by an adult.

4 (2) The court shall allow the general public to
5 have access to the name, address, and offense of a minor
6 who is at least 13 years of age at the time the offense
7 is committed and who is convicted, in criminal
8 proceedings permitted or required under Section 5-4,
9 under either of the following circumstances:

10 (A) The minor has been convicted of first
11 degree murder, attempt to commit first degree
12 murder, aggravated criminal sexual assault, or
13 criminal sexual assault,

14 (B) The court has made a finding that the
15 minor was at least 13 years of age at the time the
16 offense was committed and the conviction was based
17 upon the minor's commission of: (i) an offense in
18 furtherance of the commission of a felony as a
19 member of or on behalf of a criminal street gang,
20 (ii) an offense involving the use of a firearm in
21 the commission of a felony, (iii) a Class X felony
22 offense under or a second or subsequent Class 2 or
23 greater felony offense under the Cannabis Control
24 Act, (iv) a second or subsequent offense under
25 Section 402 of the Illinois Controlled Substances
26 Act, or (v) an offense under Section 401 of the
27 Illinois Controlled Substances Act.

28 (D) Pending or following any adjudication of delinquency
29 for any offense defined in Sections 12-13 through 12-16 of
30 the Criminal Code of 1961, the victim of any such offense
31 shall receive the rights set out in Sections 4 and 6 of the
32 Bill of Rights for Victims and Witnesses of Violent Crime
33 Act; and the juvenile who is the subject of the adjudication,
34 notwithstanding any other provision of this Act, shall be

1 treated as an adult for the purpose of affording such rights
2 to the victim.

3 (E) Nothing in this Section shall affect the right of a
4 Civil Service Commission or appointing authority of any
5 state, county or municipality examining the character and
6 fitness of an applicant for employment with a law enforcement
7 agency, correctional institution, or fire department to
8 ascertain whether that applicant was ever adjudicated to be a
9 delinquent minor and, if so, to examine the records of
10 disposition or evidence which were made in proceedings under
11 this Act.

12 (F) Following any adjudication of delinquency for a
13 crime which would be a felony if committed by an adult, or
14 following any adjudication of delinquency for a violation of
15 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
16 1961, the State's Attorney shall ascertain whether the minor
17 respondent is enrolled in school and, if so, shall provide a
18 copy of the dispositional order to the principal or chief
19 administrative officer of the school. Access to such
20 juvenile records shall be limited to the principal or chief
21 administrative officer of the school and any guidance
22 counselor designated by him.

23 (G) Nothing contained in this Act prevents the sharing
24 or disclosure of information or records relating or
25 pertaining to juveniles subject to the provisions of the
26 Serious Habitual Offender Comprehensive Action Program when
27 that information is used to assist in the early
28 identification and treatment of habitual juvenile offenders.

29 (H) When a Court hearing a proceeding under Article II
30 of this Act becomes aware that an earlier proceeding under
31 Article II had been heard in a different county, that Court
32 shall request, and the Court in which the earlier proceedings
33 were initiated shall transmit, an authenticated copy of the
34 Court record, including all documents, petitions, and orders

1 filed therein and the minute orders, transcript of
2 proceedings, and docket entries of the Court.

3 (I) The Clerk of the Circuit Court shall report to the
4 Department of State Police, in the form and manner required
5 by the Department of State Police, the final disposition of
6 each minor who has been arrested or taken into custody before
7 his or her 17th birthday for those offenses required to be
8 reported under Section 5 of the Criminal Identification Act.
9 Information reported to the Department under this Section may
10 be maintained with records that the Department files under
11 Section 2.1 of the Criminal Identification Act.

12 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
13 92-415, eff. 8-17-01.)

14 (705 ILCS 405/2-29.5 new)

15 Sec. 2-29.5. Restoration of parental rights.

16 (a) A person whose parental rights with respect to a
17 minor have been terminated by a court under Section 2-29 may
18 file with the court a petition for restoration of those
19 parental rights. The parents of a minor may file a joint
20 petition. The petitioner must attach to the petition a
21 statement signed by the Director of the Parental Rights
22 Termination Investigation Agency or his or her designee and
23 setting forth, in substance, the following:

24 (1) The Agency has conducted an investigation of
25 the circumstances of the termination of the petitioner's
26 parental rights as authorized under the Parental Rights
27 Termination Investigation Agency Act.

28 (2) The Agency has determined that there is
29 reasonable cause to believe that the petitioner's
30 parental rights were terminated as a result of negligence
31 by the Department of Children and Family Services in
32 investigating or prosecuting the case for termination of
33 the petitioner's parental rights, in that the Department

1 ignored, or failed to properly investigate, or failed to
2 bring to the court's attention, evidence mitigating
3 against termination of the petitioner's parental rights.

4 The Director's statement must also include a summary of
5 the Agency's findings with respect to the investigation.

6 (b) A petition filed under this Section shall name the
7 guardian of the person of the minor as respondent.

8 (c) The State shall pay the petitioner's reasonable
9 attorney's fees incurred in maintaining an action under this
10 Section.

11 (d) The court shall conduct a hearing on the petition,
12 at which the petitioner and the respondent may present oral
13 or written evidence, or both, on the question of whether the
14 petitioner's parental rights should be restored. After
15 hearing the evidence, the court shall grant or deny the
16 petition or take other action, based on the evidence, as it
17 deems appropriate.

18 (705 ILCS 405/3-30.5 new)

19 Sec. 3-30.5. Restoration of parental rights.

20 (a) A person whose parental rights with respect to a
21 minor have been terminated by a court under Section 3-30 may
22 file with the court a petition for restoration of those
23 parental rights. The parents of a minor may file a joint
24 petition. The petitioner must attach to the petition a
25 statement signed by the Director of the Parental Rights
26 Termination Investigation Agency or his or her designee and
27 setting forth, in substance, the following:

28 (1) The Agency has conducted an investigation of
29 the circumstances of the termination of the petitioner's
30 parental rights as authorized under the Parental Rights
31 Termination Investigation Agency Act.

32 (2) The Agency has determined that there is
33 reasonable cause to believe that the petitioner's

1 parental rights were terminated as a result of negligence
2 by the Department of Children and Family Services in
3 investigating or prosecuting the case for termination of
4 the petitioner's parental rights, in that the Department
5 ignored, or failed to properly investigate, or failed to
6 bring to the court's attention, evidence mitigating
7 against termination of the petitioner's parental rights.
8 The Director's statement must also include a summary of
9 the Agency's findings with respect to the investigation.

10 (b) A petition filed under this Section shall name the
11 guardian of the person of the minor as respondent.

12 (c) The State shall pay the petitioner's reasonable
13 attorney's fees incurred in maintaining an action under this
14 Section.

15 (d) The court shall conduct a hearing on the petition,
16 at which the petitioner and the respondent may present oral
17 or written evidence, or both, on the question of whether the
18 petitioner's parental rights should be restored. After
19 hearing the evidence, the court shall grant or deny the
20 petition or take other action, based on the evidence, as it
21 deems appropriate.

22 (705 ILCS 405/4-27.5 new)

23 Sec. 4-27.5. Restoration of parental rights.

24 (a) A person whose parental rights with respect to a
25 minor have been terminated by a court under Section 4-27 may
26 file with the court a petition for restoration of those
27 parental rights. The parents of a minor may file a joint
28 petition. The petitioner must attach to the petition a
29 statement signed by the Director of the Parental Rights
30 Termination Investigation Agency or his or her designee and
31 setting forth, in substance, the following:

32 (1) The Agency has conducted an investigation of
33 the circumstances of the termination of the petitioner's

1 parental rights as authorized under the Parental Rights
2 Termination Investigation Agency Act.

3 (2) The Agency has determined that there is
4 reasonable cause to believe that the petitioner's
5 parental rights were terminated as a result of negligence
6 by the Department of Children and Family Services in
7 investigating or prosecuting the case for termination of
8 the petitioner's parental rights, in that the Department
9 ignored, or failed to properly investigate, or failed to
10 bring to the court's attention, evidence mitigating
11 against termination of the petitioner's parental rights.

12 The Director's statement must also include a summary of
13 the Agency's findings with respect to the investigation.

14 (b) A petition filed under this Section shall name the
15 guardian of the person of the minor as respondent.

16 (c) The State shall pay the petitioner's reasonable
17 attorney's fees incurred in maintaining an action under this
18 Section.

19 (d) The court shall conduct a hearing on the petition,
20 at which the petitioner and the respondent may present oral
21 or written evidence, or both, on the question of whether the
22 petitioner's parental rights should be restored. After
23 hearing the evidence, the court shall grant or deny the
24 petition or take other action, based on the evidence, as it
25 deems appropriate.