

AN ACT concerning children.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Child Care Act of 1969 is amended by changing Sections 2, 2.05, 2.08, 4, 7, 8, 11, 11.1, and 12 and by adding Sections 2.24, 2.25, 2.26, 2.27, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 8.3, 8.4, 9.1a, 9.1b, 14.6, and 14.7 as follows:

(225 ILCS 10/2) (from Ch. 23, par. 2212)

Sec. 2. Terms used in this Act, unless the context otherwise requires, have the meanings ascribed to them in Sections 2.01 through 2.27 ~~2.21~~.

(Source: P.A. 86-278; 86-386.)

(225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

Sec. 2.05. "Facility for child care" or "child care facility" means any person, group of persons, agency, association, ~~or~~ organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of this Act.

(Source: P.A. 89-21, eff. 7-1-95.)

(225 ILCS 10/2.08) (from Ch. 23, par. 2212.08)

Sec. 2.08.

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement or free care of the

child or children in foster family homes, unlicensed pre-adoptive and adoptive homes, or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes and all agencies, persons, groups of persons, associations, organizations, corporations, institutions, centers, or groups providing adoption services, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court.

(Source: P.A. 76-63.)

(225 ILCS 10/2.24 new)

Sec. 2.24. "Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly: (i) arranging for the placement of or placing out a child, (ii) identifying a child for adoption, (iii) matching adoptive parents with biological parents, (iv) arranging or facilitating an adoption, (v) taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act, (vi) performing background studies on a child or adoptive parents, (vii) making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or (viii) post-placement monitoring of a child prior to adoption. "Adoption services" does not include the following: (1) the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law, (2) adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act, (3) prospective biological parents or

adoptive parents operating on their own behalf, (4) the provision of general education and training on adoption-related topics, or (5) post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

(225 ILCS 10/2.25 new)

Sec. 2.25. "Unlicensed pre-adoptive and adoptive home" means any home that is not licensed by the Department as a foster family home and that receives a child or children for the purpose of adopting the child or children.

(225 ILCS 10/2.26 new)

Sec. 2.26. "Eligible agency" means a licensed child welfare agency that (i) is currently fully accredited by the Council on Accreditation for Children and Family Services (COA) for adoption services and (ii) has had no Department substantiated licensing violations or COA accrediting violations that affect the health, safety, morals, or welfare of children served by that agency for the 4 years immediately preceding a determination of eligibility.

(225 ILCS 10/2.27 new)

Sec. 2.27. "Deemed compliant" means that an eligible agency is presumed to be in compliance with requirements, provided that the Department has determined that current COA standards are at least substantially equivalent to those requirements. This presumption of compliance may be rebutted by Department substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from eligible agencies.

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

Sec. 4. License requirement; application; notice.

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

one or more children unrelated to the operator must apply for a license to operate one of the types of facilities defined in Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any relative who receives a child or children for placement by the Department on a full-time basis may apply for a license to operate a foster family home as defined in Section 2.17 of this Act.

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

(b) Application for a license to operate a child care facility must be made to the Department in the manner and on forms prescribed by it. An application to operate a foster family home shall include, at a minimum: a completed written form; written authorization by the applicant and all adult members of the applicant's household to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household.

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

proposed to be located.

(d) If, upon examination of the facility and investigation of persons responsible for care of children, the Department is satisfied that the facility and responsible persons reasonably meet standards prescribed for the type of facility for which application is made, it shall issue a license in proper form, designating on that license the type of child care facility and, except for a child welfare agency, the number of children to be served at any one time.

(e) The Department shall not issue or renew the license of any child welfare agency providing adoption services, unless the agency (i) is officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) and (ii) is in compliance with all of the standards necessary to maintain its status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law). The Department shall grant a grace period of 24 months from the effective date of this amendatory Act of the 94th General Assembly for existing child welfare agencies providing adoption services to obtain 501(c)(3) status. The Department shall permit an existing child welfare agency that converts from its current structure in order to be recognized as a 501(c)(3) organization as required by this Section to either retain its current license or transfer its current license to a newly formed entity, if the creation of a new entity is required in order to comply with this Section, provided that the child welfare agency demonstrates that it continues to meet all other licensing requirements and that the principal officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original. The Department shall have the sole discretion to grant a one year extension to any agency unable to obtain 501(c)(3) status within the timeframe specified in this

subsection (e), provided that such agency has filed an application for 501(c)(3) status with the Internal Revenue Service within the 2-year timeframe specified in this subsection (e).

(Source: P.A. 89-21, eff. 7-1-95; 90-90, eff. 7-11-97; 90-608, eff. 6-30-98.)

(225 ILCS 10/7) (from Ch. 23, par. 2217)

Sec. 7. (a) The Department must prescribe and publish minimum standards for licensing that apply to the various types of facilities for child care defined in this Act and that are equally applicable to like institutions under the control of the Department and to foster family homes used by and under the direct supervision of the Department. The Department shall seek the advice and assistance of persons representative of the various types of child care facilities in establishing such standards. The standards prescribed and published under this Act take effect as provided in the Illinois Administrative Procedure Act, and are restricted to regulations pertaining to the following matters and to any rules and regulations required or permitted by any other Section of this Act:

(1) The operation and conduct of the facility and responsibility it assumes for child care;

(2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served. All child day care center licensees and employees who are required to report child abuse or neglect under the Abused and Neglected Child Reporting Act shall be required to attend training on recognizing child abuse and neglect, as prescribed by Department rules;

(3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;

(4) The number of individuals or staff required to insure adequate supervision and care of the children

received. The standards shall provide that each child care institution, maternity center, day care center, group home, day care home, and group day care home shall have on its premises during its hours of operation at least one staff member certified in first aid, in the Heimlich maneuver and in cardiopulmonary resuscitation by the American Red Cross or other organization approved by rule of the Department. Child welfare agencies shall not be subject to such a staffing requirement. The Department may offer, or arrange for the offering, on a periodic basis in each community in this State in cooperation with the American Red Cross, the American Heart Association or other appropriate organization, voluntary programs to train operators of foster family homes and day care homes in first aid and cardiopulmonary resuscitation;

(5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to State laws and municipal codes to provide for the physical comfort, care and well-being of children received;

(6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;

(7) Provisions to safeguard the legal rights of children served;

(8) Maintenance of records pertaining to the admission, progress, health and discharge of children, including, for day care centers and day care homes, records indicating each child has been immunized as required by State regulations. The Department shall require proof that children enrolled in a facility have been immunized against Haemophilus Influenzae B (HIB);

(9) Filing of reports with the Department;

(10) Discipline of children;

(11) Protection and fostering of the particular religious faith of the children served;

(12) Provisions prohibiting firearms on day care center premises except in the possession of peace officers;

(13) Provisions prohibiting handguns on day care home premises except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside on the premises of a day care home;

(14) Provisions requiring that any firearm permitted on day care home premises, except handguns in the possession of peace officers, shall be kept in a disassembled state, without ammunition, in locked storage, inaccessible to children and that ammunition permitted on day care home premises shall be kept in locked storage separate from that of disassembled firearms, inaccessible to children;

(15) Provisions requiring notification of parents or guardians enrolling children at a day care home of the presence in the day care home of any firearms and ammunition and of the arrangements for the separate, locked storage of such firearms and ammunition.

(b) If, in a facility for general child care, there are children diagnosed as mentally ill, mentally retarded or physically handicapped, who are determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the Department shall seek the advice and recommendation of the Department of Human Services, the Department of Public Health, or both Departments regarding the residential treatment and nursing care provided by the institution.

(c) The Department shall investigate any person applying to be licensed as a foster parent to determine whether there is any evidence of current drug or alcohol abuse in the prospective foster family. The Department shall not license a person as a foster parent if drug or alcohol abuse has been

identified in the foster family or if a reasonable suspicion of such abuse exists, except that the Department may grant a foster parent license to an applicant identified with an alcohol or drug problem if the applicant has successfully participated in an alcohol or drug treatment program, self-help group, or other suitable activities.

(d) The Department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children served. Such consultation shall include providing information concerning education and training in early childhood development to providers of day care home services. The Department may provide or arrange for such education and training for those providers who request such assistance.

(e) The Department shall distribute copies of licensing standards to all licensees and applicants for a license. Each licensee or holder of a permit shall distribute copies of the appropriate licensing standards and any other information required by the Department to child care facilities under its supervision. Each licensee or holder of a permit shall maintain appropriate documentation of the distribution of the standards. Such documentation shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(f) The Department shall prepare summaries of day care licensing standards. Each licensee or holder of a permit for a day care facility shall distribute a copy of the appropriate summary and any other information required by the Department, to the legal guardian of each child cared for in that facility at the time when the child is enrolled or initially placed in the facility. The licensee or holder of a permit for a day care facility shall secure appropriate documentation of the distribution of the summary and brochure. Such documentation

shall be a part of the records of the facility and subject to inspection by an authorized representative of the Department.

(g) The Department shall distribute to each licensee and holder of a permit copies of the licensing or permit standards applicable to such person's facility. Each licensee or holder of a permit shall make available by posting at all times in a common or otherwise accessible area a complete and current set of licensing standards in order that all employees of the facility may have unrestricted access to such standards. All employees of the facility shall have reviewed the standards and any subsequent changes. Each licensee or holder of a permit shall maintain appropriate documentation of the current review of licensing standards by all employees. Such records shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(h) Any standards involving physical examinations, immunization, or medical treatment shall include appropriate exemptions for children whose parents object thereto on the grounds that they conflict with the tenets and practices of a recognized church or religious organization, of which the parent is an adherent or member, and for children who should not be subjected to immunization for clinical reasons.

(Source: P.A. 89-274, eff. 1-1-96; 89-507, eff. 7-1-97; 89-648, eff. 8-9-96; 90-14, eff. 7-1-97.)

(225 ILCS 10/7.4 new)

Sec. 7.4. Disclosures.

(a) Every child welfare agency providing adoption services and licensed by the Department shall provide to all prospective clients and to the public written disclosures with respect to its adoption services, policies, and practices, including general eligibility criteria, fees, and the mutual rights and responsibilities of clients, including biological parents and adoptive parents. The written disclosure shall be posted on any website maintained by the child welfare agency that relates to adoption services. The Department shall adopt rules relating to

the contents of the written disclosures. Eligible agencies may be deemed compliant with this subsection (a).

(b) Every licensed child welfare agency providing adoption services shall provide to all applicants, prior to application, a written schedule of estimated fees, expenses, and refund policies. Every child welfare agency providing adoption services shall have a written policy that shall be part of its standard adoption contract and state that it will not charge additional fees and expenses beyond those disclosed in the adoption contract unless additional fees are reasonably required by the circumstances and are disclosed to the adoptive parents or parent before they are incurred. The Department shall adopt rules relating to the contents of the written schedule and policy. Eligible agencies may be deemed compliant with this subsection (b).

(c) Every licensed child welfare agency providing adoption services must make full and fair disclosure to its clients, including biological parents and adoptive parents, of all circumstances material to the placement of a child for adoption. The Department shall adopt rules necessary for the implementation and regulation of the requirements of this subsection (c).

(d) Every licensed child welfare agency providing adoption services shall meet minimum standards set forth by the Department concerning the taking or acknowledging of a consent prior to taking or acknowledging a consent from a prospective biological parent. The Department shall adopt rules concerning the minimum standards required by agencies under this Section.

(225 ILCS 10/7.5 new)

Sec. 7.5. Adoptive parent training program. Every licensed child welfare agency providing adoption services shall provide prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful adoption in conjunction with placing a child for adoption with the prospective adoptive parents and which must

be completed to the satisfaction of the licensed child welfare agency prior to the finalization of the adoption. The training may be provided by an agent or independent contractor of the child welfare agency or by a Department-approved training individual or entity. The Department shall adopt rules concerning minimum hours, content, and agency documentation of the training and rules concerning the approval of individuals or entities conducting training under this Section. Eligible agencies may be deemed compliant with this Section.

(225 ILCS 10/7.6 new)

Sec. 7.6. Annual report. Every licensed child welfare agency providing adoption services shall file an annual report with the Department and with the Attorney General on forms and on a date prescribed by the Department. The annual reports for the preceding 2 years must be made available, upon request, to the public by the Department and every licensed agency and must be included on the website of the Department. Each licensed agency that maintains a website shall provide the reports on its website. The annual report shall include all of the following matters and all other matters required by the Department:

(1) a balance sheet and a statement of income and expenses for the year, certified by an independent public accountant; for purposes of this item (1), the audit report filed by an agency with the Department may be included in the annual report and, if so, shall be sufficient to comply with the requirement of this item (1);

(2) non-identifying information concerning the placements made by the agency during the year, consisting of the number of adoptive families in the process of obtaining a foster family license, the number of adoptive families that are licensed and awaiting placement, the number of biological parents that the agency is actively working with, the number of placements, and the number of adoptions initiated during the year and the status of each

matter at the end of the year;

(3) any instance during the year in which the agency lost the right to provide adoption services in any State or country, had its license suspended for cause, or was the subject of other sanctions by any court, governmental agency, or governmental regulatory body relating to the provision of adoption services;

(4) any actions related to licensure that were initiated against the agency during the year by a licensing or accrediting body;

(5) any pending investigations by federal or State authorities;

(6) any criminal charges, child abuse charges, malpractice complaints, or lawsuits against the agency or any of its employees, officers, or directors related to the provision of adoption services and the basis or disposition of the actions;

(7) any instance in the year where the agency was found guilty of, or pled guilty to, any criminal or civil or administrative violation under federal, State, or foreign law that relates to the provision of adoption services;

(8) any instance in the year where any employee, officer, or director of the agency was found guilty of any crime or was determined to have violated a civil law or administrative rule under federal, State, or foreign law relating to the provision of adoption services; and

(9) any civil or administrative proceeding instituted by the agency during the year and relating to adoption services, excluding uncontested adoption proceedings and proceedings filed pursuant to Section 12a of the Adoption Act.

Failure to disclose information required under this Section may result in the suspension of the agency's license for a period of 90 days. Subsequent violations may result in revocation of the license.

Information disclosed in accordance with this Section

shall be subject to the applicable confidentiality requirements of this Act and the Adoption Act.

(225 ILCS 10/7.7 new)

Sec. 7.7. Certain waivers prohibited. Licensed child welfare agencies providing adoption services shall not require biological or adoptive parents to sign any document that purports to waive claims against an agency for intentional or reckless acts or omissions or for gross negligence. Nothing in this Section shall require an agency to assume risks that are not within the reasonable control of the agency.

(225 ILCS 10/7.8 new)

Sec. 7.8. Preferential treatment in child placement prohibited. No licensed child welfare agency providing adoption services may give preferential treatment to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors or to their relatives with respect to the placement of a child or any matters relating to adoption services. The Department shall define "preferential treatment" by rule and shall adopt any rules necessary to implement this Section. Eligible agencies may be deemed compliant with this Section.

(225 ILCS 10/7.9 new)

Sec. 7.9. Excessive fees in adoption services prohibited. Adoption services fees must be based on the costs associated with service delivery, and clients may be charged fees only for services provided. The Department shall define "excessive fees" by rule and shall adopt any rules necessary to implement this Section. Eligible agencies may be deemed compliant with this Section.

(225 ILCS 10/8) (from Ch. 23, par. 2218)

Sec. 8. The Department may revoke or refuse to renew the license of any child care facility or child welfare agency or

refuse to issue full license to the holder of a permit should the licensee or holder of a permit:

(1) fail to maintain standards prescribed and published by the Department;

(2) violate any of the provisions of the license issued;

(3) furnish or make any misleading or any false statement or report to the Department;

(4) refuse to submit to the Department any reports or refuse to make available to the Department any records required by the Department in making investigation of the facility for licensing purposes;

(5) fail or refuse to submit to an investigation by the Department;

(6) fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;

(7) fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to the location of such facility;

(8) refuse to display its license or permit;

(9) be the subject of an indicated report under Section 3 of the Abused and Neglected Child Reporting Act or fail to discharge or sever affiliation with the child care facility of an employee or volunteer at the facility with direct contact with children who is the subject of an indicated report under Section 3 of that Act;

(10) fail to comply with the provisions of Section 7.1;

(11) fail to exercise reasonable care in the hiring, training and supervision of facility personnel;

(12) fail to report suspected abuse or neglect of children within the facility, as required by the Abused and Neglected Child Reporting Act;

(13) fail to comply with Section 5.1 or 5.2 of this Act; or

(14) be identified in an investigation by the Department as

an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, or be a person whom the Department knows has abused alcohol or drugs, and has not successfully participated in treatment, self-help groups or other suitable activities, and the Department determines that because of such abuse the licensee, holder of the permit, or any other person directly responsible for the care and welfare of the children served, does not comply with standards relating to character, suitability or other qualifications established under Section 7 of this Act.

(Source: P.A. 91-357, eff. 7-29-99; 91-413, eff. 1-1-00.)

(225 ILCS 10/8.3 new)

Sec. 8.3. Tax exempt agency.

(a) The Department shall revoke or refuse to renew the license of any child welfare agency providing adoption services that is not (i) officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) and (ii) in compliance with all of the standards necessary to maintain its status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law).

(b) The Department shall grant a grace period of 24 months from the effective date of this amendatory Act of the 94th General Assembly for existing child welfare agencies providing adoption services to obtain 501(c)(3) status. The Department shall permit an existing child welfare agency that converts from its current structure in order to be recognized as a 501(c)(3) organization as required by this Section to either retain its current license or transfer its current license to a newly formed entity, if the creation of a new entity is required in order to comply with this Section, provided that the child welfare agency demonstrates that it continues to meet all other licensing requirements and that the principal

officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original. The Department shall have the sole discretion to grant a one year extension to any agency unable to obtain 501(c)(3) status within the timeframe specified in this Section, provided that such agency has filed an application for 501(c)(3) status with the Internal Revenue Service within the 2-year timeframe specified in this Section.

(c) Nothing in this Section shall prohibit a licensed child welfare agency from using the services of any person, group of persons, agency, association, organization, corporation, institution, center, or group as an independent contractor to perform services on behalf of the licensed agency, provided that the licensed agency has a written agreement with the independent contractor specifying the terms of remuneration, the services to be performed, the personnel performing those services, and the qualifications of the personnel, in addition to any other information or requirements the Department may specify by rule. The licensed agency is not exempt, by reason of the use of the contractor, from compliance with all of the provisions of this Act. The Department has the authority to disapprove the use of any contractor if the Department is not satisfied with the agency's agreement with the contractor, the personnel of the contractor who are performing the services, or the qualifications of the personnel or if the contractor violates any provision of this Act or the Adoption Act.

(225 ILCS 10/8.4 new)

Sec. 8.4. Cessation or dissolution of an agency. In the event that a licensed child welfare agency ceases to exist or dissolves its corporate entity as an agency, and in so doing ceases to provide adoption services as defined in this Act, all records pertaining to adoption services, as that term is defined in Section 2.24 of this Act, shall be forwarded to another licensed child welfare agency with notice to the Department or to the Department within 30 days after such

cessation or dissolution. This Section shall be interpreted in a manner consistent with rules adopted by the Department governing child welfare agencies.

(225 ILCS 10/9.1a new)

Sec. 9.1a. Complaint registry.

(a) The Department shall establish a complaint registry to assist in the monitoring of licensed child welfare agencies providing adoption services, which shall record and track the resolution and disposition of substantiated licensing violations.

(b) The Department shall establish and maintain a statewide toll-free telephone number and post information on its website where the public can access information contained in the complaint registry, as it pertains to the past history and record of any licensed child welfare agency providing adoption services. This information shall include, but shall not be limited to, Department substantiated licensing violations against a child welfare agency providing adoption services and Department findings of any license violations against a child welfare agency providing adoption services.

(c) Information disclosed in accordance with this Section shall be subject to the applicable confidentiality requirements of this Act and the Adoption Act.

(225 ILCS 10/9.1b new)

Sec. 9.1b. Complaint procedures. All child welfare agencies providing adoption services shall be required by the Department to have complaint policies and procedures that shall be provided in writing to their prospective clients, including biological parents, adoptive parents, and adoptees that they have served, at the earliest time possible, and, in the case of biological and adoptive parents, prior to placement or prior to entering into any written contract with the clients. These complaint procedures must be filed with the Department within 6 months after the effective date of this amendatory Act of the

94th General Assembly. Failure to comply with this Section may result in the suspension of licensure for a period of 90 days. Subsequent violations may result in licensure revocation. The Department shall adopt rules that describe the complaint procedures required by each agency. These rules shall include without limitation prompt complaint response time, recording of the complaints, prohibition of agency retaliation against the person making the complaint, and agency reporting of all complaints to the Department in a timely manner. Any agency that maintains a website shall post the prescribed complaint procedures and its license number, as well as the statewide toll-free complaint registry telephone number, on its website.

(225 ILCS 10/11) (from Ch. 23, par. 2221)

Sec. 11. Whenever the Department is advised, or has reason to believe, that any person, group of persons or corporation is operating a child welfare agency or a child care facility without a license or permit, it shall make an investigation to ascertain the facts. If the Department is denied access, it shall request intervention of local, county or State law enforcement agencies to seek an appropriate court order or warrant to examine the premises. A person or entity preventing the Department from carrying out its duties under this Section shall be guilty of a violation of this Act and shall be subject to such penalties related thereto. If it finds that the child welfare agency or child care facility is being, or has been operated without a license or permit, it shall report the results of its investigation to the Attorney General, and to the appropriate State's Attorney for investigation and, if appropriate, prosecution.

Operating a child welfare agency or child care facility without a license constitutes a Class A misdemeanor, followed by a business offense, if the operator continues to operate the facility and no effort is made to obtain a license. The business offense fine shall not exceed \$10,000 and each day of a violation is a separate offense.

(Source: P.A. 85-215.)

(225 ILCS 10/11.1) (from Ch. 23, par. 2221.1)

Sec. 11.1. Referrals to law enforcement.

(a) If the Department has reasonable cause to believe ~~Upon request of the Director, the Attorney General or the State's Attorney of the county in which the violation occurred, shall initiate injunction proceedings whenever it appears~~ that any person, group of persons, ~~or~~ corporation, agency, association, organization, institution, center, or group is engaged or about to engage in any acts or practices that ~~which~~ constitute or will constitute a violation of this Act, the Department shall inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings ~~or any rule or regulation prescribed under authority thereof.~~ Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or temporary restraining order without bond to enforce this Act or any rule or regulation prescribed thereunder in addition to the penalties and other remedies provided in this Act.

(b) If the Department has reasonable cause to believe that any person, group of persons, corporation, agency, association, organization, institution, center, or group is engaged or is about to engage in any act or practice that constitutes or may constitute a violation of any rule adopted under the authority of this Act, the Department may inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings. Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or temporary restraining order without bond to enforce this Act or any rule prescribed under this Act, in addition to the penalties and other remedies provided in this Act.

(Source: P.A. 84-548.)

(225 ILCS 10/12) (from Ch. 23, par. 2222)

Sec. 12. Advertisements.

(a) In this Section, "advertise" means communication by any public medium originating or distributed in this State, including, but not limited to, newspapers, periodicals, telephone book listings, outdoor advertising signs, radio, or television.

(b) A child care facility or child welfare agency licensed or operating under a permit issued by the Department may publish advertisements for the services that the facility is specifically licensed or issued a permit under this Act to provide. A person, group of persons, agency, association, organization, corporation, institution, center, or group who advertises or causes to be published any advertisement offering, soliciting, or promising to perform adoption services as defined in Section 2.24 of this Act is guilty of a Class A misdemeanor and shall be subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement, unless that person, group of persons, agency, association, organization, corporation, institution, center, or group is (i) licensed or operating under a permit issued by the Department as a child care facility or child welfare agency, (ii) a biological parent or a prospective adoptive parent acting on his or her own behalf, or (iii) a licensed attorney advertising his or her availability to provide legal services relating to adoption, as permitted by law.

(c) Every advertisement published after the effective date of this amendatory Act of the 94th General Assembly shall include the Department-issued license number of the facility or agency.

(d) Any licensed child welfare agency providing adoption services that, after the effective date of this amendatory Act of the 94th General Assembly, causes to be published an advertisement containing reckless or intentional misrepresentations concerning adoption services or circumstances material to the placement of a child for adoption is guilty of a Class A misdemeanor and is subject to a fine not

to exceed \$10,000 or 9 months imprisonment for each advertisement.

(e) An out-of-state agency that is not licensed in Illinois and that has a written interagency agreement with one or more Illinois licensed child welfare agencies may advertise under this Section, provided that (i) the out-of-state agency must be officially recognized by the United States Internal Revenue Service as a tax-exempt organization under 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law), (ii) the out-of-state agency provides only international adoption services and is covered by the Intercountry Adoption Act of 2000, (iii) the out-of-state agency displays, in the advertisement, the license number of at least one of the Illinois licensed child welfare agencies with which it has a written agreement, and (iv) the advertisements pertain only to international adoption services. Subsection (d) of this Section shall apply to any out-of-state agencies described in this subsection (e).

(f) An advertiser, publisher, or broadcaster, including, but not limited to, newspapers, periodicals, telephone book publishers, outdoor advertising signs, radio stations, or television stations, who knowingly or recklessly advertises or publishes any advertisement offering, soliciting, or promising to perform adoption services, as defined in Section 2.24 of this Act, on behalf of a person, group of persons, agency, association, organization, corporation, institution, center, or group, not authorized to advertise under subsection (b) or subsection (e) of this Section, is guilty of a Class A misdemeanor and is subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement.

(g) The Department shall maintain a website listing child welfare agencies licensed by the Department that provide adoption services and other general information for biological parents and adoptive parents. The website shall include, but not be limited to, agency addresses, phone numbers, e-mail addresses, website addresses, annual reports as referenced in

Section 7.6 of this Act, agency license numbers, the Birth Parent Bill of Rights, the Adoptive Parents Bill of Rights, and the Department's complaint registry established under Section 9.1a of this Act. The Department shall adopt any rules necessary to implement this Section. A child care facility licensed or operating under a permit issued by the Department may publish advertisements of the services for which it is specifically licensed or issued a permit under this Act. No person, unless licensed or holding a permit as a child care facility, may cause to be published any advertisement soliciting a child or children for care or placement or offering a child or children for care or placement.

(Source: P.A. 76-63.)

(225 ILCS 10/14.6 new)

Sec. 14.6. Agency payment of salaries or other compensation.

(a) A licensed child welfare agency may pay salaries or other compensation to its officers, employees, agents, contractors, or any other persons acting on its behalf for providing adoption services, provided that all of the following limitations apply:

(1) The fees, wages, salaries, or other compensation of any description paid to the officers, employees, contractors, or any other person acting on behalf of a child welfare agency providing adoption services shall not be unreasonably high in relation to the services actually rendered. Every form of compensation shall be taken into account in determining whether fees, wages, salaries, or compensation are unreasonably high, including, but not limited to, salary, bonuses, deferred and non-cash compensation, retirement funds, medical and liability insurance, loans, and other benefits such as the use, purchase, or lease of vehicles, expense accounts, and food, housing, and clothing allowances.

(2) Any earnings, if applicable, or compensation paid

to the child welfare agency's directors, stockholders, or members of its governing body shall not be unreasonably high in relation to the services rendered.

(3) Persons providing adoption services for a child welfare agency may be compensated only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis.

(b) The Department may adopt rules setting forth the criteria to determine what constitutes unreasonably high fees and compensation as those terms are used in this Section. In determining the reasonableness of fees, wages, salaries, and compensation under paragraphs (1) and (2) of subsection (a) of this Section, the Department shall take into account the location, number, and qualifications of staff, workload requirements, budget, and size of the agency or person and available norms for compensation within the adoption community. Every licensed child welfare agency providing adoption services shall provide the Department and the Attorney General with a report, on an annual basis, providing a description of the fees, wages, salaries and other compensation described in paragraphs (1), (2), and (3) of this Section. Nothing in the Adoption Compensation Prohibition Act shall be construed to prevent a child welfare agency from charging fees or the payment of salaries and compensation as limited in this Section and any applicable Section of this Act or the Adoption Act.

(c) This Section does not apply to international adoption services performed by those child welfare agencies governed by the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the Intercountry Adoption Act of 2000.

(d) Eligible agencies may be deemed compliant with this Section.

(225 ILCS 10/14.7 new)

Sec. 14.7. Payments to biological parents.

(a) Payment of reasonable living expenses by a child welfare agency shall not obligate the biological parents to place the child for adoption. In the event that the biological parents choose not to place the child for adoption, the child welfare agency shall have no right to seek reimbursement from the biological parents, or from any relative of the biological parents, of moneys paid to, or on behalf of, the biological parents, except as provided in subsection (b) of this Section.

(b) Notwithstanding subsection (a) of this Section, a child welfare agency may seek reimbursement of reasonable living expenses from a person who receives such payments only if the person who accepts payment of reasonable living expenses before the child's birth, as described in subsection (a) of this Section, knows that the person on whose behalf they are accepting payment is not pregnant at the time of the receipt of such payments or the person receives reimbursement for reasonable living expenses simultaneously from more than one child welfare agency without the agencies' knowledge.

Section 10. The Adoption Compensation Prohibition Act is amended by changing Sections 1, 2, 3, 4, and 4.1 and by adding Section 4.9 as follows:

(720 ILCS 525/1) (from Ch. 40, par. 1701)

Sec. 1. No person and no agency, association, corporation, institution, society, or other organization, except a child welfare agency as defined by the Child Care Act of 1969, as now or hereafter amended, shall request, receive or accept any compensation or thing of value, directly or indirectly, for providing adoption services, as defined in Section 2.24 of the Child Care Act of 1969 ~~placing out of a child.~~

(Source: P.A. 86-820.)

(720 ILCS 525/2) (from Ch. 40, par. 1702)

Sec. 2. No person shall pay or give any compensation or thing of value, directly or indirectly, for providing adoption

services, as defined in Section 2.24 of the Child Care Act of 1969, including placing out of a child to any person or to any agency, association, corporation, institution, society, or other organization except a child welfare agency as defined by the Child Care Act of 1969, as now or hereafter amended.

(Source: P.A. 86-820.)

(720 ILCS 525/3) (from Ch. 40, par. 1703)

Sec. 3. Definitions. As used in this Act: ~~the term~~

"Placing ~~placing~~ out" means to arrange for the free care or placement of a child in a family other than that of the child's parent, stepparent, grandparent, brother, sister, uncle or aunt or legal guardian, for the purpose of adoption or for the purpose of providing care.

"Adoption services" has the meaning given that term in the Child Care Act of 1969.

(Source: Laws 1955, p. 1881.)

(720 ILCS 525/4) (from Ch. 40, par. 1704)

Sec. 4. The provisions of this Act shall not be construed to prevent the payment of salaries or other compensation by a licensed child welfare agency providing adoption services, as that term is defined by the Child Care Act of 1969, as now or hereafter amended, to the officers, ~~or~~ employees, agents, contractors, or any other persons acting on behalf of the child welfare agency, provided that such salaries and compensation are consistent with subsection (a) of Section 14.5 of the Child Care Act of 1969.

The provisions of this Act shall not ~~thereof, nor shall it~~ be construed to prevent the payment by a person with whom a child has been placed for adoption ~~out~~ of reasonable and actual medical fees or hospital charges for services rendered in connection with the birth of such child, if such payment is made to the physician or hospital who or which rendered the services or to the biological ~~natural~~ mother of the child or to prevent the receipt of such payment by such physician,

hospital, or mother.

(Source: P.A. 86-820.)

(720 ILCS 525/4.1) (from Ch. 40, par. 1704.1)

(Text of Section after amendment by P.A. 93-1063)

Sec. 4.1. Payment of certain expenses.

(a) A person or persons who have filed or intend to file a petition to adopt a child under the Adoption Act shall be permitted to pay the reasonable living expenses of the biological parents of the child sought to be adopted, in addition to those expenses set forth in Section 4, only in accordance with the provisions of this Section.

"Reasonable living expenses" means those expenses related to activities of daily living and meeting basic needs, including, but not limited to, the reasonable costs of lodging, food, and clothing for the biological parents during the period of the biological mother's pregnancy and for no more than 120 days prior to the biological mother's expected date of delivery and for no more than 60 30 days after the birth of the child. The term does not include expenses for lost wages, gifts, educational expenses, or other similar expenses of the biological parents.

(b) The petitioners may seek leave of the court to pay the reasonable living expenses of the biological parents. They shall be permitted to pay the reasonable living expenses of the biological parents only upon prior order of the circuit court where the petition for adoption will be filed, or if the petition for adoption has been filed in the circuit court where the petition is pending.

(c) Payments under this Section shall be permitted only in those circumstances where there is a demonstrated need for the payment of such expenses to protect the health of the biological parents or the health of the child sought to be adopted.

(d) Payment of their reasonable living expenses, as provided in this Section, shall not obligate the biological

parents to place the child for adoption. In the event the biological parents choose not to place the child for adoption, the petitioners shall have no right to seek reimbursement from the biological parents, or from any relative or associate of the biological parents, of moneys paid to, or on behalf of, the biological parents pursuant to a court order under this Section.

(d-5) No person or entity shall offer, provide, or co-sign a loan or any other credit accommodation, directly or indirectly, with a biological parent or a relative or associate of a biological parent based on the contingency of a surrender or placement of a child for adoption.

(e) Within 14 days after the completion of all payments for reasonable living expenses of the biological parents under this Section, the petitioners shall present a final accounting of all those expenses to the court. The accounting shall include vouchers for all moneys expended, copies of all checks written, and receipts for all cash payments. The accounting shall also include the verified statements of the petitioners, each attorney of record, and the biological parents or parents to whom or on whose behalf the payments were made attesting to the accuracy of the accounting.

(f) If the placement of a child for adoption is made in accordance with the Interstate Compact on the Placement of Children, and if the sending state permits the payment of any expenses of biological parents that are not permitted under this Act, then the payment of those expenses shall not be a violation of this Act. In that event, the petitioners shall file an accounting of all payments of the expenses of the biological parent or parents with the court in which the petition for adoption is filed or is to be filed. The accounting shall include a copy of the statutory provisions of the sending state that permit payments in addition to those permitted by this Act and a copy of all orders entered in the sending state that relate to expenses of the biological parents paid by the petitioners in the sending state.

(g) The petitioners shall be permitted to pay the reasonable attorney's fees of the biological parents' attorney in connection with proceedings under this Act or in connection with proceedings for the adoption of the child. The attorney's fees shall be paid only after a petition seeking leave to pay those fees is filed with the court in which the adoption proceeding is filed or to be filed. The court shall review the petition for leave to pay attorney's fees, and if the court determines that the fees requested are reasonable, the court shall permit the petitioners to pay them. If the court determines that the fees requested are not reasonable, the court shall determine and set the reasonable attorney's fees of the biological parents' attorney which may be paid by the petitioners.

(h) The court may appoint a guardian ad litem for an unborn child to represent the interests of the child in proceedings under this Section.

(i) The provisions of this Section apply to a person who has filed or intends to file a petition to adopt a child under the Adoption Act. This Section does not apply to a licensed child welfare agency, as that term is defined in the Child Care Act of 1969, whose payments are governed by the Child Care Act of 1969 and the Department rules adopted thereunder.

(Source: P.A. 93-1063, eff. 6-1-05.)

(720 ILCS 525/4.9 new)

Sec. 4.9. Injunctive relief.

(a) Whenever it appears that any person, agency, association, corporation, institution, society, or other organization is engaged or about to engage in any acts or practices that constitute or will constitute a violation of this Act, the Department shall inform the Attorney General and the State's Attorney of the appropriate county. Under such circumstances, the Attorney General or the State's Attorney may initiate injunction proceedings. Upon a proper showing, any circuit court may enter a permanent or preliminary injunction

or temporary restraining order without bond to enforce this Act or any rule adopted under this Act in addition to any other penalties and other remedies provided in this Act.

(b) Whenever it appears that any person, agency, association, corporation, institution, society, or other organization is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any rule adopted under the authority of this Act, the Department may inform the Attorney General and the State's Attorney of the appropriate county. Under such circumstances, the Attorney General or the State's Attorney may initiate injunction proceedings. Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or a temporary restraining order without bond to enforce this Act or any rule adopted under this Act, in addition to any other penalties and remedies provided in this Act.

Section 15. The Adoption Act is amended by changing Sections 4.1 and 21 as follows:

(750 ILCS 50/4.1) (from Ch. 40, par. 1506)

Sec. 4.1. Except for children placed with relatives by the Department of Children and Family Services pursuant to subsection (b) of Section 7 of the Children and Family Services Act, placements under this Act shall comply with the Child Care Act of 1969 and the Interstate Compact on the Placement of Children. Placements of children born outside the United States or a territory thereof shall comply with rules promulgated by the United States Department of Immigration and Naturalization.

Rules promulgated by the Department of Children and Family Services shall include but not be limited to the following:

(a) Any agency providing adoption services as defined in Section 2.24 of the Child Care Act of 1969 ~~which places such children for adoption~~ in this State:

(i) Shall be licensed in this State as a child welfare

agency as defined in Section 2.08 of the Child Care Act of 1969; or

(ii) Shall be licensed as a child placement agency in a state which is a party to the Interstate Compact on the Placement of Children and shall be approved by the Department to place children into Illinois in accordance with subsection (a-5) of this Section; or

(iii) Shall be licensed as a child placement agency in a country other than the United States or, if located in such a country but not so licensed, shall provide information such as a license or court document which authorizes that agency to place children for adoption and to establish that such agency has legal authority to place children for adoption; or

(iv) Shall be a child placement agency which is so licensed in a non-compact state and shall be approved by the Department to place children into Illinois in accordance with subsection (a-5) of this Section, if such agency first files with the Department of Children and Family Services a bond with surety in the amount of \$5,000 for each such child to ensure that such child shall not become a public charge upon this State. Such bond shall remain in effect until a judgment for adoption is entered with respect to such child pursuant to this Act. The Department of Children and Family Services may accept, in lieu of such bond, a written agreement with such agency which provides that such agency shall be liable for all costs associated with the placement of such child in the event a judgment ~~judgement~~ of adoption is not entered, upon such terms and conditions as the Department deems appropriate.

The rules shall also provide that any agency that places children for adoption in this State may not, in any policy or practice relating to the placement of children for adoption, discriminate against any child or prospective adoptive parent on the basis of race.

(a-5) Out-of-state private placing agencies that seek to place children into Illinois for the purpose of foster care or adoption shall provide all of the following to the Department:

(i) A copy of the agency's current license or other form of authorization from the approving authority in the agency's state. If no such license or authorization is issued, the agency must provide a reference statement from the approving authority stating the agency is authorized to place children in foster care or adoption or both in its jurisdiction.

(ii) A description of the program, including home studies, placements, and supervisions that the child placing agency conducts within its geographical area, and, if applicable, adoptive placements and the finalization of adoptions. The child placing agency must accept continued responsibility for placement planning and replacement if the placement fails.

(iii) Notification to the Department of any significant child placing agency changes after approval.

(iv) Any other information the Department may require.

If the adoption is finalized prior to bringing or sending the child to Illinois, Department approval of the out-of-state child placing agency involved is not required under this Section, nor is compliance with the Interstate Compact on the Placement of Children.

(b) As an alternative to requiring the bond provided for in paragraph (a)(iv) of this Section, the Department of Children and Family Services may require the filing of such a bond by the individual or individuals seeking to adopt such a child through placement of such child by a child placement agency located in a state which is not a party to the Interstate Compact on the Placement of Children.

(c) In the case of any foreign-born child brought to the United States for adoption in this State, the following preadoption requirements shall be met:

(1) Documentation that the child is legally free for

adoption prior to entry into the United States shall be submitted.

(2) A medical report on the child, by authorized medical personnel in the country of the child's origin, shall be provided when such personnel are available.

(3) Verification that the adoptive family has been licensed as a foster family home pursuant to the Child Care Act of 1969, as now or hereafter amended, shall be provided.

(4) A valid home study conducted by a licensed child welfare agency that complies with guidelines established by the United States Immigration and Naturalization Service at 8 CFR 204.4(d)(2)(i), as now or hereafter amended, shall be submitted. A home study is considered valid if it contains:

(i) A factual evaluation of the financial, physical, mental and moral capabilities of the prospective parent or parents to rear and educate the child properly.

(ii) A detailed description of the living accommodations where the prospective parent or parents currently reside.

(iii) A detailed description of the living accommodations in the United States where the child will reside, if known.

(iv) A statement or attachment recommending the proposed adoption signed by an official of the child welfare agency which has conducted the home study.

(5) The placing agency located in a non-compact state or a family desiring to adopt through an authorized placement party in a non-compact state or a foreign country shall file with the Department of Children and Family Services a bond with surety in the amount of \$5,000 as protection that a foreign-born child accepted for care or supervision not become a public charge upon the State of Illinois.

(6) In lieu of the \$5,000 bond, the placement agency may sign a binding agreement with the Department of Children and Family Services to assume full liability for all placements should, for any reason, the adoption be disrupted or not be completed, including financial and planning responsibility until the child is either returned to the country of its origin or placed with a new adoptive family in the United States and that adoption is finalized.

(7) Compliance with the requirements of the Interstate Compact on the Placement of Children, when applicable, shall be demonstrated.

(8) When a child is adopted in a foreign country and a final, complete and valid Order of Adoption is issued in that country, as determined by both the United States Department of State and the United States Department of Justice, this State shall not impose any additional preadoption requirements. The adoptive family, however, must comply with applicable requirements of the United States Department of Immigration and Naturalization as provided in 8 CFR 204.4 (d)(2)(ii), as now or hereafter amended.

(d) The Department of Children and Family Services shall maintain the office of Intercountry Adoption Coordinator, shall maintain and protect the rights of families and children participating in adoption of foreign born children, and shall develop ongoing programs of support and services to such families and children. The Intercountry Adoption Coordinator shall determine that all preadoption requirements have been met and report such information to the Department of Immigration and Naturalization.

(Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-626, eff. 8-9-96.)

(750 ILCS 50/21) (from Ch. 40, par. 1526)

Sec. 21. Compensation for placing of children prohibited.

No person, agency, association, corporation, institution, society or other organization, except a child welfare agency as

defined by the "Child Care Act", approved July 10, 1957, as now or hereafter amended, shall receive or accept, or pay or give any compensation or thing of value, directly or indirectly, for providing adoption services, as that term is defined in the Child Care Act of 1969, including placing out of a child as is more specifically provided in "An Act to prevent the payment or receipt of compensation for placing out children for adoption or for the purpose of providing care", approved July 14, 1955, as now or hereafter amended.

(Source: Laws, 1959, p. 1269.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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