

HB5551



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5551

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

20 ILCS 505/7

from Ch. 23, par. 5007

Amends the Children and Family Services Act. Expands the definition of "fictive kin" to include any individual, unrelated by birth or marriage, who is the foster parent of a child in the custody or guardianship of the Department of Children and Family Services, has established a significant and family-like relationship with the child, and has been identified by the Department as the child's permanent connection, as defined by rule by the Department.

LRB099 20520 KTG 45052 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 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 as
11 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 that
2 the relative will be able to adequately provide for the child's
3 safety and welfare based on the factors set forth in the
4 Department's rules governing relative placements, and that the
5 placement is consistent with the child's best interests, taking
6 into consideration the factors set out in subsection (4.05) of
7 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 child
15 to be cared for in a home environment. The Department must
16 document its efforts to identify, locate, and provide notice to
17 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 an

1 administrative appeal of the Department's decision not to place
2 a child with a relative, it is the Department's burden to prove
3 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, the
7 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 basis
15 of its determination and maintain the documentation in the
16 child's case file.

17 If the Department determines that an individual or a group
18 of relatives are inappropriate to serve as visitation resources
19 or possible placement resources, the Department shall document
20 the basis of its determination and maintain the documentation
21 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 member
12 of the relative's household for any of the following offenses
13 under the Criminal Code of 1961 or the Criminal Code of 2012:

- 14 (1) murder;
- 15 (1.1) solicitation of murder;
- 16 (1.2) solicitation of murder for hire;
- 17 (1.3) intentional homicide of an unborn child;
- 18 (1.4) voluntary manslaughter of an unborn child;
- 19 (1.5) involuntary manslaughter;
- 20 (1.6) reckless homicide;
- 21 (1.7) concealment of a homicidal death;
- 22 (1.8) involuntary manslaughter of an unborn child;
- 23 (1.9) reckless homicide of an unborn child;
- 24 (1.10) drug-induced homicide;
- 25 (2) a sex offense under Article 11, except offenses
26 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,

- 1 11-40, and 11-45;
- 2 (3) kidnapping;
- 3 (3.1) aggravated unlawful restraint;
- 4 (3.2) forcible detention;
- 5 (3.3) aiding and abetting child abduction;
- 6 (4) aggravated kidnapping;
- 7 (5) child abduction;
- 8 (6) aggravated battery of a child as described in
- 9 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 10 (7) criminal sexual assault;
- 11 (8) aggravated criminal sexual assault;
- 12 (8.1) predatory criminal sexual assault of a child;
- 13 (9) criminal sexual abuse;
- 14 (10) aggravated sexual abuse;
- 15 (11) heinous battery as described in Section 12-4.1 or
- 16 subdivision (a) (2) of Section 12-3.05;
- 17 (12) aggravated battery with a firearm as described in
- 18 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
- 19 (e) (4) of Section 12-3.05;
- 20 (13) tampering with food, drugs, or cosmetics;
- 21 (14) drug-induced infliction of great bodily harm as
- 22 described in Section 12-4.7 or subdivision (g) (1) of
- 23 Section 12-3.05;
- 24 (15) aggravated stalking;
- 25 (16) home invasion;
- 26 (17) vehicular invasion;

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

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

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

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

1 identification, and licensure of fictive kin.

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

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

7 (ii) is the foster parent of a child in the custody or
8 guardianship of the Department pursuant to this Act and the
9 Juvenile Court Act of 1987, has established a significant
10 and family-like relationship with the child, and has been
11 identified by the Department as the child's permanent
12 connection, as defined by rule by the Department.

13 The provisions added to this subsection (b) by Public Act
14 98-846 ~~this amendatory Act of the 98th General Assembly~~ shall
15 become operative on and after June 1, 2015.

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

24 The Department shall consider the individual needs of the
25 child and the capacity of the prospective foster or adoptive
26 parents to meet the needs of the child. When a child must be

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

17 (c-1) At the time of placement, the Department shall
18 consider concurrent planning, as described in subsection (1-1)
19 of Section 5, so that permanency may occur at the earliest
20 opportunity. Consideration should be given so that if
21 reunification fails or is delayed, the placement made is the
22 best available placement to provide permanency for the child.

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

26 (e) The Department in placing children in adoptive or

1 foster care homes may not, in any policy or practice relating
2 to the placement of children for adoption or foster care,
3 discriminate against any child or prospective adoptive or
4 foster parent on the basis of race.

5 (Source: P.A. 98-846, eff. 1-1-15; 99-143, eff. 7-27-15;
6 99-340, eff. 1-1-16; revised 10-19-15.)