

SB3767



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3767

Introduced 2/10/2012, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

20 ILCS 505/5

from Ch. 23, par. 5005

Amends the Children and Family Services Act. Requires the Department of Children and Family Services to file in the appropriate circuit court a petition requesting the appointment of the Office of State Guardian as guardian of any person with an intellectual or developmental disability who has reached the age of 21 and is receiving child residential services in a facility licensed by the Department. Provides that, if appointed by the court, the State Guardian shall serve as guardian of the person from the date upon which the person reaches the age of 21 until the day before his or her 22nd birthday. Requires the Department to file its petition in a timely manner to ensure that guardianship, if granted by the court, commences on the date of the affected person's 21st birthday. Effective immediately.

LRB097 17631 KTG 62838 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 changing Section 5 as follows:

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

7 Sec. 5. Direct child welfare services; Department of
8 Children and Family Services. To provide direct child welfare
9 services when not available through other public or private
10 child care or program facilities.

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State who
13 are under the age of 18 years. The term also includes
14 persons under age 21 who:

15 (A) were committed to the Department pursuant to
16 the Juvenile Court Act or the Juvenile Court Act of
17 1987, as amended, prior to the age of 18 and who
18 continue under the jurisdiction of the court; or

19 (B) were accepted for care, service and training by
20 the Department prior to the age of 18 and whose best
21 interest in the discretion of the Department would be
22 served by continuing that care, service and training
23 because of severe emotional disturbances, physical

1 disability, social adjustment or any combination
2 thereof, or because of the need to complete an
3 educational or vocational training program.

4 (2) "Homeless youth" means persons found within the
5 State who are under the age of 19, are not in a safe and
6 stable living situation and cannot be reunited with their
7 families.

8 (3) "Child welfare services" means public social
9 services which are directed toward the accomplishment of
10 the following purposes:

11 (A) protecting and promoting the health, safety
12 and welfare of children, including homeless, dependent
13 or neglected children;

14 (B) remedying, or assisting in the solution of
15 problems which may result in, the neglect, abuse,
16 exploitation or delinquency of children;

17 (C) preventing the unnecessary separation of
18 children from their families by identifying family
19 problems, assisting families in resolving their
20 problems, and preventing the breakup of the family
21 where the prevention of child removal is desirable and
22 possible when the child can be cared for at home
23 without endangering the child's health and safety;

24 (D) restoring to their families children who have
25 been removed, by the provision of services to the child
26 and the families when the child can be cared for at

1 home without endangering the child's health and
2 safety;

3 (E) placing children in suitable adoptive homes,
4 in cases where restoration to the biological family is
5 not safe, possible or appropriate;

6 (F) assuring safe and adequate care of children
7 away from their homes, in cases where the child cannot
8 be returned home or cannot be placed for adoption. At
9 the time of placement, the Department shall consider
10 concurrent planning, as described in subsection (1-1)
11 of this Section so that permanency may occur at the
12 earliest opportunity. Consideration should be given so
13 that if reunification fails or is delayed, the
14 placement made is the best available placement to
15 provide permanency for the child;

16 (G) (blank);

17 (H) (blank); and

18 (I) placing and maintaining children in facilities
19 that provide separate living quarters for children
20 under the age of 18 and for children 18 years of age
21 and older, unless a child 18 years of age is in the
22 last year of high school education or vocational
23 training, in an approved individual or group treatment
24 program, in a licensed shelter facility, or secure
25 child care facility. The Department is not required to
26 place or maintain children:

- 1 (i) who are in a foster home, or
2 (ii) who are persons with a developmental
3 disability, as defined in the Mental Health and
4 Developmental Disabilities Code, or
5 (iii) who are female children who are
6 pregnant, pregnant and parenting or parenting, or
7 (iv) who are siblings, in facilities that
8 provide separate living quarters for children 18
9 years of age and older and for children under 18
10 years of age.

11 (b) Nothing in this Section shall be construed to authorize
12 the expenditure of public funds for the purpose of performing
13 abortions.

14 (c) The Department shall establish and maintain
15 tax-supported child welfare services and extend and seek to
16 improve voluntary services throughout the State, to the end
17 that services and care shall be available on an equal basis
18 throughout the State to children requiring such services.

19 (d) The Director may authorize advance disbursements for
20 any new program initiative to any agency contracting with the
21 Department. As a prerequisite for an advance disbursement, the
22 contractor must post a surety bond in the amount of the advance
23 disbursement and have a purchase of service contract approved
24 by the Department. The Department may pay up to 2 months
25 operational expenses in advance. The amount of the advance
26 disbursement shall be prorated over the life of the contract or

1 the remaining months of the fiscal year, whichever is less, and
2 the installment amount shall then be deducted from future
3 bills. Advance disbursement authorizations for new initiatives
4 shall not be made to any agency after that agency has operated
5 during 2 consecutive fiscal years. The requirements of this
6 Section concerning advance disbursements shall not apply with
7 respect to the following: payments to local public agencies for
8 child day care services as authorized by Section 5a of this
9 Act; and youth service programs receiving grant funds under
10 Section 17a-4.

11 (e) (Blank).

12 (f) (Blank).

13 (g) The Department shall establish rules and regulations
14 concerning its operation of programs designed to meet the goals
15 of child safety and protection, family preservation, family
16 reunification, and adoption, including but not limited to:

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

25 (9) placement under Section 5-7 of the Juvenile Court
26 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

1 Court Act of 1987 in accordance with the federal Adoption
2 Assistance and Child Welfare Act of 1980; and

3 (10) interstate services.

4 Rules and regulations established by the Department shall
5 include provisions for training Department staff and the staff
6 of Department grantees, through contracts with other agencies
7 or resources, in alcohol and drug abuse screening techniques
8 approved by the Department of Human Services, as a successor to
9 the Department of Alcoholism and Substance Abuse, for the
10 purpose of identifying children and adults who should be
11 referred to an alcohol and drug abuse treatment program for
12 professional evaluation.

13 (h) If the Department finds that there is no appropriate
14 program or facility within or available to the Department for a
15 ward and that no licensed private facility has an adequate and
16 appropriate program or none agrees to accept the ward, the
17 Department shall create an appropriate individualized,
18 program-oriented plan for such ward. The plan may be developed
19 within the Department or through purchase of services by the
20 Department to the extent that it is within its statutory
21 authority to do.

22 (i) Service programs shall be available throughout the
23 State and shall include but not be limited to the following
24 services:

25 (1) case management;

26 (2) homemakers;

- 1 (3) counseling;
- 2 (4) parent education;
- 3 (5) day care; and
- 4 (6) emergency assistance and advocacy.

5 In addition, the following services may be made available
6 to assess and meet the needs of children and families:

- 7 (1) comprehensive family-based services;
- 8 (2) assessments;
- 9 (3) respite care; and
- 10 (4) in-home health services.

11 The Department shall provide transportation for any of the
12 services it makes available to children or families or for
13 which it refers children or families.

14 (j) The Department may provide categories of financial
15 assistance and education assistance grants, and shall
16 establish rules and regulations concerning the assistance and
17 grants, to persons who adopt physically or mentally
18 handicapped, older and other hard-to-place children who (i)
19 immediately prior to their adoption were legal wards of the
20 Department or (ii) were determined eligible for financial
21 assistance with respect to a prior adoption and who become
22 available for adoption because the prior adoption has been
23 dissolved and the parental rights of the adoptive parents have
24 been terminated or because the child's adoptive parents have
25 died. The Department may continue to provide financial
26 assistance and education assistance grants for a child who was

1 determined eligible for financial assistance under this
2 subsection (j) in the interim period beginning when the child's
3 adoptive parents died and ending with the finalization of the
4 new adoption of the child by another adoptive parent or
5 parents. The Department may also provide categories of
6 financial assistance and education assistance grants, and
7 shall establish rules and regulations for the assistance and
8 grants, to persons appointed guardian of the person under
9 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
10 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
11 who were wards of the Department for 12 months immediately
12 prior to the appointment of the guardian.

13 The amount of assistance may vary, depending upon the needs
14 of the child and the adoptive parents, as set forth in the
15 annual assistance agreement. Special purpose grants are
16 allowed where the child requires special service but such costs
17 may not exceed the amounts which similar services would cost
18 the Department if it were to provide or secure them as guardian
19 of the child.

20 Any financial assistance provided under this subsection is
21 inalienable by assignment, sale, execution, attachment,
22 garnishment, or any other remedy for recovery or collection of
23 a judgment or debt.

24 (j-5) The Department shall not deny or delay the placement
25 of a child for adoption if an approved family is available
26 either outside of the Department region handling the case, or

1 outside of the State of Illinois.

2 (k) The Department shall accept for care and training any
3 child who has been adjudicated neglected or abused, or
4 dependent committed to it pursuant to the Juvenile Court Act or
5 the Juvenile Court Act of 1987.

6 (l) The Department shall offer family preservation
7 services, as defined in Section 8.2 of the Abused and Neglected
8 Child Reporting Act, to help families, including adoptive and
9 extended families. Family preservation services shall be
10 offered (i) to prevent the placement of children in substitute
11 care when the children can be cared for at home or in the
12 custody of the person responsible for the children's welfare,
13 (ii) to reunite children with their families, or (iii) to
14 maintain an adoptive placement. Family preservation services
15 shall only be offered when doing so will not endanger the
16 children's health or safety. With respect to children who are
17 in substitute care pursuant to the Juvenile Court Act of 1987,
18 family preservation services shall not be offered if a goal
19 other than those of subdivisions (A), (B), or (B-1) of
20 subsection (2) of Section 2-28 of that Act has been set.
21 Nothing in this paragraph shall be construed to create a
22 private right of action or claim on the part of any individual
23 or child welfare agency, except that when a child is the
24 subject of an action under Article II of the Juvenile Court Act
25 of 1987 and the child's service plan calls for services to
26 facilitate achievement of the permanency goal, the court

1 hearing the action under Article II of the Juvenile Court Act
2 of 1987 may order the Department to provide the services set
3 out in the plan, if those services are not provided with
4 reasonable promptness and if those services are available.

5 The Department shall notify the child and his family of the
6 Department's responsibility to offer and provide family
7 preservation services as identified in the service plan. The
8 child and his family shall be eligible for services as soon as
9 the report is determined to be "indicated". The Department may
10 offer services to any child or family with respect to whom a
11 report of suspected child abuse or neglect has been filed,
12 prior to concluding its investigation under Section 7.12 of the
13 Abused and Neglected Child Reporting Act. However, the child's
14 or family's willingness to accept services shall not be
15 considered in the investigation. The Department may also
16 provide services to any child or family who is the subject of
17 any report of suspected child abuse or neglect or may refer
18 such child or family to services available from other agencies
19 in the community, even if the report is determined to be
20 unfounded, if the conditions in the child's or family's home
21 are reasonably likely to subject the child or family to future
22 reports of suspected child abuse or neglect. Acceptance of such
23 services shall be voluntary. The Department may also provide
24 services to any child or family after completion of a family
25 assessment, as an alternative to an investigation, as provided
26 under the "differential response program" provided for in

1 subsection (a-5) of Section 7.4 of the Abused and Neglected
2 Child Reporting Act.

3 The Department may, at its discretion except for those
4 children also adjudicated neglected or dependent, accept for
5 care and training any child who has been adjudicated addicted,
6 as a truant minor in need of supervision or as a minor
7 requiring authoritative intervention, under the Juvenile Court
8 Act or the Juvenile Court Act of 1987, but no such child shall
9 be committed to the Department by any court without the
10 approval of the Department. A minor charged with a criminal
11 offense under the Criminal Code of 1961 or adjudicated
12 delinquent shall not be placed in the custody of or committed
13 to the Department by any court, except (i) a minor less than 15
14 years of age committed to the Department under Section 5-710 of
15 the Juvenile Court Act of 1987, (ii) a minor for whom an
16 independent basis of abuse, neglect, or dependency exists,
17 which must be defined by departmental rule, or (iii) a minor
18 for whom the court has granted a supplemental petition to
19 reinstate wardship pursuant to subsection (2) of Section 2-33
20 of the Juvenile Court Act of 1987. An independent basis exists
21 when the allegations or adjudication of abuse, neglect, or
22 dependency do not arise from the same facts, incident, or
23 circumstances which give rise to a charge or adjudication of
24 delinquency.

25 As soon as is possible after August 7, 2009 (the effective
26 date of Public Act 96-134), the Department shall develop and

1 implement a special program of family preservation services to
2 support intact, foster, and adoptive families who are
3 experiencing extreme hardships due to the difficulty and stress
4 of caring for a child who has been diagnosed with a pervasive
5 developmental disorder if the Department determines that those
6 services are necessary to ensure the health and safety of the
7 child. The Department may offer services to any family whether
8 or not a report has been filed under the Abused and Neglected
9 Child Reporting Act. The Department may refer the child or
10 family to services available from other agencies in the
11 community if the conditions in the child's or family's home are
12 reasonably likely to subject the child or family to future
13 reports of suspected child abuse or neglect. Acceptance of
14 these services shall be voluntary. The Department shall develop
15 and implement a public information campaign to alert health and
16 social service providers and the general public about these
17 special family preservation services. The nature and scope of
18 the services offered and the number of families served under
19 the special program implemented under this paragraph shall be
20 determined by the level of funding that the Department annually
21 allocates for this purpose. The term "pervasive developmental
22 disorder" under this paragraph means a neurological condition,
23 including but not limited to, Asperger's Syndrome and autism,
24 as defined in the most recent edition of the Diagnostic and
25 Statistical Manual of Mental Disorders of the American
26 Psychiatric Association.

1 (1-1) The legislature recognizes that the best interests of
2 the child require that the child be placed in the most
3 permanent living arrangement as soon as is practically
4 possible. To achieve this goal, the legislature directs the
5 Department of Children and Family Services to conduct
6 concurrent planning so that permanency may occur at the
7 earliest opportunity. Permanent living arrangements may
8 include prevention of placement of a child outside the home of
9 the family when the child can be cared for at home without
10 endangering the child's health or safety; reunification with
11 the family, when safe and appropriate, if temporary placement
12 is necessary; or movement of the child toward the most
13 permanent living arrangement and permanent legal status.

14 When determining reasonable efforts to be made with respect
15 to a child, as described in this subsection, and in making such
16 reasonable efforts, the child's health and safety shall be the
17 paramount concern.

18 When a child is placed in foster care, the Department shall
19 ensure and document that reasonable efforts were made to
20 prevent or eliminate the need to remove the child from the
21 child's home. The Department must make reasonable efforts to
22 reunify the family when temporary placement of the child occurs
23 unless otherwise required, pursuant to the Juvenile Court Act
24 of 1987. At any time after the dispositional hearing where the
25 Department believes that further reunification services would
26 be ineffective, it may request a finding from the court that

1 reasonable efforts are no longer appropriate. The Department is
2 not required to provide further reunification services after
3 such a finding.

4 A decision to place a child in substitute care shall be
5 made with considerations of the child's health, safety, and
6 best interests. At the time of placement, consideration should
7 also be given so that if reunification fails or is delayed, the
8 placement made is the best available placement to provide
9 permanency for the child.

10 The Department shall adopt rules addressing concurrent
11 planning for reunification and permanency. The Department
12 shall consider the following factors when determining
13 appropriateness of concurrent planning:

- 14 (1) the likelihood of prompt reunification;
- 15 (2) the past history of the family;
- 16 (3) the barriers to reunification being addressed by
17 the family;
- 18 (4) the level of cooperation of the family;
- 19 (5) the foster parents' willingness to work with the
20 family to reunite;
- 21 (6) the willingness and ability of the foster family to
22 provide an adoptive home or long-term placement;
- 23 (7) the age of the child;
- 24 (8) placement of siblings.

25 (m) The Department may assume temporary custody of any
26 child if:

1 (1) it has received a written consent to such temporary
2 custody signed by the parents of the child or by the parent
3 having custody of the child if the parents are not living
4 together or by the guardian or custodian of the child if
5 the child is not in the custody of either parent, or

6 (2) the child is found in the State and neither a
7 parent, guardian nor custodian of the child can be located.

8 If the child is found in his or her residence without a parent,
9 guardian, custodian or responsible caretaker, the Department
10 may, instead of removing the child and assuming temporary
11 custody, place an authorized representative of the Department
12 in that residence until such time as a parent, guardian or
13 custodian enters the home and expresses a willingness and
14 apparent ability to ensure the child's health and safety and
15 resume permanent charge of the child, or until a relative
16 enters the home and is willing and able to ensure the child's
17 health and safety and assume charge of the child until a
18 parent, guardian or custodian enters the home and expresses
19 such willingness and ability to ensure the child's safety and
20 resume permanent charge. After a caretaker has remained in the
21 home for a period not to exceed 12 hours, the Department must
22 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
23 5-415 of the Juvenile Court Act of 1987.

24 The Department shall have the authority, responsibilities
25 and duties that a legal custodian of the child would have
26 pursuant to subsection (9) of Section 1-3 of the Juvenile Court

1 Act of 1987. Whenever a child is taken into temporary custody
2 pursuant to an investigation under the Abused and Neglected
3 Child Reporting Act, or pursuant to a referral and acceptance
4 under the Juvenile Court Act of 1987 of a minor in limited
5 custody, the Department, during the period of temporary custody
6 and before the child is brought before a judicial officer as
7 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
8 Court Act of 1987, shall have the authority, responsibilities
9 and duties that a legal custodian of the child would have under
10 subsection (9) of Section 1-3 of the Juvenile Court Act of
11 1987.

12 The Department shall ensure that any child taken into
13 custody is scheduled for an appointment for a medical
14 examination.

15 A parent, guardian or custodian of a child in the temporary
16 custody of the Department who would have custody of the child
17 if he were not in the temporary custody of the Department may
18 deliver to the Department a signed request that the Department
19 surrender the temporary custody of the child. The Department
20 may retain temporary custody of the child for 10 days after the
21 receipt of the request, during which period the Department may
22 cause to be filed a petition pursuant to the Juvenile Court Act
23 of 1987. If a petition is so filed, the Department shall retain
24 temporary custody of the child until the court orders
25 otherwise. If a petition is not filed within the 10 day period,
26 the child shall be surrendered to the custody of the requesting

1 parent, guardian or custodian not later than the expiration of
2 the 10 day period, at which time the authority and duties of
3 the Department with respect to the temporary custody of the
4 child shall terminate.

5 (m-1) The Department may place children under 18 years of
6 age in a secure child care facility licensed by the Department
7 that cares for children who are in need of secure living
8 arrangements for their health, safety, and well-being after a
9 determination is made by the facility director and the Director
10 or the Director's designate prior to admission to the facility
11 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
12 This subsection (m-1) does not apply to a child who is subject
13 to placement in a correctional facility operated pursuant to
14 Section 3-15-2 of the Unified Code of Corrections, unless the
15 child is a ward who was placed under the care of the Department
16 before being subject to placement in a correctional facility
17 and a court of competent jurisdiction has ordered placement of
18 the child in a secure care facility.

19 (n) The Department may place children under 18 years of age
20 in licensed child care facilities when in the opinion of the
21 Department, appropriate services aimed at family preservation
22 have been unsuccessful and cannot ensure the child's health and
23 safety or are unavailable and such placement would be for their
24 best interest. Payment for board, clothing, care, training and
25 supervision of any child placed in a licensed child care
26 facility may be made by the Department, by the parents or

1 guardians of the estates of those children, or by both the
2 Department and the parents or guardians, except that no
3 payments shall be made by the Department for any child placed
4 in a licensed child care facility for board, clothing, care,
5 training and supervision of such a child that exceed the
6 average per capita cost of maintaining and of caring for a
7 child in institutions for dependent or neglected children
8 operated by the Department. However, such restriction on
9 payments does not apply in cases where children require
10 specialized care and treatment for problems of severe emotional
11 disturbance, physical disability, social adjustment, or any
12 combination thereof and suitable facilities for the placement
13 of such children are not available at payment rates within the
14 limitations set forth in this Section. All reimbursements for
15 services delivered shall be absolutely inalienable by
16 assignment, sale, attachment, garnishment or otherwise.

17 (n-1) The Department shall provide or authorize child
18 welfare services, aimed at assisting minors to achieve
19 sustainable self-sufficiency as independent adults, for any
20 minor eligible for the reinstatement of wardship pursuant to
21 subsection (2) of Section 2-33 of the Juvenile Court Act of
22 1987, whether or not such reinstatement is sought or allowed,
23 provided that the minor consents to such services and has not
24 yet attained the age of 21. The Department shall have
25 responsibility for the development and delivery of services
26 under this Section. An eligible youth may access services under

1 this Section through the Department of Children and Family
2 Services or by referral from the Department of Human Services.
3 Youth participating in services under this Section shall
4 cooperate with the assigned case manager in developing an
5 agreement identifying the services to be provided and how the
6 youth will increase skills to achieve self-sufficiency. A
7 homeless shelter is not considered appropriate housing for any
8 youth receiving child welfare services under this Section. The
9 Department shall continue child welfare services under this
10 Section to any eligible minor until the minor becomes 21 years
11 of age, no longer consents to participate, or achieves
12 self-sufficiency as identified in the minor's service plan. The
13 Department of Children and Family Services shall create clear,
14 readable notice of the rights of former foster youth to child
15 welfare services under this Section and how such services may
16 be obtained. The Department of Children and Family Services and
17 the Department of Human Services shall disseminate this
18 information statewide. The Department shall adopt regulations
19 describing services intended to assist minors in achieving
20 sustainable self-sufficiency as independent adults.

21 (o) The Department shall establish an administrative
22 review and appeal process for children and families who request
23 or receive child welfare services from the Department. Children
24 who are wards of the Department and are placed by private child
25 welfare agencies, and foster families with whom those children
26 are placed, shall be afforded the same procedural and appeal

1 rights as children and families in the case of placement by the
2 Department, including the right to an initial review of a
3 private agency decision by that agency. The Department shall
4 insure that any private child welfare agency, which accepts
5 wards of the Department for placement, affords those rights to
6 children and foster families. The Department shall accept for
7 administrative review and an appeal hearing a complaint made by
8 (i) a child or foster family concerning a decision following an
9 initial review by a private child welfare agency or (ii) a
10 prospective adoptive parent who alleges a violation of
11 subsection (j-5) of this Section. An appeal of a decision
12 concerning a change in the placement of a child shall be
13 conducted in an expedited manner.

14 (p) There is hereby created the Department of Children and
15 Family Services Emergency Assistance Fund from which the
16 Department may provide special financial assistance to
17 families which are in economic crisis when such assistance is
18 not available through other public or private sources and the
19 assistance is deemed necessary to prevent dissolution of the
20 family unit or to reunite families which have been separated
21 due to child abuse and neglect. The Department shall establish
22 administrative rules specifying the criteria for determining
23 eligibility for and the amount and nature of assistance to be
24 provided. The Department may also enter into written agreements
25 with private and public social service agencies to provide
26 emergency financial services to families referred by the

1 Department. Special financial assistance payments shall be
2 available to a family no more than once during each fiscal year
3 and the total payments to a family may not exceed \$500 during a
4 fiscal year.

5 (q) The Department may receive and use, in their entirety,
6 for the benefit of children any gift, donation or bequest of
7 money or other property which is received on behalf of such
8 children, or any financial benefits to which such children are
9 or may become entitled while under the jurisdiction or care of
10 the Department.

11 The Department shall set up and administer no-cost,
12 interest-bearing accounts in appropriate financial
13 institutions for children for whom the Department is legally
14 responsible and who have been determined eligible for Veterans'
15 Benefits, Social Security benefits, assistance allotments from
16 the armed forces, court ordered payments, parental voluntary
17 payments, Supplemental Security Income, Railroad Retirement
18 payments, Black Lung benefits, or other miscellaneous
19 payments. Interest earned by each account shall be credited to
20 the account, unless disbursed in accordance with this
21 subsection.

22 In disbursing funds from children's accounts, the
23 Department shall:

24 (1) Establish standards in accordance with State and
25 federal laws for disbursing money from children's
26 accounts. In all circumstances, the Department's

1 "Guardianship Administrator" or his or her designee must
2 approve disbursements from children's accounts. The
3 Department shall be responsible for keeping complete
4 records of all disbursements for each account for any
5 purpose.

6 (2) Calculate on a monthly basis the amounts paid from
7 State funds for the child's board and care, medical care
8 not covered under Medicaid, and social services; and
9 utilize funds from the child's account, as covered by
10 regulation, to reimburse those costs. Monthly,
11 disbursements from all children's accounts, up to 1/12 of
12 \$13,000,000, shall be deposited by the Department into the
13 General Revenue Fund and the balance over 1/12 of
14 \$13,000,000 into the DCFS Children's Services Fund.

15 (3) Maintain any balance remaining after reimbursing
16 for the child's costs of care, as specified in item (2).
17 The balance shall accumulate in accordance with relevant
18 State and federal laws and shall be disbursed to the child
19 or his or her guardian, or to the issuing agency.

20 (r) The Department shall promulgate regulations
21 encouraging all adoption agencies to voluntarily forward to the
22 Department or its agent names and addresses of all persons who
23 have applied for and have been approved for adoption of a
24 hard-to-place or handicapped child and the names of such
25 children who have not been placed for adoption. A list of such
26 names and addresses shall be maintained by the Department or

1 its agent, and coded lists which maintain the confidentiality
2 of the person seeking to adopt the child and of the child shall
3 be made available, without charge, to every adoption agency in
4 the State to assist the agencies in placing such children for
5 adoption. The Department may delegate to an agent its duty to
6 maintain and make available such lists. The Department shall
7 ensure that such agent maintains the confidentiality of the
8 person seeking to adopt the child and of the child.

9 (s) The Department of Children and Family Services may
10 establish and implement a program to reimburse Department and
11 private child welfare agency foster parents licensed by the
12 Department of Children and Family Services for damages
13 sustained by the foster parents as a result of the malicious or
14 negligent acts of foster children, as well as providing third
15 party coverage for such foster parents with regard to actions
16 of foster children to other individuals. Such coverage will be
17 secondary to the foster parent liability insurance policy, if
18 applicable. The program shall be funded through appropriations
19 from the General Revenue Fund, specifically designated for such
20 purposes.

21 (t) The Department shall perform home studies and
22 investigations and shall exercise supervision over visitation
23 as ordered by a court pursuant to the Illinois Marriage and
24 Dissolution of Marriage Act or the Adoption Act only if:

- 25 (1) an order entered by an Illinois court specifically
26 directs the Department to perform such services; and

1 (2) the court has ordered one or both of the parties to
2 the proceeding to reimburse the Department for its
3 reasonable costs for providing such services in accordance
4 with Department rules, or has determined that neither party
5 is financially able to pay.

6 The Department shall provide written notification to the
7 court of the specific arrangements for supervised visitation
8 and projected monthly costs within 60 days of the court order.
9 The Department shall send to the court information related to
10 the costs incurred except in cases where the court has
11 determined the parties are financially unable to pay. The court
12 may order additional periodic reports as appropriate.

13 (u) In addition to other information that must be provided,
14 whenever the Department places a child with a prospective
15 adoptive parent or parents or in a licensed foster home, group
16 home, child care institution, or in a relative home, the
17 Department shall provide to the prospective adoptive parent or
18 parents or other caretaker:

19 (1) available detailed information concerning the
20 child's educational and health history, copies of
21 immunization records (including insurance and medical card
22 information), a history of the child's previous
23 placements, if any, and reasons for placement changes
24 excluding any information that identifies or reveals the
25 location of any previous caretaker;

26 (2) a copy of the child's portion of the client service

1 plan, including any visitation arrangement, and all
2 amendments or revisions to it as related to the child; and

3 (3) information containing details of the child's
4 individualized educational plan when the child is
5 receiving special education services.

6 The caretaker shall be informed of any known social or
7 behavioral information (including, but not limited to,
8 criminal background, fire setting, perpetuation of sexual
9 abuse, destructive behavior, and substance abuse) necessary to
10 care for and safeguard the children to be placed or currently
11 in the home. The Department may prepare a written summary of
12 the information required by this paragraph, which may be
13 provided to the foster or prospective adoptive parent in
14 advance of a placement. The foster or prospective adoptive
15 parent may review the supporting documents in the child's file
16 in the presence of casework staff. In the case of an emergency
17 placement, casework staff shall at least provide known
18 information verbally, if necessary, and must subsequently
19 provide the information in writing as required by this
20 subsection.

21 The information described in this subsection shall be
22 provided in writing. In the case of emergency placements when
23 time does not allow prior review, preparation, and collection
24 of written information, the Department shall provide such
25 information as it becomes available. Within 10 business days
26 after placement, the Department shall obtain from the

1 prospective adoptive parent or parents or other caretaker a
2 signed verification of receipt of the information provided.
3 Within 10 business days after placement, the Department shall
4 provide to the child's guardian ad litem a copy of the
5 information provided to the prospective adoptive parent or
6 parents or other caretaker. The information provided to the
7 prospective adoptive parent or parents or other caretaker shall
8 be reviewed and approved regarding accuracy at the supervisory
9 level.

10 (u-5) Effective July 1, 1995, only foster care placements
11 licensed as foster family homes pursuant to the Child Care Act
12 of 1969 shall be eligible to receive foster care payments from
13 the Department. Relative caregivers who, as of July 1, 1995,
14 were approved pursuant to approved relative placement rules
15 previously promulgated by the Department at 89 Ill. Adm. Code
16 335 and had submitted an application for licensure as a foster
17 family home may continue to receive foster care payments only
18 until the Department determines that they may be licensed as a
19 foster family home or that their application for licensure is
20 denied or until September 30, 1995, whichever occurs first.

21 (v) The Department shall access criminal history record
22 information as defined in the Illinois Uniform Conviction
23 Information Act and information maintained in the adjudicatory
24 and dispositional record system as defined in Section 2605-355
25 of the Department of State Police Law (20 ILCS 2605/2605-355)
26 if the Department determines the information is necessary to

1 perform its duties under the Abused and Neglected Child
2 Reporting Act, the Child Care Act of 1969, and the Children and
3 Family Services Act. The Department shall provide for
4 interactive computerized communication and processing
5 equipment that permits direct on-line communication with the
6 Department of State Police's central criminal history data
7 repository. The Department shall comply with all certification
8 requirements and provide certified operators who have been
9 trained by personnel from the Department of State Police. In
10 addition, one Office of the Inspector General investigator
11 shall have training in the use of the criminal history
12 information access system and have access to the terminal. The
13 Department of Children and Family Services and its employees
14 shall abide by rules and regulations established by the
15 Department of State Police relating to the access and
16 dissemination of this information.

17 (v-1) Prior to final approval for placement of a child, the
18 Department shall conduct a criminal records background check of
19 the prospective foster or adoptive parent, including
20 fingerprint-based checks of national crime information
21 databases. Final approval for placement shall not be granted if
22 the record check reveals a felony conviction for child abuse or
23 neglect, for spousal abuse, for a crime against children, or
24 for a crime involving violence, including rape, sexual assault,
25 or homicide, but not including other physical assault or
26 battery, or if there is a felony conviction for physical

1 assault, battery, or a drug-related offense committed within
2 the past 5 years.

3 (v-2) Prior to final approval for placement of a child, the
4 Department shall check its child abuse and neglect registry for
5 information concerning prospective foster and adoptive
6 parents, and any adult living in the home. If any prospective
7 foster or adoptive parent or other adult living in the home has
8 resided in another state in the preceding 5 years, the
9 Department shall request a check of that other state's child
10 abuse and neglect registry.

11 (w) Within 120 days of August 20, 1995 (the effective date
12 of Public Act 89-392), the Department shall prepare and submit
13 to the Governor and the General Assembly, a written plan for
14 the development of in-state licensed secure child care
15 facilities that care for children who are in need of secure
16 living arrangements for their health, safety, and well-being.
17 For purposes of this subsection, secure care facility shall
18 mean a facility that is designed and operated to ensure that
19 all entrances and exits from the facility, a building or a
20 distinct part of the building, are under the exclusive control
21 of the staff of the facility, whether or not the child has the
22 freedom of movement within the perimeter of the facility,
23 building, or distinct part of the building. The plan shall
24 include descriptions of the types of facilities that are needed
25 in Illinois; the cost of developing these secure care
26 facilities; the estimated number of placements; the potential

1 cost savings resulting from the movement of children currently
2 out-of-state who are projected to be returned to Illinois; the
3 necessary geographic distribution of these facilities in
4 Illinois; and a proposed timetable for development of such
5 facilities.

6 (x) The Department shall conduct annual credit history
7 checks to determine the financial history of children placed
8 under its guardianship pursuant to the Juvenile Court Act of
9 1987. The Department shall conduct such credit checks starting
10 when a ward turns 12 years old and each year thereafter for the
11 duration of the guardianship as terminated pursuant to the
12 Juvenile Court Act of 1987. The Department shall determine if
13 financial exploitation of the child's personal information has
14 occurred. If financial exploitation appears to have taken place
15 or is presently ongoing, the Department shall notify the proper
16 law enforcement agency, the proper State's Attorney, or the
17 Attorney General.

18 (y) Beginning on the effective date of this amendatory Act
19 of the 96th General Assembly, a child with a disability who
20 receives residential and educational services from the
21 Department shall be eligible to receive transition services in
22 accordance with Article 14 of the School Code from the age of
23 14.5 through age 21, inclusive, notwithstanding the child's
24 residential services arrangement. For purposes of this
25 subsection, "child with a disability" means a child with a
26 disability as defined by the federal Individuals with

1 Disabilities Education Improvement Act of 2004.

2 (z) The Department shall file in the appropriate circuit
3 court a petition requesting the appointment of the Office of
4 State Guardian, or the State Guardian's authorized designee, as
5 guardian of any person with an intellectual or developmental
6 disability who has reached the age of 21 and is receiving child
7 residential services in a facility licensed by the Department.
8 If appointed by the court, the State Guardian shall serve as
9 guardian of the person from the date upon which the person
10 reaches the age of 21 until the day before his or her 22nd
11 birthday. The Department must file its petition in a timely
12 manner to ensure that guardianship, if granted by the court,
13 commences on the date of the affected person's 21st birthday.

14 (Source: P.A. 95-10, eff. 6-30-07; 95-601, eff. 9-11-07;
15 95-642, eff. 6-1-08; 95-876, eff. 8-21-08; 96-134, eff. 8-7-09;
16 96-581, eff. 1-1-10; 96-600, eff. 8-21-09; 96-619, eff. 1-1-10;
17 96-760, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1189, eff.
18 7-22-10.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.