

ILLINOIS REGISTER

---

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER a: SERVICE DELIVERY

PART 304  
ACCESS TO AND ELIGIBILITY FOR CHILD WELFARE SERVICES

Section

- 304.1 Purpose
- 304.2 Definitions
- 304.3 Introduction to Child Welfare Services
- 304.4 Eligibility for Child Welfare Services
- 304.5 Access to Child Welfare Services
- 304.6 Decision Concerning Case Opening

**AUTHORITY:** Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; Sections 2 and 2.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/2 and 5/2.1]; Section 1-2 of the Juvenile Court Act of 1987 [705 ILCS 405/1-2 ]; the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980, which amends Section 471 of the Social Security Act (42 USCA 671 (a) (14)).

**SOURCE:** Adopted and codified at 5 Ill. Reg. 13117, effective November 30, 1981; amended at 8 Ill. Reg. 12118, effective July 9, 1984; amended at 17 Ill. Reg. 251, effective December 31, 1992; amended at 19 Ill. Reg. 9429, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10738, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1569, effective January 10, 1996; amended at 22 Ill. Reg. 18843, effective October 1, 1998; amended at 26 Ill. Reg. 11756, effective August 1, 2002; amended at 36 Ill. Reg. 4058, effective March 5, 2012; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 304.2 Definitions**

*"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:*

*inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;*

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

*creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;*

*commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of ~~2013+96+~~ [720 ILCS 5], as amended, or in the Wrongs to Children Act [720 ILCS 150], and extending those definitions of sex offenses to include children under 18 years of age;*

Formatted: Font: Not Italic

Formatted: Font: Not Italic

*commits or allows to be committed an act or acts of torture upon such child;*

*inflicts excessive corporal punishment;~~or~~*

*commits or allows to be committed the offense of female genital ~~mutilation~~ mutilation, as defined in Section 12-34 of the Criminal Code of ~~2012+96+~~ against the child~~;~~*

*causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act [720 ILCS 570] in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act [720 ILCS 646], except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription; or*

*commits or allows to be committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services as defined in Section 10-9 of the Criminal Code of 2012 against the child.*

*A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act. [325 ILCS 2]*

"Addicted minor" includes any minor who is an addict or an alcoholic as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10].

"Adjudicated" as used in ~~this Part these rules~~ means that the Juvenile Court has entered an order declaring that a child is abused, neglected, dependent, a minor requiring authoritative intervention, a delinquent minor or an addicted minor.

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Child welfare services" means ~~public~~~~publicly funded~~ social services ~~that~~~~which~~ are directed toward the accomplishment of the following purposes:

protecting and promoting the ~~health, safety and~~ welfare of ~~all~~~~all~~ children, including homeless, dependent, or neglected children;

preventing or remedying, or assisting in the solution of problems ~~that~~~~which~~ may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing the breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety-;

restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;

assuring ~~safe and~~ adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning, as described in Section 5(1-1) of the Act [20 ILCS 505/5(1-1)] so that permanency may occur at the earliest opportunity. Consideration should be given so that, if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance which contribute to the physical, emotional and social well-being of children who are pregnant and unmarried;

Formatted: Font: Not Italic

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

providing shelter and independent living services for homeless youth; and

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

*who are in a foster home;*

*who are persons with a developmental disability as defined in the Mental Health and Developmental Disabilities Code [\[405 ILCS 5\]](#);*

*who are female children who are pregnant, pregnant and parenting or parenting; or*

*who are siblings, in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5(a)(3)]*

[These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caretaker, family planning, adoption, visitation, placement, child protection and information and referral.](#)

"Delinquent minor" means a minor who before his or her ~~18th~~<sup>17<sup>th</sup></sup> birthday violated or attempted to violate a Federal or State law or municipal ordinance. Delinquent minor is further defined in the Juvenile Court Act of 1987 [\[705 ILCS 405\]](#).

"Department client" means a child or a family who is receiving child welfare services either directly from the Department or through the Department's purchase of service providers.

"Dependent minor" means any minor under 18 years of age:

*who is without a parent, guardian or legal custodian;*

*who is without proper care because of the physical or mental disability of his parent, guardian or custodian;*

*who is without proper medical or other remedial care recognized under State law or other care necessary for his or her well being through no fault, neglect or lack of concern by his parents, guardian or custodian, provided that no order may be made terminating*

Formatted: Font: Not Italic

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

*parental rights, nor may a minor be removed from the custody of his or her parents for longer than 6 months, pursuant to an adjudication as a dependent minor under Section 2-4(c) of the Juvenile Court Act of 1987, unless it is found to be in his or her best interest by the court or the case automatically closes as provided under Section 2-31 of the Act; or*

*who has a parent, guardian or legal custodian who with good cause wishes to be relieved of all residual parental rights and responsibilities, guardianship or custody, and who desires the appointment of a guardian of the person with power to consent to the adoption of the minor under Section 2-29 of the Act.*

*This ~~definition~~ does not apply to a minor who would be included herein solely for the purpose of qualifying for financial assistance for himself, his parent or parents, guardian or custodian or to a minor solely because his or her parent or parents or guardian has left the minor for any period of time in the care of an adult relative, who the parent or parents or guardian know is both a mentally capable adult relative and physically capable adult relative, as defined by the Act. [705 ILCS 405/2-4]*

Formatted: Indent: Left: 0"

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare sees that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law. ~~A parent who has abandoned a child, deserted a child for three months, or failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn child for 30 days after birth is deemed to have failed to have met the minimum parenting standards, unless the~~

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

~~parent has arranged for the child's care in the home of a relative who is willing and capable of assuming responsibility for the child. In addition, a parent who is addicted to alcohol or who is a drug addict, as defined in Section 1-103 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/1-10] and who has consistently failed to cooperate in a rehabilitation program for a period of at least six months is deemed to have failed to have met the minimum parenting standards unless the parent has arranged for the child's safety and well being despite the parent's addiction.~~

"Minor requiring authoritative intervention" or "MRAI" means *any minor under 18 years of age:*

*who is:*

*absent from home without consent of parent, guardian or custodian, or*

*beyond the control of his or her parent, guardian or custodian, ~~in~~ circumstances ~~that~~which constitute a substantial or immediate danger to the minor's physical safety; and*

*who, after being taken into limited custody for the period provided for in ~~Section 3.3-this Section~~ and offered interim crisis intervention services, where available, refuses to return home after the minor and his or her parent, guardian or custodian cannot agree to an arrangement for an alternative voluntary residential placement or to the continuation of such placement.*

*Any minor taken into limited custody for the reasons specified in ~~Section 3.3-this Section~~ may not be adjudicated ~~an MRAI~~an MRAI until the following number of days have elapsed from his or her having been taken into limited custody: 21 days for the first instance of being taken into limited custody and 5 days for the second, third, or fourth instances of being taken into limited custody. For the fifth or any subsequent instance of being taken into limited custody for the reasons specified in ~~Section 3.3-this Section~~, the minor may be adjudicated as requiring authoritative intervention without any specified period of time expiring after his or her being taken into limited custody, without the minor's being offered interim crisis intervention services, and without the minor's being afforded an opportunity to agree to an arrangement for an alternative voluntary residential placement. Notwithstanding any other provision of ~~Section 3.3-this Section~~, for the first instance in which a minor is taken into limited custody where one year has elapsed from the last instance of his having been taken into limited custody, the minor may not be adjudicated ~~an MRAI~~an MRAI until 21 days have passed since being taken into limited custody. [705 ILCS 405/3-3]*

Formatted: Indent: Left: 0.5"

Formatted: Font: Not Italic

ILLINOIS REGISTER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

*"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who has been provided with interim crisis intervention services under Section 3-5 of the Juvenile Court Act of 1987 [705 ILCS 405/3-5] and whose parent, guardian, or custodian refuses to permit the child to return home and no other living arrangement agreeable to the parent, guardian, or custodian can be made, and the parent, guardian, or custodian has not made any other appropriate living arrangement for the child; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in Section 102(f) of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act [325 ILCS 5]. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. When the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because the parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, the child is subject to the requirements of the Abused and Neglected Child Reporting Act for the reporting of, investigation of, and provision of protective services with respect to the child and his or her health needs, and, in such cases, spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code [105 ILCS 5/Art. 26].*

[325 ILCS 5/3]

"Purchase of services provider" means an agency or individual offering services to a Department client through a signed contract with the Department.

Formatted: Font: Not Italic

ILLINOIS REGISTER

---

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

*is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or*

*is the spouse, or party to a civil union, of such a relative, or*

*is the child's step-father, step-mother, or adult step-brother or step-sister, or*

*is the partner, or adult child of a partner, in a civil union with the child's mother or father.*

*Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]*

"Services delivered by the Department" means those social services provided either directly by Department of Children and Family Services staff or by purchase of service providers.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)