

1 AN ACT in relation to criminal law.

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
5 amended 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 such child, as far as possible, in the care and
10 custody of some individual holding the same religious belief
11 as 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 (b) In placing a child under this Act, the Department
15 may place a child with a relative if the Department has
16 reason to believe that the relative will be able to
17 adequately provide for the child's safety and welfare. The
18 Department may not place a child with a relative, with the
19 exception of certain circumstances which may be waived as
20 defined by the Department in rules, if the results of a check
21 of the Law Enforcement Agency Data System (LEADS) identifies
22 a prior criminal conviction of the relative or any adult
23 member of the relative's household for any of the following
24 offenses under the Criminal Code of 1961:

- 25 (1) murder;
- 26 (1.1) solicitation of murder;
- 27 (1.2) solicitation of murder for hire;
- 28 (1.3) intentional homicide of an unborn child;
- 29 (1.4) voluntary manslaughter of an unborn child;
- 30 (1.5) involuntary manslaughter;
- 31 (1.6) reckless homicide;

- 1 (1.7) concealment of a homicidal death;
- 2 (1.8) involuntary manslaughter of an unborn child;
- 3 (1.9) reckless homicide of an unborn child;
- 4 (1.10) drug-induced homicide;
- 5 (2) a sex offense under Article 11, except offenses
- 6 described in Sections 11-7, 11-8, 11-12, and 11-13;
- 7 (3) kidnapping;
- 8 (3.1) aggravated unlawful restraint;
- 9 (3.2) forcible detention;
- 10 (3.3) aiding and abetting child abduction;
- 11 (4) aggravated kidnapping;
- 12 (5) child abduction;
- 13 (6) aggravated battery of a child;
- 14 (7) criminal sexual assault;
- 15 (8) aggravated criminal sexual assault;
- 16 (8.1) predatory criminal sexual assault of a child;
- 17 (9) criminal sexual abuse;
- 18 (10) aggravated sexual abuse;
- 19 (11) heinous battery;
- 20 (12) aggravated battery with a firearm;
- 21 (13) tampering with food, drugs, or cosmetics;
- 22 (14) drug-induced infliction of great bodily harm;
- 23 (15) aggravated stalking;
- 24 (16) home invasion;
- 25 (17) vehicular invasion;
- 26 (18) criminal transmission of HIV;
- 27 (19) criminal abuse or neglect of an elderly or
- 28 disabled person;
- 29 (20) child abandonment;
- 30 (21) endangering the life or health of a child;
- 31 (22) ritual mutilation;
- 32 (23) ritualized abuse of a child;
- 33 (24) an offense in any other state the elements of
- 34 which are similar and bear a substantial relationship to

1 any of the foregoing offenses.

2 For the purpose of this subsection, "relative" shall include
3 any person, 21 years of age or over, other than the parent,
4 who (i) is currently related to the child in any of the
5 following ways by blood or adoption: grandparent, sibling,
6 great-grandparent, uncle, aunt, nephew, niece, first cousin,
7 great-uncle, or great-aunt; or (ii) is the spouse of such a
8 relative; or (iii) is the child's step-father, step-mother,
9 or adult step-brother or step-sister; "relative" also
10 includes a person related in any of the foregoing ways to a
11 sibling of a child, even though the person is not related to
12 the child, when the child and its sibling are placed together
13 with that person. A relative with whom a child is placed
14 pursuant to this subsection may, but is not required to,
15 apply for licensure as a foster family home pursuant to the
16 Child Care Act of 1969; provided, however, that as of July 1,
17 1995, foster care payments shall be made only to licensed
18 foster family homes pursuant to the terms of Section 5 of
19 this Act.

20 (c) In placing a child under this Act, the Department
21 shall ensure that the child's health, safety, and best
22 interests are met in making a family foster care placement.
23 The Department shall consider the individual needs of the
24 child and the capacity of the prospective foster or adoptive
25 parents to meet the needs of the child. The Department shall
26 make special efforts for the diligent recruitment of
27 potential foster and adoptive families that reflect the
28 ethnic and racial diversity of the children for whom foster
29 and adoptive homes are needed. "Special efforts" shall
30 include contacting and working with community organizations
31 and religious organizations and may include contracting with
32 those organizations, utilizing local media and other local
33 resources, and conducting outreach activities.

34 (c-1) At the time of placement, the Department shall

1 consider concurrent planning, as described in subsection
 2 (1-1) of Section 5, so that permanency may occur at the
 3 earliest opportunity. Consideration should be given so that
 4 if reunification fails or is delayed, the placement made is
 5 the best available placement to provide permanency for the
 6 child.

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

10 (e) The Department in placing children in adoptive or
 11 foster care homes may not, in any policy or practice relating
 12 to the placement of children for adoption or foster care,
 13 discriminate against any child or prospective adoptive or
 14 foster parent on the basis of race.

15 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-428, eff.
 16 12-13-95; 89-462, eff. 5-29-96; 89-626, eff. 8-9-96; 90-27,
 17 eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98.)

18 Section 10. The Child Care Act of 1969 is amended by
 19 changing Section 4.2 as follows:

20 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

21 Sec. 4.2. (a) No applicant may receive a license from
 22 the Department and no person may be employed by a licensed
 23 child care facility who refuses to authorize an investigation
 24 as required by Section 4.1.

25 (b) No applicant may receive a license from the
 26 Department and no person may be employed by a child care
 27 facility licensed by the Department who has been declared a
 28 sexually dangerous person under "An Act in relation to
 29 sexually dangerous persons, and providing for their
 30 commitment, detention and supervision", approved July 6,
 31 1938, as amended, or convicted of committing or attempting to
 32 commit any of the following offenses stipulated under the

- 1 Criminal Code of 1961:
- 2 (1) murder;
- 3 (1.1) solicitation of murder;
- 4 (1.2) solicitation of murder for hire;
- 5 (1.3) intentional homicide of an unborn child;
- 6 (1.4) voluntary manslaughter of an unborn child;
- 7 (1.5) involuntary manslaughter;
- 8 (1.6) reckless homicide;
- 9 (1.7) concealment of a homicidal death;
- 10 (1.8) involuntary manslaughter of an unborn child;
- 11 (1.9) reckless homicide of an unborn child;
- 12 (1.10) drug-induced homicide;
- 13 (2) a sex offense under Article 11, except offenses
- 14 described in Sections 11-7, 11-8, 11-12, and 11-13;
- 15 (3) kidnapping;
- 16 (3.1) aggravated unlawful restraint;
- 17 (3.2) forcible detention;
- 18 (3.3) harboring a runaway;
- 19 (3.4) aiding and abetting child abduction;
- 20 (4) aggravated kidnapping;
- 21 (5) child abduction;
- 22 (6) aggravated battery of a child;
- 23 (7) criminal sexual assault;
- 24 (8) aggravated criminal sexual assault;
- 25 (8.1) predatory criminal sexual assault of a child;
- 26 (9) criminal sexual abuse;
- 27 (10) aggravated sexual abuse;
- 28 (11) heinous battery;
- 29 (12) aggravated battery with a firearm;
- 30 (13) tampering with food, drugs, or cosmetics;
- 31 (14) drug induced infliction of great bodily harm;
- 32 (15) hate crime;
- 33 (16) stalking;
- 34 (17) aggravated stalking;

- 1 (18) threatening public officials;
- 2 (19) home invasion;
- 3 (20) vehicular invasion;
- 4 (21) criminal transmission of HIV;
- 5 (22) criminal abuse or neglect of an elderly or
- 6 disabled person;
- 7 (23) child abandonment;
- 8 (24) endangering the life or health of a child;
- 9 (25) ritual mutilation;
- 10 (26) ritualized abuse of a child;
- 11 (27) an offense in any other state the elements of
- 12 which are similar and bear a substantial relationship to
- 13 any of the foregoing offenses.

14 (c) In addition to the provisions set forth in
 15 subsection (b), no applicant may receive a license from the
 16 Department to operate a foster family home, and no adult
 17 person may reside in a foster family home licensed by the
 18 Department, who has been convicted of committing or
 19 attempting to commit any of the following offenses stipulated
 20 under the Criminal Code of 1961, the Cannabis Control Act,
 21 and the Illinois Controlled Substances Act:

22 (I) OFFENSES DIRECTED AGAINST THE PERSON

23 (A) KIDNAPPING AND RELATED OFFENSES

- 24 (1) Unlawful restraint.

25 (B) BODILY HARM

- 26 (2) Felony aggravated assault.
- 27 (3) Vehicular endangerment.
- 28 (4) Felony domestic battery.
- 29 (5) Aggravated battery.
- 30 (6) Heinous battery.
- 31 (7) Aggravated battery with a firearm.
- 32 (8) Aggravated battery of an unborn child.
- 33 (9) Aggravated battery of a senior citizen.

- 1 (10) Intimidation.
- 2 (11) Compelling organization membership of persons.
- 3 (12) Abuse and gross neglect of a long term care
- 4 facility resident.
- 5 (13) Felony violation of an order of protection.
- 6 (II) OFFENSES DIRECTED AGAINST PROPERTY
- 7 (14) Felony theft.
- 8 (15) Robbery.
- 9 (16) Armed robbery.
- 10 (17) Aggravated robbery.
- 11 (18) Vehicular hijacking.
- 12 (19) Aggravated vehicular hijacking.
- 13 (20) Burglary.
- 14 (21) Possession of burglary tools.
- 15 (22) Residential burglary.
- 16 (23) Criminal fortification of a residence or
- 17 building.
- 18 (24) Arson.
- 19 (25) Aggravated arson.
- 20 (26) Possession of explosive or explosive
- 21 incendiary devices.
- 22 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY
- 23 (27) Felony unlawful use of weapons.
- 24 (28) Aggravated discharge of a firearm.
- 25 (29) Reckless discharge of a firearm.
- 26 (30) Unlawful use of metal piercing bullets.
- 27 (31) Unlawful sale or delivery of firearms on the
- 28 premises of any school.
- 29 (32) Disarming a police officer.
- 30 (33) Obstructing justice.
- 31 (34) Concealing or aiding a fugitive.
- 32 (35) Armed violence.

1 (36) Felony contributing to the criminal
2 delinquency of a juvenile.

3 (IV) DRUG OFFENSES

4 (37) Possession of more than 30 grams of cannabis.

5 (38) Manufacture of more than 10 grams of cannabis.

6 (39) Cannabis trafficking.

7 (40) Delivery of cannabis on school grounds.

8 (41) Unauthorized production of more than 5
9 cannabis sativa plants.

10 (42) Calculated criminal cannabis conspiracy.

11 (43) Unauthorized manufacture or delivery of
12 controlled substances.

13 (44) Controlled substance trafficking.

14 (45) Manufacture, distribution, or advertisement of
15 look-alike substances.

16 (46) Calculated criminal drug conspiracy.

17 (46.5) Streetgang criminal drug conspiracy.

18 (47) Permitting unlawful use of a building.

19 (48) Delivery of controlled, counterfeit, or
20 look-alike substances to persons under age 18, or at
21 truck stops, rest stops, or safety rest areas, or on
22 school property.

23 (49) Using, engaging, or employing persons under 18
24 to deliver controlled, counterfeit, or look-alike
25 substances.

26 (50) Delivery of controlled substances.

27 (51) Sale or delivery of drug paraphernalia.

28 (52) Felony possession, sale, or exchange of
29 instruments adapted for use of a controlled substance or
30 cannabis by subcutaneous injection.

31 (d) Notwithstanding subsection (c), the Department may
32 issue a new foster family home license or may renew an
33 existing foster family home license of an applicant who was

1 convicted of an offense described in subsection (c), provided
2 all of the following requirements are met:

3 (1) The relevant criminal offense or offenses
4 occurred more than 10 years prior to the date of
5 application or renewal.

6 (2) The applicant had previously disclosed the
7 conviction or convictions to the Department for purposes
8 of a background check.

9 (3) After the disclosure, the Department either
10 placed a child in the home or the foster family home
11 license was issued.

12 (4) During the background check, the Department had
13 assessed and waived the conviction in compliance with the
14 existing statutes and rules in effect at the time of the
15 waiver.

16 (5) The applicant meets all other requirements and
17 qualifications to be licensed as a foster family home
18 under this Act and the Department's administrative rules.

19 (6) The applicant has a history of providing a
20 safe, stable home environment and appears able to
21 continue to provide a safe, stable home environment.

22 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 91-357,
23 eff. 7-29-99.)

24 Section 15. The Criminal Code of 1961 is amended by
25 changing Section 12-21 as follows:

26 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

27 Sec. 12-21. Criminal abuse or neglect of an elderly or
28 disabled person.

29 (a) A person commits the offense of criminal abuse or
30 neglect of an elderly or disabled person when he or she is a
31 caregiver and he or she knowingly:

32 (1) performs acts that which cause the elderly or

1 disabled person's life to be endangered, health to be
2 injured, or pre-existing physical or mental condition to
3 deteriorate; or

4 (2) fails to perform acts that which he or she
5 knows or reasonably should know are necessary to maintain
6 or preserve the life or health of the elderly or disabled
7 person and such failure causes the elderly or disabled
8 person's life to be endangered, health to be injured or
9 pre-existing physical or mental condition to deteriorate;
10 or

11 (3) abandons the elderly or disabled person; or-

12 (4) physically abuses, harasses, intimidates, or
13 interferes with the personal liberty of the elderly or
14 disabled person or exposes the elderly or disabled person
15 to willful deprivation.

16 Criminal abuse or neglect of an elderly or disabled
17 person is a Class 3 felony.

18 (b) For purposes of this Section:

19 (1) "Elderly person" means a person 60 years of age
20 or older who is suffering from a disease or infirmity
21 associated with advanced age and manifested by physical,
22 mental or emotional dysfunctioning to the extent that
23 such person is incapable of adequately providing for his
24 own health and personal care.

25 (2) "Disabled person" means a person who suffers
26 from a permanent physical or mental impairment, resulting
27 from disease, injury, functional disorder or congenital
28 condition which renders such person incapable of
29 adequately providing for his own health and personal
30 care.

31 (3) "Caregiver" means a person who has a duty to
32 provide for an elderly or disabled person's health and
33 personal care, at such person's place of residence,
34 including but not limited to, food and nutrition,

1 shelter, hygiene, prescribed medication and medical care
2 and treatment.

3 "Caregiver" shall include:

4 (A) a parent, spouse, adult child or other
5 relative by blood or marriage who resides with or
6 resides in the same building with and regularly
7 visits the elderly or disabled person, knows or
8 reasonably should know of such person's physical or
9 mental impairment and knows or reasonably should
10 know that such person is unable to adequately
11 provide for his own health and personal care;

12 (B) a person who is employed by the elderly or
13 disabled person or by another to reside with or
14 regularly visit the elderly or disabled person and
15 provide for such person's health and personal care;

16 (C) a person who has agreed for consideration
17 to reside with or regularly visit the elderly or
18 disabled person and provide for such person's health
19 and personal care; and

20 (D) a person who has been appointed by a
21 private or public agency or by a court of competent
22 jurisdiction to provide for the elderly or disabled
23 person's health and personal care.

24 "Caregiver" shall not include a long-term care
25 facility licensed or certified under the Nursing Home
26 Care Act or any administrative, medical or other
27 personnel of such a facility, or a health care provider
28 who is licensed under the Medical Practice Act of 1987
29 and renders care in the ordinary course of his
30 profession.

31 (4) "Abandon" means to desert or knowingly forsake
32 an elderly or disabled person under circumstances in
33 which a reasonable person would continue to provide care
34 and custody.

1 (5) "Willful deprivation" has the meaning ascribed
2 to it in paragraph (15) of Section 103 of the Illinois
3 Domestic Violence Act of 1986.

4 (c) Nothing in this Section shall be construed to limit
5 the remedies available to the victim under the Illinois
6 Domestic Violence Act.

7 (d) Nothing in this Section shall be construed to impose
8 criminal liability on a person who has made a good faith
9 effort to provide for the health and personal care of an
10 elderly or disabled person, but through no fault of his own
11 has been unable to provide such care.

12 (e) Nothing in this Section shall be construed as
13 prohibiting a person from providing treatment by spiritual
14 means through prayer alone and care consistent therewith in
15 lieu of medical care and treatment in accordance with the
16 tenets and practices of any church or religious denomination
17 of which the elderly or disabled person is a member.

18 (f) It ~~is~~ shall not be a defense to criminal abuse or
19 neglect of an elderly or disabled person that the accused
20 reasonably believed that the victim was not an elderly or
21 disabled person.

22 (Source: P.A. 90-14, eff. 7-1-97.)