

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017
www.cyberdriveillinois.com

 Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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May 27, 2011 Volume 35, Issue 22

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
8	February 7, 2011	February 18, 2011
9	February 15, 2011	February 25, 2011
10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011
22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011

24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
33	August 1, 2011	August 12, 2011
34	August 8, 2011	August 19, 2011
35	August 15, 2011	August 26, 2011
36	August 22, 2011	September 2, 2011
37	August 29, 2011	September 9, 2011
38	September 6, 2011	September 16, 2011
39	September 12, 2011	September 23, 2011
40	September 19, 2011	September 30, 2011
41	September 26, 2011	October 7, 2011
42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 2, to July 1, 2011.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 Ill. Adm. Code 300
- 3) Section Number: 300.20 Proposed Action:
Amend
- 4) Statutory Authority: Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2], Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definition of "relative".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking rules replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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 DELIVERYPART 300
REPORTS OF CHILD ABUSE AND NEGLECT

Section	
300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.45	Five Year Demonstration of the Differential Response Program
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
300.180	Abandoned Newborn Infants
300.APPENDIX A	Acknowledgement of Mandated Reporter Status
300.APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5], the Abandoned Newborn Infants Protection Act [325 ILCS 2] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. 1114, effective January 15, 2003; amended at 27 Ill. Reg. 9431, effective June 9, 2003; peremptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005; amended at 33 Ill. Reg. 7862, effective June 15, 2009; amended at 34 Ill. Reg. 6373, effective May 1, 2010; amended at 35 Ill. Reg. 1599, effective January 15, 2011; amended at 35 Ill. Reg. 2861, effective February 8, 2011; amended at 35 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abandonment" means parental conduct that demonstrates the purpose of relinquishing all parental rights and claims to the child. Abandonment is also defined as any parental conduct that evinces a settled purpose to forego all parental duties and relinquish all parental claims to the child.

"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

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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;

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 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

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, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Act" means the Abused and Neglected Child Reporting Act [325 ILCS 5].

"CANTS/SACWIS 8" or "C/S8" means the Department's document titled Notification of a Report of Suspected Child Abuse and/or Neglect. This document explains the Department's child abuse/neglect allegation investigation process.

"CANTS/SACWIS 9" or "C/S9" means the Department's document titled Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. This document is used to notify a person that the Department plans to indicate that person as a perpetrator of child abuse/neglect.

"CANTS/SACWIS 10" or "C/S10" means the Department's document titled Notice of Intent to Indicate a Child Care Worker for Report of Child Abuse and/or Neglect-Questions and Answers. This is an informational document explaining the impact of a determination of indicated child abuse/neglect and the appeal process.

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"CANTS/SACWIS 11" or "C/S11" means the Department's document titled Notification of Indicated Decision in an Employment Related Report of Suspected Child Abuse and/or Neglect. This is the document by which the Department notifies a person that the Department has determined that there is credible evidence that he or she is responsible for the child abuse or neglect described in that document.

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services. [325 ILCS 5/3]

"Child care facility" means any person, group of persons, agency, association or organization, 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 the Child Care Act of 1969, 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 the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. Child care facilities, for purposes of this definition, include child care institutions; child welfare agencies; day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; schools, including school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and before and after school programs, recreational programs and summer camps. "Child care worker" also means persons employed as full-time nannies. A child care worker may, at his or her discretion, be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment. "Child care worker" includes a person: currently employed as a child care worker; currently enrolled in an academic program that leads to a position as a child care

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worker; or who has applied for a license required for a child care worker position. A person will be considered to be "employed as a child care worker" under this Part if, at the time of the notice of the investigation, he or she: has applied for, or will apply within 180 days for, a position as a child care worker; is enrolled in, or will commence within 180 days, an academic program that leads to a position as a child care worker; or has applied for a license as a child care worker.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents. [325 ILCS 2/10]

"Child Protective Service Unit" or "CPS" means certain specialized State employees of the Department assigned by the Director or his or her designee to perform the duties and responsibilities described under this Part. CPS staff is also referred to as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"CPSW" means a Child Protective Service Worker.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

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"Department" or "DCFS" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded".

"DR Specialist" means a Differential Response Specialist as described in Section 300.45(e)(1).

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Ecomap" means a pictorial representation of family connections to different systems and community and other resources to identify significant people and/or systems around the family to illustrate the strengths, impact and quality of each connection. (Hartman, A., Diagrammatic Assessment of Family Relationships. Social Casework, 59, 465-476. (1978))

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Emergency medical professional" includes licensed physicians, and any emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, trauma nurse specialist, and pre-hospital RN, as defined in the Emergency Medical Services (EMS) Systems Act. [325 ILCS 2/10]

"Fire station" means a fire station within the State with at least one staff person. [325 ILCS 2/10]

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: *an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such*

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report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement. [325 ILCS 5/3]

"Genogram" means a pictorial representation of an individual's family relationships.

"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 a 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 must be met.

"Hospital" has the same meaning as in the Hospital Licensing Act [210 ILCS 85].

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial oral report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved subject" means a child who is the alleged victim of child abuse or

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neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities. [312 ILCS 2/10]

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"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 is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 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

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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. Where 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 this 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. [325 ILCS 5/3]

"Newborn infant" means a child who a licensed physician reasonably believes is 30 days old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child. [325 ILCS 2/10]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Police station" means a municipal police station or a county sheriff's office. [315 ILCS 2/10]

"Private guardianship" means an individual person appointed by the court to

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assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"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, marriage, or civil union: 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. [20 ILCS 505/7(b)]

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 30 days old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving the new born infant at the hospital without expressing an intent to return for the infant or stating that she will not return for the infant is not a "relinquishment" under the Act. [325 ILCS 2/10]

"Strengthening and Supporting Families service period" means a level of service intervention that will average 90 days, but no more than 120 days.

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"State Central Register" is the record of child abuse and/or neglect reports maintained by the Department pursuant to the Act.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"SSF worker" means a Strengthening and Supporting Families worker.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours, excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Placement And Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3) Section Number: 301.20 Proposed Action: Amend
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505]; the Adoption Act [750 ILCS 50]; The Child Care Act of 1969 [225 ILCS 10] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definitions of "family", "relative" and "siblings".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
301.20	Amendment	35 Ill. Reg. 7767, May, 20, 2011
301.80	Amendment	35 Ill. Reg. 7767, May, 20, 2011
301.APPENDIX A	Amendment	35 Ill. Reg. 7767, May, 20, 2011

- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

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Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

Telephone: 217524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities or not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 301

PLACEMENT AND VISITATION SERVICES

Section

- 301.1 Purpose (Renumbered)
- 301.2 Definition (Repealed)
- 301.3 Foster Care Placement Goal (Renumbered)
- 301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section

- 301.10 Purpose
- 301.20 Definitions
- 301.30 Introduction
- 301.40 Legal Authority to Place
- 301.50 Emergency Placement
- 301.60 Placement Selection Criteria
- 301.70 Sibling Placement
- 301.80 Relative Home Placement
- 301.90 Foster Family Home Care
- 301.100 Residential Care
- 301.110 Care in a Medical/Psychiatric Facility
- 301.120 Sharing Appropriate Information with the Caregiver
- 301.130 Medical Examinations for Children in Placement
- 301.140 Education of Children While in Placement

SUBPART B: VISITATION SERVICES

Section

- 301.200 Purpose
- 301.210 Family-Child Visitation
- 301.220 Sibling Visitation
- 301.230 Contact Among Siblings Placed Apart
- 301.240 Grandparents Visitation

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SUBPART C: FOSTER CARE PLACEMENT GOAL

Section	Purpose
301.310	Purpose
301.320	Foster Care Placement Goal
301.330	Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER
IDENTIFYING INFORMATION

Section	Purpose
301.410	Purpose
301.420	Confidentiality of Foster Parent/Relative Caregiver Identifying Information
301.430	Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.440	Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.450	Specific Notice of Disclosure
301.460	Disclosure Prohibited
301.470	Redislosure Prohibited

301.APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5, 2001; amended at 25 Ill. Reg. 11803, effective September 14, 2001; amended at 26 Ill. Reg.

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11739, effective August 1, 2002; amended at 34 Ill. Reg. 7898, effective May 31, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 [USCUSA](#) 675(1) and 20 ILCS 505/6a.

"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 only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings", as used in this Part, means telephone and written communication among siblings who are placed apart from one another.

"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(c) of this Part.

"Family" means one or more adults and children, related by blood, marriage, [civil](#)

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union, or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

- *he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;*
- *after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act [\[410 ILCS 535\]](#);*
- *he and the child's natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Healthcare and Family Services~~Public Aid~~ under Section 10-17.7 of the Illinois Public Aid Code [\[305 ILCS 5/10-17.7\]](#) [\[750 ILCS 45/5\]](#); or*
- *he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Act.*

A man can rebut a presumption of paternity before a court of jurisdiction ~~[\[750 ILCS 45/5\]](#)~~. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"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

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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 ~~301.60302.60~~ (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 must be met.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home that is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"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:*

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- *is currently related to the child in any of the following ways by blood, ~~or~~ adoption, marriage, or civil union: 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. [20 ILCS 505/7(b)]

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

"Short-term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.

"Siblings" ~~means~~ children in the custody or guardianship of the Department who have a shared biological or adoptive parent through birth, adoption, marriage, or civil union.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

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"Visitation", as used in this Subpart, means face-to-face contact between parents and their children who are in substitute care or among siblings who are placed apart from one another.

"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 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.20 Proposed Action:
Amend
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505], the Adoption Act [750 ILCS 50] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definitions of "family" and "relative".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemaking pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship Program (KinGap)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 28, 2011; amended at 35 Ill. Reg. 2899, effective February 8, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 302.20 Definitions

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"Adoption assistance" or "adoption subsidy" means financial assistance from the Department that is provided to the adoptive parents after the finalization of an adoption.

"Adoption placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement the child must be placed in a licensed foster family home or a license-exempt relative home and either:

be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or

be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

"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 the related children.

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

protecting and promoting the health, safety and welfare of 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 breakup of the family where the prevention of child

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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 safe, 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, 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 contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried; 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, or in a licensed shelter facility. The Department is not required to place or maintain children:

who are in a foster home; or

who are persons with a developmental disability~~developmentally disabled~~, as defined in the Mental Health and Developmental Disabilities Code; or

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

who are siblings₂ in facilities that provide separate living quarters

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for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5]

These services include but are not limited to: counseling, advocacy, protective and family maintenance day care, homemaker, emergency caretaker, family planning, adoption, placement, child protection, and information and referral.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents has signed an adoptive surrender or voluntary placement agreement with the Department.

"Custodial Caregiver" means an individual with whom a child resides who is directly responsible for the day-to-day care of the child ensuring the child's safety and well-being.

"Department" means the Department of Children and Family Services.

"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 must be met.

"Level of care" means one of the following types of substitute care that would be appropriate for the child, if placed in foster care: regular foster care, intensive foster care, or specialized foster care.

"Minimum parenting standards" means that a parent or other person responsible

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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 as required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Pre-existing condition" means, for purposes of adoption assistance and subsidized guardianship, a disabling physical, emotional or mental health condition that the child had prior to the finalization of the adoption or transfer of guardianship. Such condition must be documented by a duly licensed or credentialed professional.

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"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, marriage, or civil union: 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

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is the spouse, or party to a civil union, of such 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, where the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Service constellation" means a variety of services provided to a child and his/her family.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children.

"Siblings" means children in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Subsidized Guardianship Program" means a child welfare demonstration project that offers a financial subsidy to relative care or licensed foster home caregivers who are willing to assume private guardianship of children who are eligible for the program. The Subsidized Guardianship Program is further defined in Section 302.405 (Subsidized Guardianship).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Access to and Eligibility for Child Welfare Services
- 2) Code Citation: 89 Ill. Adm. Code 304
- 3) Section Number: 304.2 Proposed Action: Amend
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definitions of "family," "relative", and "siblings".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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 DELIVERYPART 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 35 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

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death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

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 1961 as amended, and extending those definitions of sex offenses to include children under 18 years of age;

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

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Addicted ~~minor~~Minor" includes any minor who is an addict or an alcoholic as defined in the ~~Illinois~~-Alcoholism and Other Drug Abuse and Dependency~~Dependence~~ Act [20 ILCS 301305/1-101-103].

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

"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.

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

protecting and promoting the welfare of 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 breakup of the family where the prevention of child removal is desirable and possible;

restoring to their families children who have been removed, by the provision of services to the child and the families;

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

assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption;

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

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, or in a licensed shelter facility. The Department is not required to place or maintain children:

who are in a foster home;

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who are ~~persons with a developmental disability~~ ~~developmentally disabled~~, as defined in the Mental Health and Developmental Disabilities Code;

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]

"Delinquent minor" means a minor who before his or her 17th 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.

"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 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

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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 parents, guardian or custodian or to a minor solely because his or her parent or guardian has left the minor for any period of time in the care of an adult relative. [705 ILCS 405/2-4]

"Family" means one or more adults and children, related by blood, marriage 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~~ 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 ~~301.60302-60~~ (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 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 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 ~~Illinois~~ Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS ~~301305/1-101-103~~] and who has consistently failed to cooperate in a rehabilitation program for a period of at least six months is deemed to have failed

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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 Requiring Authoritative Intervention (~~"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, or circumstances 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 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 this Section may not be adjudicated an MRAI ~~a minor requiring authoritative intervention~~ 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 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 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 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 ~~a minor requiring authoritative intervention~~ until 21 days have passed since being taken into limited custody. [705 ILCS 405/3-3]

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"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 is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in ~~subsection (f) of~~ Section 102(f) of the Illinois Controlled ~~Substances~~ ~~Substance~~ Act or a ~~metabolite~~ ~~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 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~~ ~~care~~ under Section 4 of the Abused and Neglected Child Reporting Act. ~~When~~ ~~Where~~ 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~~ ~~such~~ parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, ~~the~~ ~~such~~ 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~~ ~~such~~ 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 ~~such~~ 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. [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.

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"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, marriage, or civil union: 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. [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 35 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible
- 2) Code Citation: 89 Ill. Adm. Code 309
- 3) Section Number: 309.105 Proposed Action:
Amend
- 4) Statutory Authority: Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5], the Adoption Act [750 ILCS 50] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/2011, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by redefining who may adopt a child to include couples in a civil union.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace and emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station #65

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 309
ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF
CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	
309.10	Purpose
309.20	Definitions
309.30	Recruitment of Adoptive Families
309.40	Adoption Listing Services
309.50	Identification of Children for Potential Adoption Planning
309.60	Legal Risk Placements
309.70	Freeing Children for Adoption
309.80	Termination of Parental Rights
309.90	Putative Father Registry
309.100	Preparation of Children for Adoption
309.105	Who May Adopt a Child
309.110	Preparation and Training of Adoptive Families
309.120	Preparation of the Child's Biological Parents
309.130	Placement Considerations
309.140	Placement of Children with Adoptive Families
309.150	Providing Information to Adoptive Families
309.160	Post-Placement Services
309.170	Post-Adoption Services
309.180	Adoption Assistance
309.190	Adoption Registry

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USC 670 et seq; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USC 1305).

SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 23 Ill. Reg. 11098, effective September 16, 1999; amended at 25 Ill. Reg. 11778, effective September 14, 2001; amended at 26 Ill. Reg. 16449, effective October 23, 2002; emergency amendment at 30 Ill. Reg. 17123, effective October 13, 2006, for a maximum of 150 days; emergency expired March 11,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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2007; amended at 31 Ill. Reg. 8466, effective June 8, 2007; amended at 35 Ill. Reg. _____, effective _____.

Section 309.105 Who May Adopt a Child

- a) *Any of the following persons, who is under no legal disability (except the minority specified in subsection (a)(2)) and who has resided in the State of Illinois continuously for a period of at least 6 months immediately preceding the commencement of an adoption proceeding, or any member of the armed forces of the United States who has been domiciled in the State of Illinois for 90 days, may institute such proceedings:*
- 1) *A reputable person of legal age and of either sex, provided that if such person is married, or a party to a civil union, and has not been living separate and apart from his or her spouse, or civil union partner, for 12 months or longer, his or her spouse shall be a party to the adoption proceeding, including a husband or wife desiring to adopt a child of the other spouse or a civil union partner desiring to adopt a child of the other partner, in all of which cases the adoption shall be by both spouses or civil union partners jointly;*
 - 2) *A minor, by leave of court upon good cause shown.*
- b) *The residence requirement specified in subsection (a) of this Section shall not apply to an adoption of a related child or to an adoption of a child placed by an agency. [750 ILCS 50/2]*

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Permanency Planning
- 2) Code Citation: 89 Ill. Adm. Code 315
- 3) Section Number: 315.20 Proposed Action:
Amend
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Act [750 ILCS 50] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definitions of "family" and "relative".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
315.200	Amend	34 Ill. Reg. 19778; December 27, 2010
315.241	New	34 Ill. Reg. 19778; December 27, 2010
315.305	Amend	34 Ill. Reg. 19778; December 27, 2010
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station 65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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 315
PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section	
315.10	Purpose
315.20	Definitions
315.30	Best Interests Health and Safety of the Child
315.40	Accountability
315.45	The Need for a Permanent Home
315.50	Reasonable Efforts/Reasonable Progress
315.60	The Child's Sense of Time
315.70	The Critical Decisions
315.80	Components of the Permanency Planning Process

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section	
315.100	Assessment
315.110	Worker Interventions and Contacts
315.120	Family Meetings
315.130	Developing the Service Plan
315.140	Distributing the Service Plan
315.150	Revising the Service Plan
315.160	Case Reviews and Court Hearings

SUBPART C: SELECTING THE PERMANENCY GOAL

Section	
315.200	Selection of the Permanency Goal
315.205	Return Home Within Five Months
315.210	Return Home Within One Year
315.215	Return Home Pending Status Hearing
315.220	Substitute Care Pending Court Determination on Termination of Parental Rights
315.225	Adoption
315.230	Guardianship

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315.235	Independence
315.240	Cannot Be Provided for in a Home Environment
315.245	Concurrent Planning
315.250	Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section	
315.300	Evaluating Whether Children in Placement Should Be Returned Home
315.305	When Reunification Is Inappropriate
315.310	Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, section 475 of the Social Security Act (42 USC 675), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. 11785, effective September 14, 2001; amended at 26 Ill. Reg. 7720, effective May 24, 2002; amended at 26 Ill. Reg. 11765, effective August 1, 2002; amended at 28 Ill. Reg. 8465, effective June 4, 2004; amended at 32 Ill. Reg. 8103, effective May 30, 2008; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review pursuant to ~~section~~Section 475 of the Social Security Act (42 ~~USC~~USCA 675). The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in 89 Ill. Adm. Code Section 316.60 (Administrative Case Reviews) ~~of 89 Ill. Adm. Code 316 (Case Reviews, Court Hearings and Permanency Hearings)~~.

"Best interest of the child" has been defined by law to include the following factors:

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the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child. [705 ILCS 405/1-3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship

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via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Client service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan of intervention toward the permanency goals for the children.

"Concurrent planning" means a process whereby the Department or its service provider works toward family reunification with a family whose children has been removed from the home while, at the same time, developing an alternative plan, if reunification with the family cannot be attained.

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

"Father" means a *man presumed to be the natural father of a child if:*

he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;

he and the natural mother have signed an acknowledgment of paternity in accordance with 89 Ill. Adm. Code 160 (Child Support Enforcement);

he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Illinois Parentage Act of 1984.

A man can rebut a presumption of paternity before a court of jurisdiction.
[750 ILCS 45/5] Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting the child if the parent

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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 ~~301.60302.60~~ (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 must be met.

"Guardian" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/~~Art.~~Article XI].

"Individual Treatment Plan" ~~or ("ITP")~~ or "Treatment Plan" as defined in 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services) means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program" ~~or ("IEP")~~ means the document prepared by the local school district, as a result of a Multi-disciplinary Conference, that identifies the specific special education services that will be provided to the child. The IEP also includes education goals, services, frequency, quantity and duration. IEP is further defined in 23 Ill. Adm. Code 226 (Special Education).

"Individualized Family Service Plan" ~~or ("IFSP")~~ means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare is able and willing to ensure that a child is healthy and safe, which includes ensuring that the child is adequately fed, clothed appropriately for

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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.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

"Rehabilitative services plan" means a written plan developed in accordance with 59 Ill. Adm. Code 132.155 (Medicaid Community Mental Health Services), which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act, the Children and Family Services Act or the Juvenile Court Act of 1987.

"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, marriage, or civil union: 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~~above~~), 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 through a current marriage, or

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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. [20 ILCS 505/7(b)]

"Service termination planning" means service planning that starts with the first contact with the family and ~~that~~^{which} focuses on providing a smooth transition from Department guardianship or custody. It includes the receipt of child welfare services to discharge from guardianship or custody and the termination of Department funded services.

"Substitute care" means the care of children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Termination of parental rights" means a court order that relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Administrative Case Reviews and Court Hearings
- 2) Code Citation: 89 Ill. Adm. Code 316
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
316.20	Amend
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the federal Adoption Assistance and Child Welfare Act of 1980, Section 1 of the Adoption Act [750 ILCS 50/1] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives, persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definition of "family".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
316.120	Amend	34 Ill. Reg. 19796; December 27, 2010
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 316

ADMINISTRATIVE CASE REVIEWS AND COURT HEARINGS

Section

316.10	Purpose
316.20	Definitions
316.30	Administrative Case Review System
316.40	Frequency of Administrative Case Reviews
316.50	Conduct and Participation at Administrative Case Reviews
316.60	Notice of Administrative Case Reviews
316.70	Roles and Responsibilities of the Administrative Case Reviewer
316.80	Caseworker Responsibilities at the Administrative Case Review
316.90	Decision Review
316.100	Appealability of Decisions
316.110	The Department's Role in the Juvenile Court
316.120	Permanency Hearings
316.130	Caseworker Responsibilities at the Permanency Hearing
316.140	Compliance with the Client Service Planning Requirements

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5], Section 7.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.1], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USC 675), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and Section 1 of the Adoption Act [750 ILCS 50/1].

SOURCE: Adopted at 23 Ill. Reg. 2528, effective February 1, 1999; amended at 26 Ill. Reg. 16909, effective November 8, 2002; amended at 35 Ill. Reg. _____, effective _____.

Section 316.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a person who is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review. (42 USCUSA 675) The administrative case review is also open to the participation of other professionals

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involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in Section 316.50 (Conduct and Participation at Administrative Case Reviews).

"Administrative case reviewer" means a trained professional who is not responsible for the case management of, or delivery of services to, either the child or the parents who are the subjects of the review.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

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

"Parents" means the child's legal parents, including adoptive parents, whose rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition in Permanency Planning (89 Ill. Adm. Code 315.20).

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan toward the permanency goals for the children.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, and care provided in a child care or other institution.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Licensing Standards for Foster Family Homes
- 2) Code Citation: 89 Ill. Adm. Code 402
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
402.1	Amend
402.2	Amend
402.4	Amend
402.12	Amend
402.21	Amend
402.27	Amend
402.29	Amend
- 4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10/5.2] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definition of "relative"; clarifying that parties in a civil union may be jointly licensed; and requiring a new application if a licensee's civil union is dissolved. Public Law 110-351 encourages states to waive, on a case-by-case basis, licensing standards unrelated to safety for relative foster parents seeking licensure. This proposed rulemaking implements that Public Law by stipulating that the Director or designee may waive non-safety related licensing standards that may impede or prevent licensure for relatives.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-not-for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skill necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 402

LICENSING STANDARDS FOR FOSTER FAMILY HOMES

Section

402.1	Purpose
402.2	Definitions
402.3	Effective Date of Standards (Repealed)
402.4	Application for License
402.5	Application for Renewal of License
402.6	Provisions Pertaining to Permits
402.7	Provisions Pertaining to the License
402.8	General Requirements for the Foster Home
402.9	Requirements for Sleeping Arrangements
402.10	Nutrition and Meals
402.11	Business and Employment of Foster Family
402.12	Qualifications of Foster Parents
402.13	Background Inquiry
402.14	Health of Foster Family
402.15	Number and Ages of Children Served
402.16	Meeting Basic Needs of Children
402.17	Health Care of Children
402.18	Religion
402.19	Recreation and Leisure Time
402.20	Education
402.21	Discipline of Children
402.22	Emergency Care of Children
402.23	Release of Children
402.24	Confidentiality of Information
402.25	Required Written Consents
402.26	Records to be Maintained
402.27	Licensing Supervision
402.28	Adoptive Homes
402.29	Director's Waivers
402.30	Severability of This Part
402.APPENDIX A	Criminal Convictions That Prevent Licensure

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- c) The Central Office of Licensing shall ensure that these licensing standards are reviewed every 3 years to determine whether the licensing standards, as written, are appropriate.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.2 Definitions

"Adoptive placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement, the child must be placed in a licensed foster family home or license exempt relative home for purposes of adoption and:

- be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or
- be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type that complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Smoke Detector Act [425 ILCS 60/2])

"Approved in-service training" means:

- Foster PRIDE module or other Department approved training;
- foster parent conferences sponsored by the Department;
- other conferences approved by the Department;
- training provided under the auspices of a licensed child welfare agency when the agency's foster care program has been accredited by the Council on Accreditation of Services for Families and Children, Inc., 520 Eighth Avenue, Suite 2202B, New York NY 10018;

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- materials borrowed from the Department's Foster/Adoptive Parent Lending Libraries;
- training toward first-aid, Heimlich maneuver, and/or cardiopulmonary resuscitation (CPR) certification; or
- other training, substantially meeting the Department's Foster PRIDE/Adopt PRIDE training, approved in writing by the Department of Children and Family Services.

"Background check" means:

Individuals 17 years of age or older:

- a criminal history check via fingerprints that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and

Individuals 13 years of age or older:

- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"CANTS" means the Child Abuse and Neglect Tracking System, which has been replaced by SACWIS .

"Child" means any person under 18 years of age. [225 ILCS 10/2.01]

"Child care assistant" means an adult, 18 years of age or older, (whether a volunteer or an employee) who assists a licensed foster parent in the care of children within the foster home.

"Child care facility" means any person, group of persons, agency, association or

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organization, 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 the Child Care Act, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home pursuant to Section 4 of the Child Care Act. [225 ILCS 10/2.05]

"Classifiable fingerprints" means fingerprints obtained through an electronic or ink printing process that were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.

"Common parentage" means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother.

"Complete application for foster family home license" means *a completed written application form; written authorization by the applicant and all adult members of the 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. [225 ILCS 10/4]*

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways. Discipline does not include the use of corporal punishment as defined in this Part.

"Educational advocacy training" means the 6-hour training that prepares foster parents to effectively advocate for the special educational needs of the children in

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their care by providing information on children's educational rights and foster parents' responsibility to protect those rights.

"Expanded capacity license" means the foster family home has been issued a license from the Department authorizing the foster family to accept more than six children for care (including the family's own children under age 18 and all other children under age 18 receiving full-time care) as permitted in Section 402.15(c) (for foster care placements) or (e) (for adoptive placements).

"Foster family home" means a facility for child care in residences of families who receive no more than 8 children unrelated or related to them, unless all the children are of common parentage, or residences of relatives who receive no more than 8 related or unrelated children placed by the Department, unless the children are of common parentage, for the purpose of providing family care and training for the children on a full-time basis, except the Director of Children and Family Services, pursuant to Department regulations, may waive the limit of 8 children unrelated to an adoptive family for good cause to facilitate an adoptive placement. The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17] The Department requires foster family homes to receive an expanded capacity license allowing them to receive more than six children, including their own children under age 18 and all other children under the age of 18 receiving full-time care.

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"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 ~~301.60302.60~~ (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 must be met.

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"In-service training" means approved training provided to currently licensed foster parents.

"License" means a document issued by the Department of Children and Family Services that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act)

"Licensed physician" means a person licensed to practice medicine in the State of Illinois.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing representative" means persons authorized by the Department under the Child Care Act to perform licensing activities.

"Licensing study" means a written review and assessment of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority ~~in Illinois~~ ~~herein~~ or another state or municipal authority which is punishable solely by fines as a petty offense. [625 ILCS 5/6-601]

"Multi-purpose room" means a room in the foster family home that has been designed for several purposes. A multi-purpose room that is temporarily converted into a bedroom may only be a pass through room in the home if the privacy of the children using the room for a bedroom can be ensured. Activities

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within the room shall be normal bedroom activities such as sleeping, dressing and playing while used as a bedroom.

"Non-active status" means a licensed foster home has no foster placements and maintains continuous compliance with this Part that, by mutual written agreement with the Department, does not receive regular licensing monitoring visits by the Department or supervising agency.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a two month period to allow the individuals to become eligible for an initial foster family home license.

"Petty offense" means any offense for which a sentence to a fine only is provided.
[730 ILCS 5/5-1-17]

"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, marriage, or civil union: 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. [20 ILCS 505/7(b)]

"Reputable character" means there is satisfactory evidence that the moral

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character of the applicant is trustworthy.

"Respite foster care" means temporary (not to exceed 30 days), full-time care in a licensed foster family home, group home, or child care institution, or in a license exempt relative home, when such temporary, full-time care is provided to foster children. Respite foster care is provided to foster children in order to give the full-time caregivers a rest from caregiving responsibilities.

"Responsible" means trustworthy performance of expected duties that serves the best interests of the foster children as evidenced by established child welfare standards, State and federal law, and the rules of the Department.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that replaced the Child Abuse and Neglect Tracking System (CANTS).

"Specialized care" means care provided to a child who has developmental, emotional, behavioral, or medical needs and who has been determined to require specialized care. The need for specialized care shall be redetermined once every six months.

"Supervising agency", for the purpose of this Part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services.

"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.4 Application for License

- a) Application for license as a foster family home shall be completed, signed by the foster parent applicants, and filed with the Department of Children and Family Services by the supervising agency on forms prescribed by the Department. Applications submitted to the Department after July 1, 1995 shall be a complete application for a foster family home license, as defined in Section 402.2. Any

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relative who receives a child or children for placement on a full-time basis may apply for a license to operate a foster family home as defined in Section 2.17 of the Child Care Act of 1969 [225 ILCS 10/2.17].

- b) When a contractor with the Department or an employee of the State of Illinois seeks to become licensed as a foster family home, the study to determine compliance with licensing standards shall be provided by a licensed child welfare agency other than the Department and by persons who have no significant working relationship or personal relationship with the contractor or State employee. If the license is granted, the contractor or State employee may continue his or her contract or employment while operating the foster family home. The contractor's or employee's foster family home shall be supervised, monitored, licensed and evaluated by a licensed child welfare agency other than the Department and by individuals who have no significant working relationship or personal relationship with the employee. The contractor or employee shall consult with appropriate contract monitors and/or supervisors to make sure his or her official duties do not involve any interaction with the licensed child welfare agency responsible for supervising, monitoring, licensing, or evaluating the foster family home of the contractor or employee. When a foster parent contracted by the Department to provide support services to other foster parents chooses not to be supervised and monitored by a private agency, the foster parent may be licensed by the Department only when licensing and supervision is provided from Department staff in a region outside the contracted foster parent's region of residence and service provision.
- c) As part of the application, each foster family home applicant and adult member of the household shall authorize background checks in accordance with 89 Ill. Adm. Code 385 (Background Checks) and shall submit to fingerprinting to determine if the individual has ever been charged with a crime, and if so, the disposition of the charges. In addition, members of the household ages 13 through 17 must authorize a check of CANTS and the Child Sex Offender Registry.
- d) The supervising agency shall study each foster home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a qualified licensing representative and shall be reviewed and approved by the assigned supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards. The study shall be in writing and shall be signed by the licensing representative performing the study and by the assigned supervisor. When the application for a

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license is denied, the supervising agency shall advise the applicant in writing of the reasons for the denial.

- e) A new application shall be filed when any of the following occurs:
- 1) when an application for license has been withdrawn, and the licensee or agency seeks to reapply; or
 - 2) when there is a change in the name of the licensee, the address of the foster home or the supervising agency; or
 - 3) when there is a change in the status of joint licensees, such as marriage, [entering into a civil union](#), separation, divorce, [dissolving a civil union](#), or death; or
 - 4) not sooner than 12 months after the Department has revoked or refused to renew a license, and a new license is sought.
- f) A new application may be submitted at any time, including following the denial of an application for license, except that when a license has been revoked or the Department has refused to renew a license, the licensee may not reapply for licensure as a foster family home for a period of one year after revocation or refusal to renew.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.12 Qualifications of Foster Family

- a) The licensees shall be either a single person or [two persons in a marriage or civil union](#) ~~with a man and woman married to~~ each other. Each foster parent shall be willing and able to assume appropriate responsibilities for the child or children received for care.
- b) An individual may be allowed to share the living arrangements only at the discretion of the supervising agency. The foster family is responsible for reporting to the supervising agency that an individual may be sharing the living arrangements prior to the individual moving into the home or prior to licensure. The individual will be subject to the same requirements as other members of the household, such as health certification and background checks as required in 89

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Ill. Adm. Code 385 (Background Checks). The license capacity will be redetermined based on the new family composition.

- c) Foster parents shall be stable, law abiding, responsible, mature individuals, at least 21 years of age.
- d) The capability of the foster parents to provide care shall be considered prior to licensure of the foster family home. A decision to establish the age and number of children permitted in the home shall be based on an assessment of the foster family and shall consider at least the following:
 - 1) the foster parents' capability to provide care including an evaluation of the caregivers' health, strength, and mobility;
 - 2) the number, chronological and functional age, and characteristics and needs of the children currently under the care of the foster parents. This shall include an assessment of the foster parent's own children under age 18, all other children under age 18 receiving full-time care, and children receiving day care services in the foster family home;
 - 3) the characteristics, limitations, and responsibilities of the caregivers. All members of the foster family shall be free from active alcohol or substance dependency;
 - 4) the caregivers' ability to appropriately care for and adequately supervise the children currently in the home, as well as their ability to care for and supervise the ages, needs, and behaviors of the children who may be placed in the foster family home; and
 - 5) the number of foster parents in the home and the availability and experience of child care assistants.
- e) All members of the household age 13 and older (except for foster children) shall have passed the background check required by 89 Ill. Adm. Code 385 (Background Checks).
- f) Foster parents shall accept agency supervision.
- g) Foster parents shall adequately supervise children in their care to assure

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compliance with laws including, but not limited to, criminal laws.

- h) Foster home applicants shall provide the names and addresses of at least three persons who are not related to them who can attest that the applicants are of reputable and responsible moral character.
- i) Unless parental rights have been terminated, foster parents shall respect and support a child's ties to his or her biological family and shall cooperate with the supervising agency and the service plan for the child and his/her family.
- j) The foster family shall have sufficient financial resources to provide basic necessities for themselves and their own children.
- k) As a condition of initial licensure, each foster parent shall complete Pre-licensure Foster PRIDE/Adopt PRIDE Training or an equivalent pre-licensure foster parent training that has been approved by the Department.
- l) As a condition of fostering unrelated children in a licensed foster home, each foster parent shall complete Pre-placement Foster PRIDE/Adopt PRIDE Training or an equivalent pre-placement foster parent training that has been approved by the Department.
- m) In addition, each foster parent shall complete, as a condition of license renewal, 16 clock hours of approved in-service training. The foster home license shall not be renewed until each single foster parent and at least one foster parent in a married couple, or couple in a civil union, has completed educational advocacy training by the Department or approved agency that, if completed in the most recent licensing cycle, may count toward the 16 clock hours of in-service training. Child welfare agencies may require foster families under their supervision to complete additional training as a condition of continued supervision by the agency.
- n) An expanded capacity license to allow foster homes to serve more than six children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) may be granted if the foster family home meets the requirements of Section 402.15(c). As a provision of retaining the expanded capacity license, foster parents shall complete a total of 9.0 clock hours of approved training each calendar year, beginning the calendar year the expanded capacity license is issued.

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- o) A statement that describes how the foster family and the foster family's home comply with the requirements of this Part shall be placed in the permanent foster home record. If the foster family home is not in compliance with any of the licensing standards, these standards shall be specifically recorded and the plan for achieving compliance shall be outlined. The plan for achieving compliance shall indicate whether foster children can remain in the foster home and whether new placements may be made in the foster home while the foster home is achieving compliance with the licensing standards. The statement shall be updated to reflect any changes in the status of the foster family or the foster home. All such updates shall be entered within five working days after the change in status.
- p) [On a case-by-case basis, the Director or designee may waive non-safety related licensing standards that may impede or prevent licensure for relatives.](#)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.21 Discipline of Children

- a) Discipline shall be appropriate to the developmental age of the child, related to the child's act, and shall not be out of proportion to the particular inappropriate behavior. Discipline shall be handled without prolonged delay.
- b) The foster parent shall be responsible for the discipline of the child. Discipline shall never be delegated to a child's peer or peers, nor to persons who are strangers to the child.
- c) No child shall be subjected to corporal punishment, verbal abuse, threats or derogatory remarks about him or her or his or her family.
- d) No child shall be deprived of a meal or part of a meal as punishment.
- e) No child shall be deprived of visits with family or other persons who have established a parenting bond with the child~~him~~. [Cancellation of arranged visits as a form of discipline is prohibited.](#)
- f) No child shall be deprived of clothing or sleep as punishment.
- g) A child may be restricted to an unlocked bedroom for a reasonable period of time.

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While restricted, the child shall have full access to sanitary facilities.

- h) A child may be temporarily restrained by a person physically holding the child if the child poses a danger to himself or to others.
- i) The personal spending money of a child may be used as a constructive disciplinary measure to teach the child about responsibility and the consequences of his behavior. However, no more than 50% of the child's monthly personal spending money shall be withheld for any reason.
 - 1) Withholding a child's monthly personal spending money shall occur only under the following circumstances:
 - A) for reasonable restitution for damages done by the child; or
 - B) for breaking the family's rules if the child has been given an oral warning that his spending money will be reduced for this infraction.
 - 2) When a child's spending money has been reduced because he has broken a rule, the foster parent shall keep the withheld money for the child and shall not use it for any reason. The foster parent shall give the child opportunities to earn the money back and shall explain to the child how the spending money can be restored.
- j) Special or additional chores may be assigned as a disciplinary measure.
- k) Privileges may be temporarily removed as a disciplinary measure.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.27 Licensing Supervision

Foster parents shall cooperate with the supervising agency to assure continuing compliance with licensing requirements. Each licensed facility, except those in non-active status, supervised by the Department or a private child welfare agency shall be visited by the licensing worker of the Department or the agency at least semiannually to ensure that the standards for licensing continue to be met.

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(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 402.29 Director's Waivers

- a) [On a case-by-case basis, the Director or designee may waive non-safety related licensing standards that may impede or prevent licensure for relatives.](#)
- b) Unless prohibited by law, the Director of the Department may waive, or may conditionally waive, any requirement under this Part, if doing so is in the best interest of the foster children. Waivers from the Director shall be in writing. Written notification of any waiver under this Section, with an explanation of the waived provision and the basis for the best interest determination, shall be sent to the child's parents, unless their parental rights have been terminated, the State's Attorney, and the child's attorney.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 406
- 3) Section Number: 406.2 Proposed Action: Amend
- 4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending the definitions of "related".
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983

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TTY: 217/524-3715

E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 11) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Day Care Home

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- 406.APPENDIX D Pre-Service and In-Service Training
406.APPENDIX E List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 35 Ill. Reg. _____, effective _____.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the

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rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

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- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

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"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

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"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year" often called the anniversary year, means the period of time from the date a day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority [in Illinois](#) ~~therein~~ or another state or municipal

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authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of

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attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"*Related*" means any of the following relationships by blood, marriage, [civil union](#), or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

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"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 408
- 3) Section Number: 408.20 Proposed Action: Amend
- 4) Statutory Authority: The Child Care Act of 1969 [225 ILCS 10] and PA 96-1513
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-1513, effective 6/1/11, gives persons entering into a civil union the same obligations, responsibilities, protections and benefits as spouses under Illinois law. This proposed rulemaking implements that Act by amending provisions pertaining to the license to include couples in a civil union as licensees.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Telephone: 217/524-1983
TTY: 217/524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application For License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
408.55	Substitutes
408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part
408.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. 18411, effective December 15, 2010; amended at 35 Ill. Reg. _____, effective _____.

Section 408.20 Provisions Pertaining to the License

- a) The licensees shall be a primary caregiver or caregivers who reside in the family home and meet the requirements of this Part. Further, the licensees shall be an individual, ~~two individuals in a marriage or civil union with a man and woman married to~~ each other or 2 persons related by blood, marriage, civil union, or adoption who reside in the family home.
- b) A group day care home license is valid for three years unless revoked by the Department or voluntarily surrendered by the licensee.
- c) The number and ages of children under age 12 cared for in the group day care home at any one time shall be in compliance with provisions in Section 408.65.

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Increases in the license capacity or the ages of children served shall be with written approval of the supervising agency.

- d) The age limits specified on the license shall be observed, unless the licensee has submitted a transition plan to the Department in accordance with Section 408.65(e) in order to keep members of a sibling group together, and the Department has approved the plan.
- e) Child care may be provided only in those areas specified on the license.
- f) The license is valid only for the family residence of the licensee and shall not be transferred to another person or other legal entity.
- g) The license shall not be valid for a name or an address other than the name and address on the license.
- h) No group day care home provider shall be licensed to provide care for more than 18 hours within a 24-hour period.
- i) The license shall be prominently displayed in the home at all times.
- j) There shall be no fee or charge for the license.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7325 Proposed Action:
Amendment
- 4) Statutory Authority: 35 ILCS 704A
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of the amendment is to update the regulation to incorporate the mandatory electronic payment rule under PA 96-1027
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/524-3951

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Business and other organizations required to deduct and withhold Illinois income tax from wages paid to employees.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

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NOTICE OF PROPOSED AMENDMENT

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section	
100.2405	Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410	Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430	Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
100.2450	IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455	Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480	Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490	Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section	
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2655	Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2680	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for

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Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND
APPORTIONMENT OF BASE INCOME

Section

100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)
100.3020	Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200	Taxability in Other State (IITA Section 303)
100.3210	Commercial Domicile (IITA Section 303)
100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)

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100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

100.4500	Carryovers of Tax Attributes (IITA Section 405)
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SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

100.5000	Time for Filing Returns: Individuals (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

Section

100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income

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100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

SUBPART P: COMBINED RETURNS

Section	
100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section	
100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7035	Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

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SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

- Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

- Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

- Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310 Returns Filed and Payments Made on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

SUBPART U: ESTIMATED TAX PAYMENTS

- Section
100.8000 Payment of Estimated Tax (IITA Section 803)
100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART V: COLLECTION AUTHORITY

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Section	
100.9000	General Income Tax Procedures (IITA Section 901)
100.9010	Collection Authority (IITA Section 901)
100.9020	Child Support Collection (IITA Section 901)

SUBPART W: NOTICE AND DEMAND

Section	
100.9100	Notice and Demand (IITA Section 902)

SUBPART X: ASSESSMENT

Section	
100.9200	Assessment (IITA Section 903)
100.9210	Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART Y: DEFICIENCIES AND OVERPAYMENTS

Section	
100.9300	Deficiencies and Overpayments (IITA Section 904)
100.9310	Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320	Limitations on Notices of Deficiency (IITA Section 905)
100.9330	Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Z: CREDITS AND REFUNDS

Section	
100.9400	Credits and Refunds (IITA Section 909)
100.9410	Limitations on Claims for Refund (IITA Section 911)
100.9420	Recovery of Erroneous Refund (IITA Section 912)

SUBPART AA: INVESTIGATIONS AND HEARINGS

Section	
100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

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SUBPART BB: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART CC: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9720 Nexus
100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART DD: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART EE: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents
100.TABLE A Example of Unitary Business Apportionment
100.TABLE B Example of Unitary Business Apportionment for Groups Which
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843,

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effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective

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June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. _____, effective _____.

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)

- a) Quarterly return. Each return required under Section 100.7300(a) shall be filed on or before the last day of the first calendar month following the calendar quarter for which the return is made. (See IITA Section 704A(b).)
- b) Monthly payments. Monthly payments required under Section 100.7300(d)(2) are due on or before the 15th day of the month following the month in which the tax was withheld or required to be withheld. (See IITA Section 704A(c)(3).)

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- c) Semi-weekly payments.
- 1) Semi-weekly payments required under Section 100.7300(d)(1) or 100.7310(b)(2)(B) are due:
 - A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday or Tuesday;
 - B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday or Friday. (See IITA Section 704A(c)(1).)
 - 2) If a payment due on a Friday or Wednesday under this subsection (c) would include amounts withheld in two different quarters, a separate payment must be made for the amounts withheld in each quarter.
 - 3) Under 26 CFR 31.6302-1(c)(2)(iii), semi-weekly depositors are given at least three banking days following the close of the semi-weekly period by which to deposit taxes during the semi-weekly period. Thus, if any of the three weekdays following the close of a semi-weekly period is a holiday on which banks are closed, the employer has an additional banking day by which to make the required deposit. For example, if the Monday following the close of a Wednesday to Friday semi-weekly period is a holiday on which banks are closed, the required deposit for the semi-weekly period may be made by the following Thursday rather than the following Wednesday. Under IITA Section 704A(d)(2), the Department may provide by regulation that any payment due under this subsection (c) *is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld.* Accordingly, employers making electronic payments of taxes withheld may use the due dates prescribed in 26 CFR 31.6302-1(c)(2)(iii).
 - 4) [Beginning with calendar year 2011, semi-weekly payments required under Section 100.7300\(d\)\(1\) must be made by electronic funds transfer. \(IITA Section 704A\(c\)\(1\)\)](#)

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- d) Annual returns. Annual returns are due on or before:
 - 1) January 31 of the year following the calendar year for which the return is made, in the case of an annual return under Section 100.7310(b)(1) (See IITA Section 704A(d)(1).); or
 - 2) the 15th day of the 4th month following the close of the taxpayer's tax year, in the case of an annual return under Section 100.7350. (See IITA Section 704A(e).)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Organization, Public Information, Procedures and Rulemaking
- 2) Code Citation: 2 Ill. Adm. Code 3500
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3500.10	New
3500.20	New
3500.30	New
3500.40	New
3500.50	New
3500.60	New
3500.210	New
3500.310	New
3500.320	New
3500.330	New
3500.340	New
3500.350	New
3500.360	New
3500.370	New
3500.375	New
3500.380	New
3500.385	New
3500.390	New
3500.395	New
3500.410	New
- 4) Statutory Authority: 775 ILCS 40/1
- 5) A Complete Description of the Subjects and Issues Involved: The composition of the Torture Inquiry and Relief Commission and its staff; a description of the Commission records; the process for filing a claim of torture and making a decision on the claim; notification of the crime victim; and the annual Commission reports to the General Assembly and the Governor.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will these proposed rules replace an emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed rules contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemakings will not create or expand a State mandate, as defined in Section 3(b) of the State Mandate Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
- Illinois Torture Inquiry and Relief Commission,
c/o Executive Director David Thomas
160 N. LaSalle, Room N560
Chicago, Illinois 60601
- 312/814-4662
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because, this rulemaking was not anticipated.

The full text of the Proposed Rules begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXV: TORTURE INQUIRY AND RELIEF COMMISSION

PART 3500

ORGANIZATION, PUBLIC INFORMATION, PROCEDURES AND RULEMAKING

SUBPART A: ORGANIZATION

Section	
3500.10	Commission Members
3500.20	Chair of the Commission
3500.30	Terms of Members
3500.40	Compensation and Expenses
3500.50	Director
3500.60	Other Staff

SUBPART B: PUBLIC INFORMATION

Section	
3500.210	Commission Records

SUBPART C: PROCEDURES

Section	
3500.310	Meetings
3500.320	Quorum
3500.330	Claim of Torture
3500.340	Initial Screening of Claim Form
3500.350	Wavier of Convicted Person's Procedural Safeguards and Privileges
3500.360	Informal Inquiry and Summary Dismissal
3500.370	Summary Referral
3500.375	Formal Inquiry
3500.380	Evidentiary Proceedings Before the Commission
3500.385	Decisions
3500.390	Notification of Crime Victim
3500.395	Commission Reports to General Assembly and Governor

SUBPART D: RULEMAKING

Section	
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3500.410 Adoption of Rules

AUTHORITY: Implementing and authorized by the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

SUBPART A: ORGANIZATION

Section 3500.10 Commission Members

- a) *The Illinois Torture Inquiry and Relief Commission consists of 8 voting members as follows:*
- 1) *One retired Circuit Court Judge.*
 - 2) *One former prosecuting attorney.*
 - 3) *One law school professor.*
 - 4) *One who is engaged in the practice of criminal defense law.*
 - 5) *Three members of the public who are not attorneys and who are not officers or employees of the judicial branch.*
 - 6) *One former public defender.*
- b) *The members of the Commission shall be appointed by the Governor, with the advice and consent of the Senate. Members may be re-appointed for additional terms, as provided for under Section 25 of the Act. [775 ILCS 40/20(a)]*
- c) *The Governor also appoints alternate Commission members for the Commission members he or she has appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other disqualification arising in a particular case. Where an alternate member is called upon to serve in a particular place, the alternate member shall vote in the place of, and otherwise exercise the same powers as, the member which he or she is replacing. The alternate member shall have the same qualifications for appointment as the original member. In making the appointments, the Governor makes a good faith effort to appoint members*

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with different perspectives of the justice system. The Governor also considers geographical location, genders and racial diversity in making the appointments.
[775 ILCS 40/20(a-1)]

Section 3500.20 Chair of the Commission

The retired judge who is appointed as a member shall serve as Chair of the Commission. [775 ILCS 40/20(b)]

Section 3500.30 Terms of Members

- a) *Of the initial members, the appointments under Section 3500.10(a)(3) and (6) are for one-year terms, the appointments under Section 3500.10 (a)(1), (2), and (4) are for 2-year terms, and the appointments under Section 3500.10 (a)(5) are for 3-year terms. Thereafter, all terms shall be for 3 years. Members of the Commission shall not serve more than 2 consecutive 3-year terms, plus any initial term of less than 3 years. Unless provided otherwise by the Act, all terms of members begin on January 1 and end on December 31.*
- b) *Members serving by virtue of elective or appointive office may serve only so long as the office holders hold those respective offices. The Chief Judge of the Cook County Circuit Court may remove members for good cause shown. Vacancies occurring during the expiration of a term shall be filled in the manner provided for the members first appointed.* [775 ILCS 40/25(a)]

Section 3500.40 Compensation and Expenses

Commission members receive no salary for serving, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Commission from funds appropriated by the General Assembly for the purpose, or from funds obtained from sources other than the General Assembly. [775 ILCS 40/25(b)]

Section 3500.50 Director

The Commission employs a Director, who is an attorney licensed to practice in Illinois. The Director assists the Commission in developing rules and standards for cases accepted for review, coordinating investigation of cases accepted for review, maintaining records for all case investigation, preparing reports outlining Commission investigations and recommendations to the trial court, and applying for and accepting on behalf of the Commission any funds that may

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become available from government grants, private gifts, donations, or bequests from any source.
[775 ILCS 40/30]

Section 3500.60 Other Staff

Subject to the approval of the Chair, the Director employs such other staff and contracts for services as is necessary to assist the Commission in the performance of its duties, and as funds permit. [775 ILCS 40/30]

SUBPART B: PUBLIC INFORMATION

Section 3500.210 Commission Records

- a) The official record in every claim filed with the Commission consists of the Claim Form (see 20 Ill. Adm. Code 2000.Appendix B) and all subsequent pleadings, notices, subpoenas, evidence received, photographs, computer disks, transcripts, briefs, reports, memoranda, orders, findings of fact and decisions and amendments to these documents.
- b) The official record is confidential and not subject to public disclosure until after the Commission's final decision in the case, except as otherwise provided in this Part, the Freedom of Information Act [5 ILCS 140], or the Open Meetings Act [5 ILCS 120].
- c) After the Commission's final decision on the claim, the official record shall be available for public inspection upon making appropriate arrangements with the Director.
- d) The Commission shall maintain the official record in its office during the full period the claim is active and for an additional period of two years from the date of the Commission's final decision. Final decisions shall be retained as part of the permanent record of the Commission.
- e) Inspection of any records that are available for that purpose shall be permitted only at the Commission's office. Inspection appointments shall take place only during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. Persons inspecting records shall not be permitted to take briefcases, folders, or similar materials into the room where inspection takes place. A Commission employee may be present during

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inspection. Records to be copied will be identified and segregated during the course of the inspection.

- f) When a person requests a copy of a record maintained in an electronic format, the Commission shall furnish it in the electronic format specified by the person. If it is not feasible to furnish the record in the specified electronic format, then the Commission shall furnish it in the format in which it is maintained by the Commission, or in paper format, at the option of the person making the request.
- g) Copying Fees:
 - 1) Unless a fee is otherwise fixed by statute, the Commission will provide copies of records and certification of records in accordance with the fee schedule set forth in 20 Ill. Adm. Code 2000.Appendix F.
 - 2) Copies of records will be provided only after payment of any fees due. Payment must be by certified or cashier's check, or by money order, payable to "Treasurer, State of Illinois".
 - 3) The Commission will provide copies of records without charge to federal, state and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
 - 4) Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not apply to those records when furnished in an electronic format.

SUBPART C: PROCEDURES

Section 3500.310 Meetings

- a) The Commission meets a minimum of once every 6 months and may also meet more often at the call of the Chair. The Commission meets at such time and place as designated by the Chair, in accordance with the provisions of the Open Meetings Act. Notice of the meetings is given on the Commission's website, www.Illinois.gov/ihr, in accordance with the provisions of the Open Meetings Act. [775 ILCS 40/20(b)]

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- b) The Commission meets in an area provided by the Illinois Human Rights Commission or another State agency.
- c) At the conclusion of the business portion of each Commission meeting that is open to the public pursuant to the Open Meetings Act, the Commission shall set aside a period of time for public comment. Any person desiring to address the Commission shall be allowed up to three minutes for comments or questions. Only one person may speak on behalf of any organization.
- d) Because of time demands on the Commission, the total time for presentations by the public at any meeting shall be limited to 30 minutes unless a Commissioner moves for, and the Commission approves, a longer period. Any person wishing to address the Commission but unable or not allowed to do so may submit a written statement to the Commission.
- e) Personal attacks, use of profane language, and social and/or ethnic slurs will not be tolerated. Speakers are strongly encouraged to refrain from rude, derogatory and abusive comments and personal attacks.
- f) Speakers making rude, profane or slanderous remarks, or who become boisterous while addressing or while attending the meeting, may be requested to leave by the presiding Chair.
- g) Any person may record by tape, film or other means the meetings of the Commission or its committees that are open to the public pursuant to the Open Meetings Act. However, if the recording process interferes with the overall decorum and proceeding of a meeting, the recording will be discontinued at the discretion of the presiding Chair.

Section 3500.320 Quorum

A majority of the voting members constitutes a quorum. All Commission votes are by a majority vote of the appointed voting members. [775 ILCS 40/20(b)]

Section 3500.330 Filing a Claim of Torture

A request for a formal inquiry into a claim of torture is accomplished by filing a Claim Form:

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- a) Any individual, court or agency may complete and file a Claim Form on behalf of a living person asserting a claim of torture.
- b) Any person may call or write the Commission to request that a Claim Form be mailed or faxed to that person in order to file a claim. The Commission also maintains a website (www.Illinois.gov/ihr) from which a Claim Form may be printed or downloaded.
- c) A completed Claim Form may be filed by either mailing it to the Illinois Torture Inquiry and Relief Commission, 160 N. LaSalle Street, Room N506, Chicago IL 60601, or by faxing it to (312)814-4598.

Section 3500.340 Initial Screening of Claim Form

- a) Upon receipt of the Claim Form, the Director, or his or her designee, will conduct an initial screening of the Claim Form to determine whether it satisfies the following minimum criteria required for the Commission to consider a claim of torture:
 - 1) The Claim Form is properly completed; and
 - 2) The claim meets the definitions contained in 20 Ill. Adm. Code 2000.10(d).
- b) If the Claim Form is not properly completed, the Director shall return it to the person who submitted it, indicating why the Form has not been filed and giving the opportunity to resubmit it.
- c) If the Claim Form is properly completed, the claim will be filed and assigned a claim number. However, if the Form demonstrates that the claim does not meet the definitions contained in 20 Ill. Adm. Code 2000.10(d), the Director shall recommend in a written report to the Commission that the claim be denied for the reasons specified in the report.
- d) The Commission shall vote to accept or to reject the Director's recommendation by majority vote of the voting members present.
- e) If the Commission accepts the recommendation to deny the claim, the Director shall notify the convicted person, and the person filing the claim if other than the

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convicted person, in writing that the claim was denied and the reasons for the denial.

- f) All other claims will proceed to the Waiver of Convicted Person's Procedural Safeguards and Privileges under Section 3500.350.

Section 3500.350 Waiver of Convicted Person's Procedural Safeguards and Privileges

- a) If the Director determines that the Claim Form satisfies the requirements of the initial screening, the Director, or his or her designee, will obtain a properly signed and witnessed Waiver Form (see 20 Ill. Adm. Code 2000.Appendix C) from the convicted person before proceeding further.
- b) The *convicted person* must sign a written waiver in which *the convicted person waives the right against self-incrimination under the United States Constitution and the Constitution of the State of Illinois only* as it pertains to the offense for which the person was convicted and with respect to which the person is claiming torture. The convicted person must also agree to *cooperate fully with the Commission and agree to provide full disclosure regarding the inquiry.*
- c) *The convicted person has the right to advice of counsel before the execution of the waiver and, if a formal inquiry is initiated, throughout the duration of the formal inquiry. If counsel represents the convicted person, the convicted person's counsel must be present at the signing of the waiver.*
- d) If the convicted person is not represented by counsel, *the Commission Chair shall determine if the person is indigent and, if so, enter an order providing for the appointment of counsel for the purpose of advising on the waiver and representing the convicted person throughout the remainder of the proceedings upon the claim.* [775 ILCS 40/40] The determination of indigency shall be made by having the convicted person complete and send to the Director the Application and Order for Appointed Counsel Based Upon Indigency contained in 20 Ill. Adm. Code 2000.Appendix G. The Director shall furnish an Application to the convicted person upon request. The Director shall forward a properly completed Application to the Chair for purpose of making the decision regarding indigency.
- e) If the convicted person refuses to sign the Waiver Form, the Director shall recommend to the Commission that the claim of torture be dismissed. The

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Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.

- f) If the Director determines that the Waiver Form has been properly signed and witnessed, the claim shall proceed to Informal Inquiry under Section 3500.360.

Section 3500.360 Informal Inquiry and Summary Dismissal

- a) After the completed Claim Form and Waiver Form have been received, an informal inquiry shall be performed by the Director or his or her designee, consisting of taking all reasonable steps to interview the convicted person, interview any witnesses identified by the convicted person, and review any documents provided by the convicted person.
- b) If, after completion of the informal inquiry, the Director finds that there appears to be no reasonable possibility that the claim is credible, the Director shall recommend to the Commission that the claim be summarily dismissed. A written report will be prepared documenting this finding and will be presented to the Commission for its review.
- c) The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
- d) If the Commission accepts the Director's recommendation, the convicted person, and the person filing the Claim Form if other than the convicted person, shall be notified in writing that the claim has been summarily dismissed and the reasons for the dismissal.

Section 3500.370 Summary Referral

- a) If the Director's informal inquiry under Section 3500.360 demonstrates that the claim satisfies each of the four conditions listed in this subsection (a), and the other available evidence demonstrates that the claim of torture is credible and the case merits judicial review, the Director may recommend that the Commission forego a formal inquiry, as defined in Section 3500.375, and instead refer the case directly to the Chief Judge of the Circuit Court of Cook County for appropriate relief:
 - 1) The person has consistently claimed to have been tortured;

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- 2) The claim is strikingly similar to other claims of torture contained in the Reports of the Chicago Police Department's Office of Professional Standards, and the Report of the Special State's Attorney, regarding their investigations of Jon Burge and police officers under his command;
 - 3) The officers accused are identified in other cases alleging torture; and
 - 4) The claim of torture is consistent with the Office of Professional Standards' findings of systematic and methodical torture at Area 2 under Jon Burge.
- b) The Director's recommendation shall be presented to the Commission in a written report documenting the finding and the reasons for the finding.
 - c) The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
 - d) If the Commission accepts the Director's recommendation, the convicted person, and the individual filing the Claim Form if other than the convicted person, shall be notified in writing by the Director that the claim has been referred to the Chief Judge of the Circuit Court of Cook County for appropriate relief.
 - e) Nothing in this Section shall be construed to preclude the Commission from exercising any of the powers listed in Section 3500.375(a) in making the determination to summarily refer the claim.

Section 3500.375 Formal Inquiry

- a) If the Claim is not summarily dismissed or summarily referred, then a formal inquiry will be initiated by the *Commission under the auspices of the Director. In conducting the formal inquiry, any measure contained in the Code of Civil Procedure [735 ILCS 5] and the Code of Criminal Procedure of 1963 [725 ILCS 5] may be used to obtain information necessary to the inquiry, including but not limited to:*
 - 1) Issuing and serving *subpoenas* (see 20 Ill. Adm. Code 2000.Appendices D and E) *or other process to compel the attendance of witnesses and the production of evidence;*

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- 2) Administering oaths;
 - 3) Issuing written interrogatories;
 - 4) Conducting oral depositions;
 - 5) Petitioning the *appropriate Circuit Court for enforcement of process or for other relief*, such as contempt; [775 ILCS 40/40(d)]
 - 6) Conducting physical and/or psychological examinations of the convicted person to ascertain evidence of torture;
 - 7) Hiring experts or other specialists as needed to assist the Commission in the inquiry; and
 - 8) Conducting on-site visits to detention centers or other locations where torture is alleged to have taken place.
- b) *All State discovery and disclosure statutes in effect at the time of the formal inquiry shall be enforceable as if the convicted person were currently being tried for the charge for which the convicted person is claiming torture.* [775 ILCS 40/40(f)]
- c) *In conducting the formal inquiries, priority will be given to those cases in which the convicted person is currently incarcerated solely for the crime to which the convicted person claims torture by Jon Burge or officers under his command, or both.* [775 ILCS 40/35(2)]
- d) *All records of the Commission are confidential until the proceedings before the Commission are concluded and a final decision has been made by the Commission.* [775 ILCS 40/45(e)]
- e) Any person who is a witness appearing voluntarily or pursuant to subpoena, shall be advised of the right against self-incrimination under the United States Constitution and the Constitution of the State of Illinois. However, the witness shall also be advised that the Commission may draw an adverse inference from the refusal of the witness to answer questions.

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- f) If a witness is represented by counsel, counsel may be present at proceedings requiring the presence of the witness, but counsel shall not be permitted to participate in the proceedings in any way.
- g) *If, at any point during an inquiry, the convicted person refuses to comply with requests of the Commission or is otherwise deemed uncooperative by the Director, the Director shall recommend that the inquiry be terminated. [775 ILCS 40/40(g)]* The Commission shall vote to accept or reject the Director's recommendation by majority vote of the voting members present.
- h) Whenever any person knowingly fails or refuses to comply with a subpoena served in accordance with this Section, the Commission will petition the appropriate Circuit Court for an order enforcing the subpoena.
- i) At the completion of the formal inquiry, the Director shall report the results and his or her recommendation to the full Commission. The written report will summarize all the relevant evidence, include the reasons for the recommendation, and present any other matters necessary for the Commission to make an informed decision regarding the claim. Following transmission of the Director's report and recommendation, the Commission may elect to receive additional evidence in the form of an evidentiary proceeding under Section 3500.380. In all other cases, the Commission shall vote to decide the disposition of the claim as set forth in Section 3500.385.

Section 3500.380 Evidentiary Proceedings Before the Commission

- a) If the Commission elects to hold an evidentiary hearing, the following procedures will apply:
 - 1) At the hearing, all relevant evidence from the formal inquiry shall be presented to the full Commission in summary form as part of the Director's report and recommendation.
 - 2) The Director shall present the additional evidence the Commission has elected to consider, unless the Commission orders otherwise.
 - 3) All testimony taken shall be under oath or affirmation.

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- 4) The appearance of a witness necessary for the taking of evidence, including the convicted person, may be compelled by serving a subpoena upon that person in accordance with the procedures set forth in 20 Ill. Adm. Code 2000.40. The subpoena also may require the production at the hearing of documents or things.
- 5) No Commission employee shall testify at an evidentiary proceeding regarding the contents of any files, documents, reports, memoranda, or records of the Commission, or of the results of any investigation conducted by the Commission, except upon Order of the Commission. Such an Order will be issued only if the information to be elicited from the testimony is admissible and cannot be obtained through other means.
- b) Any person present for the purpose of the evidentiary proceeding will not be allowed to address the Commission except as part of the scheduled proceeding.
- c) Any hearing before the full Commission shall be conducted subject to this Part and the Open Meetings Act. All proceedings of the full Commission shall be recorded by audio and transcribed as part of the record. All Commission members' votes shall be recorded in the record.
- d) After reviewing all the relevant evidence from the formal inquiry, and the additional evidence taken during an evidentiary proceeding, if any, the Commission shall vote to decide the claim as set forth in Section 3500.385.

Section 3500.385 Decisions

- a) *All 8 voting members of the Commission, including alternate members if necessary, shall participate in the vote.*
- b) *If at least 5 voting members of the Commission decide by a preponderance of the evidence that there is sufficient evidence of torture to conclude that the claim is credible and merits judicial review for appropriate relief, the case shall be referred to the Chief Judge of the Circuit Court of Cook County by filing with the Clerk of the Court the written decision of the Commission, accompanied by findings of fact and the record in support of the written decision. A copy of these materials shall be served on the State's Attorney.*

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- c) *If fewer than 5 of the voting members decide by a preponderance of the evidence that there is sufficient evidence of torture to conclude that the claim is credible, the Commission shall determine that the claim of torture does not merit judicial review for appropriate relief. The Commission shall document that determination in a written decision, along with supporting findings of fact, and file those documents and supporting materials with the Court Clerk in the circuit of original jurisdiction, with a copy to the State's Attorney and the Chief Judge. [775 ILCS 40/45(c)]*
- d) The Director shall notify both the convicted person and the victim in writing of the Commission's decision regarding the claim, and furnish them with a copy of the written decision. This notice shall be given within 30 days after the written decision is issued by the Commission.

Section 3500.390 Notification of Crime Victim

- a) *If a formal inquiry is initiated, the Director shall use all due diligence to give written notification to the victim in the case, explaining the inquiry process and notifying the victim of the right to present to the Director in writing the victim's views and concerns throughout the inquiry. [775 ILCS 40/40(c)]*
- b) *The Director shall use all due diligence to notify the victim in writing at least 30 days before any proceedings of the full Commission held in regard to the case involving the victim. The victim shall also be notified that the victim is permitted to attend proceedings of the full Commission otherwise closed to the public, subject to any limitations imposed by the Act and subject to Section 2(c)(14) of the Open Meetings Act. If the victim plans to attend proceedings otherwise closed to the public, the victim must notify the Director in writing at least 10 days in advance of the proceedings of his or her intent to attend.*
- c) Notwithstanding the requirements of subsection (d), *the Commission may close any portion of the proceedings to the victim, if the victim is to testify and the Commission determines that the victim's testimony would be materially affected if the victim hears other testimony at the proceeding. [775 ILCS 40/45(b)]*

Section 3500.395 Commission Reports to General Assembly and Governor

- a) *On January 1 of each year, the Commission shall report on its activities to the General Assembly and the Governor.*

TORTURE INQUIRY AND RELIEF COMMISSION

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- b) *The report may contain recommendations of any needed legislative changes related to the activities of the Commission. The report shall also recommend the funding needed by the Commission, the State's Attorneys and the Department of State Police in order to meet the responsibilities of each agency under the Act. Recommendations concerning the State's Attorneys or the Department of State Police shall only be made after consultations with the Illinois State's Attorneys Association, the Department of State Police and the Attorney General. [775 ILCS 40/60]*

SUBPART D: RULE MAKING

Section 3500.410 Adoption of Rules

The Commission adopts rules in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Policy, Hearings, and Forms
- 2) Code Citation: 20 Ill. Adm. Code 2000
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u>
2000.10	New
2000.20	New
2000.30	New
2000.40	New
2000.50	New
2000.60	New
2000.APPENDIX A	New
2000.APPENDIX B	New
2000.APPENDIX C	New
2000.APPENDIX D	New
2000.APPENDIX E	New
2000.APPENDIX F	New
2000.APPENDIX G	New
- 4) Statutory Authority: 775 ILCS 40/1
- 5) A Complete Description of the Subjects and Issues Involved: A definition of terms used in the proposed Rules, a description of the duties and powers of the Torture Inquiry and Relief Commission, a description of the nature of Commission investigations, the procedure for issuance and service of subpoenas, a description of the available relief, the procedure for review of Commission decisions, and examples of various forms to be used by the Commission.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rulemaking currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed rules contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No

TORTURE INQUIRY AND RELIEF COMMISSION

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- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate, as defined in the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
- Illinois Torture Inquiry and Relief Commission
c/o Executive Director David Thomas
160 N. LaSalle, Room N560
Chicago, Illinois 60601
- 312/814-4662
- 13) Initial Regulatory Flexibility Analysis:
- i) Types of small businesses, small municipalities and not for profit corporations affected: None
- ii) Reporting, bookkeeping or other procedures required for compliance: None
- iii) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because this rulemaking was not anticipated.

The full text of the Proposed Rules begins on the next page:

TORTURE INQUIRY AND RELIEF COMMISSION

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER VIII: TORTURE INQUIRY AND RELIEF COMMISSIONPART 2000
POLICY, HEARINGS AND FORMS

Section	
2000.10	Definition of Terms
2000.20	Duties and Powers of Commission
2000.30	Nature of Investigations
2000.40	Subpoenas
2000.50	Relief
2000.60	Review of Decisions
2000.APPENDIX A	Employee Confidentiality Agreement
2000.APPENDIX B	Form to File Claim of Torture
2000.APPENDIX C	TIRC Waiver Form
2000.APPENDIX D	Subpoena and Certificate of Service
2000.APPENDIX E	Subpoena Duces Tecum and Certificate of Service
2000.APPENDIX F	Fee Schedule for Duplication and Certification of Records
2000.APPENDIX G	Application and Order for Appointed Counsel Based Upon Indigency

AUTHORITY: Implementing and authorized by the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 2000.10 Definition of Terms

"Act" means the Illinois Torture Inquiry and Relief Commission Act [775 ILCS 40].

"Alternate member" means an individual appointed by the Governor to serve in the stead of a Commission member who cannot participate in a Commission vote due to scheduling conflicts, conflict of interest, disability or other disqualifications (see 2 Ill. Adm. 3500.10(c)).

"Chair" means the chair of the Commission, who is the retired judge appointed to the Commission by the Governor.

TORTURE INQUIRY AND RELIEF COMMISSION

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"Claim of torture" means a claim on behalf of a living person convicted of a felony in Illinois asserting that the person was tortured into confessing to the crime for which the person was convicted, the tortured confession was used to obtain the conviction, and there is some credible evidence related to the allegations of torture. [775 ILCS 40/5(1)]

"Commission" or "TIRC" means the Illinois Torture Inquiry and Relief Commission. [775 ILCS 40/5(2)]

"Convicted person" means the person asserting a claim of torture under the Act. [775 ILCS 40/5(3)]

"Director" means the Director of the Commission, who is an attorney licensed to practice in Illinois. The Director assists the Commission in developing rules and standards for cases accepted for review, coordinating investigation of cases accepted for review, maintaining records for all case investigation, preparing reports outlining Commission investigations and recommendations to the trial court, and applying for and accepting on behalf of the Commission any funds that may become available from government grants, private gifts, donations, or bequests from any source. [775 ILCS 40/30]

"Torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime.

"Victim" means the victim of the crime of which the person claiming torture has been convicted, including, if that person is deceased, the next of kin of that person, which shall be the parent, spouse, child, or sibling of the deceased. [775 ILCS 40/5(5)]

Section 2000.20 Duties and Powers of Commission

- a) The Commission is an independent commission created by statute to implement an extraordinary procedure to investigate and determine factual claims related to certain allegations of torture.
- b) The Commission has the duty and power to:

TORTURE INQUIRY AND RELIEF COMMISSION

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- 1) *Establish the criteria and screening process to be used to determine which cases shall be accepted for review;*
- 2) *Conduct inquiries into claims of torture, as that term is defined in Section 2000.10(d);*
- 3) *Coordinate the investigation of cases accepted for review;*
- 4) *Maintain records for all case investigations;*
- 5) *Prepare written reports outlining Commission investigations and recommendations to the trial court at the completion of each inquiry; and*
- 6) *Apply for and accept any funds that may become available for the Commission's work from government grants, private gifts, donations or bequests from any source. [775 ILCS 40/35]*

Section 2000.30 Nature of Investigations

The Commission shall conduct all investigations in a professional and thorough manner, and all investigations shall be properly documented and result in a written report of findings and a decision. The Commission does not represent any individual, but instead functions solely to determine if a claim of torture is credible and merits judicial review for appropriate relief.

Section 2000.40 Subpoenas

- a) A subpoena in the form specified in Appendix D may be issued to compel the attendance of witnesses.
- b) A subpoena duces tecum, in the form specified in Appendix E, may be issued to compel the production of records, correspondence or other documents.
- c) Witness and mileage fees shall be the same as are paid witnesses in the Circuit Courts of the State of Illinois, as set forth in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3].
- d) Service on the subpoenaed person shall be by personal service, certified mail or facsimile, or by leaving a copy at the principal office or place of business of a

TORTURE INQUIRY AND RELIEF COMMISSION

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subpoenaed corporation or partnership. A subpoena shall be served reasonably in advance of its return date.

Section 2000.50 Relief

- a) *If the Commission concludes there is sufficient evident of torture to merit judicial review, the Chair shall request the Chief Judge of the Circuit Court of Cook County to assign the case to a trial judge for consideration of the evidence and the appropriate relief. [775 ILCS 40/50(a)]*
- b) The Chair shall recommend that the case be assigned to a judge other than the judge who tried the criminal case and other than the judge who presided over any previous post-conviction proceedings.
- c) The Commission has no authority to award monetary compensation, even if it concludes there is sufficient evidence of torture to merit judicial review for other relief.
- d) A claim of torture asserted through the Commission does not adversely affect the convicted person's rights to other post-conviction relief.
- e) *The Commission has the discretion to refer its findings and written decision, along with the supporting record and evidence, to such other parties or entities as the Commission deems appropriate. [775 ILCS 40/45(d)]*

Section 2000.60 Review of Decisions

The decisions of the Commission are final and are subject to review as final decisions under the Administrative Review Law [735 ILCS 5/Art.III] pursuant to which the decision may be overturned only if the court finds that it is against the manifest weight of the evidence. [775 ILCS 40/55(a)]

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Section 2000.APPENDIX A Employee Confidentiality Agreement

ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

Employee Confidentiality Agreement

It is the policy of the Illinois Torture Inquiry and Relief Commission (TIRC) to protect the confidentiality it receives, including information about investigations, confidential informants, and other sensitive information. As part of your employment with TIRC you may have access to, among other things, TIRC electronic data, investigation files, and other sensitive information, which is subject to the following conditions:

I, _____, understand that the information that I encounter during my employment at TIRC is confidential. I also understand that disclosure of that information to any individual outside of TIRC could compromise an investigation. I agree to respect the confidentiality of individuals to whose records and identity I have access. If I have a question regarding the confidentiality of a particular piece of information, I will ask the Director of TIRC for advice.

With regard to electronic data, I, _____, also understand that all such information is confidential, including the fact that an investigation has been opened. Access or use of electronic data is restricted to TIRC business and may not be used for other purposes or to satisfy personal curiosity. I agree to follow the policies and procedures established by TIRC for the use of the electronic data. Failure to do so may result in the revocation of my ability to access the data and/or disciplinary action, including termination of my employment.

I agree, by my signature below, that, absent authority by law or the express written consent of the Director, I will never disclose the existence of an investigation, its progress, its resolution, the TIRC recommendation, or any information about an investigation to any party other than the employees of TIRC and/or a Commission member. I understand that, even should the investigation become public, I am not permitted to discuss the investigation with anyone absent the express, written consent of the Director. I also understand that, upon termination of my employment with TIRC, I continue to be bound by this agreement and will not discuss even the existence of an investigation with anyone.

I understand that my failure to abide by this agreement may result in my immediate termination or other appropriate disciplinary action.

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Employee Signature

Date

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX B Form to File Claim of Torture

FORM TO FILE CLAIM OF TORTURE WITH TIRC

1. Name and current address of person claiming to have been tortured:

2. Name and current address of person signing this form (if different than No. 1 above):

3. Details of claimant's felony conviction based upon allegedly tortured confession:

a. Circuit Court: _____
b. Year: _____
c. Crimes of Conviction: _____
d. Sentence: _____
e. Case Number (if known): _____

4. Details of alleged torture:

a. Law enforcement agency: _____
b. Dates: _____
c. Names of persons committing alleged torture: _____

d. Brief description of alleged torture: _____

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5. Names and current addresses of persons who could support your claim:

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

6. Location of documentation supporting your claim: _____

Claimant or Person Signing on Claimant's Behalf

Date

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX C TIRC Waiver Form**TIRC WAIVER FORM**

I, _____, was born on _____. I have not consumed any drugs or alcohol in the last 24 hours, other than prescription medication consisting of _____, and I am not under the influence of drugs or alcohol at the present time. I am otherwise of sound mind and body.

I have filed, or caused to be filed on my behalf a Claim of Torture with the Illinois Torture Inquiry and Relief Commission (TIRC). I am represented by counsel, _____, who is present or has stated in writing (attached to this Waiver) that she/he cannot be present. I have discussed this Waiver thoroughly with my counsel, and I am satisfied with the advice I have received. If my counsel is not present, I am comfortable proceeding in counsel's absence.

It is my understanding that the TIRC, by statute, cannot investigate my Claim if I refuse to sign this Waiver, and that is the reason I am voluntarily signing it. No promises or threats have been made to induce me to sign the Waiver, other than the fact that the TIRC will agree to investigate my Claim, in accordance with its rules and procedures. No promises have been made to me by anyone as to what the outcome of that investigation will be.

It is also my understanding that, by signing this Waiver, I am giving up my right not to incriminate myself under the United States Constitution and the Constitution of the State of Illinois, pertaining only to the offense of conviction regarding which I am claiming torture. Anything I say pertaining to that offense that might incriminate me can and will be used against me in the investigation and/or a court of law.

Finally, it is my understanding that I must continue to cooperate with the TIRC throughout the investigation and that, if I refuse to cooperate at any time, the TIRC may terminate the investigation. I also realize that the TIRC has no power to award any money to me for any reason.

By signing this Waiver, I acknowledge that I have read this Waiver and discussed the terms of it with my counsel, and that is my free and voluntary decision to sign it. A copy of this signed Waiver will be provided to me.

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Claimant

Date

Witness

Date

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX D Subpoena and Certificate of Service



ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

160 North LaSalle Street, Room N506

Chicago, Illinois 60601

312/814-4608

SUBPOENA

To:

Subpoena No.: 20__-00 _____

Case No.: ____ - _____

WE COMMAND YOU, pursuant to the Illinois Torture Inquiry and Relief Commission Act, to appear at the Office of the Commission, 160 N. LaSalle Street, Room N506, Chicago IL 60601 on _____, 2011, at the hour of _____ a.m. / p.m.

Personal appearance in answer to this subpoena is required. Failure to respond may result in punishment as required by law.

By Order of the Illinois Torture Inquiry and Relief Commission

Director

At Chicago, Illinois this ____ day of _____, 20__

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

**ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION
CERTIFICATE OF SERVICE**

I, _____, hereby certify that, on the ____ day of _____, 2011, I served the attached subpoena on _____, the person named or the agency identified, by furnishing that person the subpoena at _____ (address).

The subpoena was served by _____ .
(Indicate personal service, certified mail or facsimile.)

Signature

Date

Notary Public

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX E Subpoena Duces Tecum and Certificate of Service



ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

160 North LaSalle Street, Room N506

Chicago, Illinois 60601

312/814-4608

SUBPOENA DUCES TECUM

To:

Subpoena No.: 20__-00 _____

Case No.: ____ - _____

WE COMMAND YOU, pursuant to the Illinois Torture Inquiry and Relief Commission Act, to provide the Commission Office, 160 N. LaSalle Street, Room N506, Chicago IL 60601 on or before (two weeks after signature date) with all the following books, records, electronic data and papers that are in your possession, custody or control:

Personal appearance in answer to this subpoena is not required. Information may be submitted by mail to the Commission Office at the above address. Failure to respond may result in punishment as provided by law.

By Order of the Illinois Torture Inquiry and Relief Commission

Director

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

Dated at Chicago, Illinois this _____ day of _____, 20__

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

**ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION
CERTIFICATE OF SERVICE**

I, _____, hereby certify that, on the ____ day of _____, 20__, I served the attached subpoena duces tecum on _____, the person named or the agency identified, by furnishing that person the subpoena duces tecum at _____ (address). The subpoena duces tecum was served by _____ .
(Indicate personal service, certified mail or facsimile.)

Signature

Date

Notary Public

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX F Fee Schedule for Duplication and Certification of Records

<u>TYPE OF DUPLICATION</u>	<u>FEE (per copy)</u>
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No Charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
<u>CERTIFICATION FEE</u>	<u>\$1.00/record</u>

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by requester.

TORTURE INQUIRY AND RELIEF COMMISSION

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Section 2000.APPENDIX G Application and Order for Appointed Counsel Based Upon Indigency

IN RE:

[Name of Claimant]

TIRC Claim No.:

APPLICATION FOR APPOINTED COUNSEL BASED UPON INDIGENCY

I, _____, on oath state:

1. I am employed as a(n) _____ by _____.

2. My other sources of income (including spouse's income) or support are: _____.

3. The amount of income that I expect for this year is \$ _____.

4. My income for the previous year was \$ _____.

5. The persons dependent on me for support are _____.

6. My other sources of income are: SSI Public Aid SNAP Benefits Family Assistance Foster Care Aid to Aged, Blind and Disabled Temporary Assistance for Needy Families General Assistance State Transitional Assistance State Children and Family Services Other: _____ \$ _____ (per month).

7. The nature and value of property I own includes: Real Estate (Describe property, specify address, present value and mortgage liens outstanding.) _____

Cash, Bank Accounts, etc. \$ _____ Clothing and Jewelry \$ _____

Motor Vehicle – Model _____ Year _____ Value \$ _____

8. My monthly living expenses, including payments of debts and child support, are \$ _____

9. I am unable to pay the cost of counsel for this claim and to do so would cause a substantial hardship on me and my family.

Under penalties of perjury and/or contempt, the undersigned certifies that the statements set forth in this Application are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that s/he verily believes the same to be true.

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

Signature of Applicant

TORTURE INQUIRY AND RELIEF COMMISSION

NOTICE OF PROPOSED RULES

ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

ORDER

It is hereby ordered that:

- The Applicant is appointed counsel for representation on the claim referenced above.
- The Application is denied because the Applicant has not demonstrated indigency.

Date

TIRC Chair

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Cycle Rider Safety Training Program
- 2) Code Citation: 92 Ill. Adm. Code 455
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
455.10	Amend
455.30	Amend
455.40	Amend
455.50	Amend
455.70	Amend
455.80	Amend
455.APPENDIX A	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 1 through 7 of the Cycle Rider Safety Training Act [625 ILCS 35]
- 5) A complete description of the subjects and issues involved: This rulemaking will reflect the Division's Illinois Cycle Rider Safety Training Program (Program).

At **Section 455.10, Purpose and Authority**, the Department is replacing "motorized pedalcycle" with "moped" for consistency with the new statutory definition of "moped" in Section 455.30, Definitions.

At **Section 455.30, Definitions**, the Department is updating statutory language, adding a new statutory definition of "moped" and deleting language in the definition of "range aide" that inadvertently required a range aide to complete an instructor program.

At **Section 455.40, Incorporations by Reference**, the Department is updating the edition dates of documents incorporated by reference. The Department is also updating the Division's mailing address and correcting website information for access to this Part on the Internet.

At **Section 455.50, Program Requirements**, the Department is:

Correcting the Program's website information for easier access to the designated Regions and County assignments map on the Internet.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Adding an option for the Department to divide larger counties between two Regional Centers in order to accommodate all of the students who may enroll in the Program at one location.

Requiring the Assistant Coordinator (if the Regional Center chooses to employ an Assistant Coordinator) to have the same training, responsibilities and qualifications as the Program Coordinator. The Program Coordinator or Assistant Coordinator will not be compensated for teaching annual minimum requirement courses.

Requiring beginner course instructors to have a safe riding and driving record. For purposes of this Program, criteria have been established that constitutes a safe riding and driving record.

Updating the address of the Department's Division of Traffic Safety. Changing the insurance deductible for minimum liability coverage from \$100 to \$500 per crash. The increase in the deductible brings this Part up to current industry practice.

Clarifying that actual cash value for comprehensive and collision coverage must be based on the actual cash value as determined annually by using the most current edition of the Kelley or National Automobile Dealers Association (NADA) blue book values.

At **Section 455.70, Cycle Rider Safety Training Courses**, the Department is:

Making a non-substantive change at Section 455.70(e)(12)(A) for consistency with substantive changes being made at Section 455.70(h).

Lowering the minimum number of registered students (from eight to six) required to conduct a beginner or an advanced course.

Amending criteria necessary to pass a course to require the student to attend all sessions and achieve a passing score on the riding and written evaluations. This amendment is being made for consistency with current practices followed by the Secretary of State's (SOS) office when a driver applies for a motorcycle endorsement on his or her Illinois driver's license. The SOS waives the motorcycle skills and written tests at an SOS Driver's Facility when the driver presents a valid Student Completion Card issued under the Program by a Regional Center. This change reflects the same pass/fail criteria used at an SOS facility if a driver does not present a valid Student Completion Card. Additionally, the Department is amending criteria necessary to fail or drop a course to

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

simplify the process. The instructor will no longer be required to calculate the percentage of classtime the student attended.

Amending student completion card (the card) procedures to require the Regional Center staff to be responsible for mailing the card to the student from the Regional Center office. Adding a reference to the reflectorized helmet decal and experienced rider course pin (when either one is available).

Amending replacement card procedures to prescribe that a replacement card will only be issued to the student by a Regional Center for one year from the course completion date. Adding an option for student to request a letter or certificate confirming course completion when that student's completion date exceeds one year but no more than three years.

At **Section 455.80, Reimbursement Process**, the Department is:

Amending language regarding reimbursement of actual costs for monthly expenditures. Regional Centers must submit a final claim within 135 days after the expiration of the annual contract that documents costs that were unresolved or pending in 2011.

Adding language to require Regional Centers to submit final claims within 90 days after the expiration of the annual contract for costs that were unresolved or pending in 2012 or later.

At **Section 455.Appendix A, Regional Centers and Counties**, the Department is updating the websites for the Regional Centers in Normal, Champaign and Carbondale.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

By Messenger or Inter-Agency Mail:

IDOT/Division of Traffic Safety
1340 N. 9th Street
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: These proposed amendments were not included on either of the two most recent agendas because: the Department could not anticipate the timing of the need for the amendments.

The full text of these Proposed Amendments begins on the next page:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)PART 455
ILLINOIS CYCLE RIDER SAFETY TRAINING PROGRAM

Section

455.10	Purpose and Authority
455.20	Applicability
455.30	Definitions
455.40	Incorporations by Reference
455.50	Program Requirements
455.60	Contracts
455.70	Cycle Rider Safety Training Courses
455.80	Reimbursement Process
455.APPENDIX A	Regional Centers and Counties

AUTHORITY: Implementing and authorized by Sections 1 through 7 of the Cycle Rider Safety Training Act [625 ILCS 35].

SOURCE: Old Part repealed at 33 Ill. Reg. 1812, and new Part adopted at 33 Ill. Reg. 1785, effective January 16, 2009; amended at 35 Ill. Reg. _____, effective _____.

Section 455.10 Purpose and Authority

The purpose of this Part is to prescribe the requirements for administering the Illinois Cycle Rider Safety Training Program that promotes safety for persons and property connected with the use and operation of motorcycles, motor driven cycles and ~~mopeds~~~~motorized pedaleyeles~~ as authorized by the Cycle Rider Safety Training Act [625 ILCS 35]. The Illinois Department of Transportation has the power, duty and authority to administer the Act. (See Section 3 of the Act.)

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 455.30 Definitions

"Act" means the Cycle Rider Safety Training Act [625 ILCS 35].

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"Advanced Course" means a course designed to develop advanced braking and steering skills while the student is astride his/her own cycle. Classroom materials cover cycle handling dynamics and traction management.

"Beginner Course" means a training course that includes both classroom and on-cycle instruction. The course is designed to reduce the likelihood and severity of cycle crash involvement by teaching essential street riding skills and developing riding strategies.

"Assistant Coordinator" means the person who assists the Program Coordinator with day-to-day operations of the Program.

"Chief Instructor" means the person who is qualified under this Part to train and certify Program instructors. (See Section 455.50(a)(4) for qualifications.)

"Code" means the Illinois Vehicle Code [625 ILCS 5].

"Contract" means an annual written agreement between the Illinois Department of Transportation, Division of Traffic Safety, and each Regional Center. The contract year begins December 1 and ends the following November 30. A contract will specify the requirements of the Program and the amount of money provided from the Cycle Rider Safety Training Fund to implement the Program as provided in Section 6 of the Act.

"Cycle" means a motorcycle, motor driven cycle or ~~moped~~~~motorized~~~~pedalecycle~~ as defined in the Illinois Vehicle Code. (Section 2.01 of the Act)

"Cycle Rider" means every person who rides and is in actual physical control of a cycle. (Section 2.02 of the Act)

"Cycle Rider Safety Training Courses" or "Courses" means beginner and advanced courses of instruction in the use and operation of cycles, including instruction in the safe on-road operation of cycles, the rules of the road and the laws of Illinois relating to motor vehicles. These courses must meet the minimum requirements of the Act and this Part and must be approved by the Department as meeting those requirements. (See Section 2.03 of the Act.)

"Department" means the Illinois Department of Transportation. (Section 2.04 of the Act)

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"Division" means the Illinois Department of Transportation, Division of Traffic Safety.

"Driver's License" means any license or permit to operate a motor vehicle under the laws of Illinois. (Section 2.05 of the Act)

"Instructor" means the person or persons qualified under this Part to teach both on-cycle and classroom sessions of the Program. Instructors must successfully complete an Instructor Training Course prior to performing the duties of an instructor.

"Instructor Update Seminar" means an annual seminar conducted at a Regional Center that Program instructors must attend annually to update and review curriculum and other issues related to the Program.

"Moped" means a motor-driven cycle, with or without optional power derived from manually operated pedals, whose speed attainable in one mile is at least 20 mph but not greater than 30 mph, and is equipped with a motor that produces 2 brake horsepower or less. If an internal combustion engine is used, the displacement shall not exceed 50 cubic centimeter displacement and the power drive system shall not require the operator to shift gears. (Section 1-148.2 of the Code)

"Motor Driven Cycle" means every motorcycle and every motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles. (Section 1-145.001 of the Code)

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor. (Section 1-147 of the Code)

"Program" means the Illinois Cycle Rider Safety Training Program.

"Program Coordinator" means the person employed at a Regional Center who is responsible for the day-to-day management of the Program within a Region. The Program Coordinator must meet the Division's Chief Instructor criteria within 18 months after becoming a Program Coordinator.

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"Program Director" means the person employed by the State college or community college, the State university or the community agency designated by the Department to have the overall responsibility for management of the Program within a Region.

"Range" means the paved area that is used to conduct the "on-cycle" portion of the training course.

"Range Aide" means the person employed at a Regional Center who is responsible for preparing the range, cycles and other equipment for on-cycle instruction and for maintaining cycles in a safe operating condition. Range Aides must successfully complete a beginner course ~~instructor program~~ under Section 455.50 prior to employment.

"Region" means the geographic area made up of a group of counties that constitutes an area served by each Regional Cycle Rider Safety Training Center.

"Regional Cycle Rider Safety Training Center" or "Regional Center" means any State college or community college, a State university or a community agency selected by the Division to administer the Program within a defined Region.

"Training Site" means the physical location of the training range or ranges, the classroom or classrooms and the storage facility. Each Region may have more than one training site. A training site may have more than one training range and/or classroom. All training sites shall be selected by the Program Coordinator and approved by the Division prior to use. (See Section 455.50(b) for criteria used to approve training site.)

"USDOT" means the United States Department of Transportation.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 455.40 Incorporations by Reference

- a) The Department incorporates by reference the Motorcycle Safety Foundation's RiderCoach Guide, as it was in effect as of ~~February 2009~~~~April 2008~~, as the curriculum for the beginner courses. No later amendments to or editions of the Motorcycle Safety Foundation's RiderCoach Guide are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 1340

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~~North 9th Street~~~~3215 Executive Park Drive, 3rd Floor~~, Springfield, Illinois
~~6270262703~~ or by calling ~~217/785-1181(217)785-1181~~.

- b) The Department incorporates by reference the Motorcycle Safety Foundation's Experienced Rider Course Suite, as it was in effect as of May ~~20102003~~, as the curriculum for the advanced courses. No later amendments to or editions of the Motorcycle Safety Foundation's Experienced Rider Course Suite are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 North 9th Street~~~~3215 Executive Park Drive, 3rd Floor~~, Springfield, Illinois ~~6270262703~~ or by calling ~~217/785-1181(217)785-1181~~.
- c) The Department incorporates by reference the Motorcycle Safety Foundation's RiderCoach Trainer Guide as it was in effect as of ~~May~~~~March~~ 2008, as the curriculum for the Chief Instructor courses. No later amendments to or editions of the Motorcycle Safety Foundation's RiderCoach Trainer Guide are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, ~~1340 North 9th Street~~~~3215 Executive Park Drive, 3rd Floor~~, Springfield, Illinois ~~6270262703~~ or by calling ~~217/785-1181(217)785-1181~~.
- d) Every helmet used in the Program must conform to the applicable provisions of 49 CFR 571.218 (Motorcycle helmets) of the Federal Motor Vehicle Safety Standard (FMVSS). Those applicable provisions of the FMVSS are incorporated by reference as that part of the FMVSS was in effect on October 1, ~~20102007~~. No later amendments to or editions of 49 CFR 571.218 are incorporated.
- e) Copies of the above materials incorporated by reference are available for inspection at the Division of Traffic Safety, ~~1340 North 9th Street~~~~3215 Executive Park Drive, 3rd Floor~~, Springfield, Illinois ~~6270262703~~ or by calling ~~217/785-1181(217)785-1181~~. The federal standards are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. ~~This Part is~~~~The Division of Traffic Safety's rules are~~ available on the Department's [Highway and Traffic Safety Information](http://www.dot.il.gov/safety.html) website at <http://www.dot.il.gov/safety.html>.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 455.50 Program Requirements

- a) Regional Centers

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The Division will enter into an annual contract with a State college or a community college, a State university or a community agency of its choice to act as a Regional Center for purposes of administering the Program. Training courses will be offered at a Regional Center or at any of the training sites within a Region. Regional Centers shall administer and operate the Program in compliance with this Part.

- 1) **Regional Boundaries**

Regional boundaries are established by the Division through the assignment of counties to a specific Region. Factors used to determine which Region a county is assigned to include the county's proximity to a Regional Center as well as population factors within the State. (See Appendix A for county assignments.) The designated Regions and county assignments are also available on the ~~Program's~~~~Department's~~ internet ~~link~~site at <http://www.dot.il.gov/gif/cyclemap2.htm> <http://www.dot.il.gov/cycle.html>. Larger counties may be divided between two Regional Centers to accommodate all students in that county.
- 2) **Program Directors**

Each State college or community college, State university or community agency shall appoint a Program Director who shall be responsible for the overall management of the Program. The Program Director shall be experienced in program management, including fiscal management, personnel management and preparation of contract proposals and shall have a technical understanding of the Program.
- 3) **Program Coordinators and Assistant Coordinators**
 - A) Each Regional Center shall employ a Program Coordinator to manage the day-to-day operations of the Program. Each Regional Center may appoint an Assistant Coordinator to assist the Program Coordinator.
 - i) The Program Coordinator (and the Assistant Coordinator, if the Regional Center employs an Assistant Coordinator~~applicable~~) must successfully complete a beginner course instructor program under this Section.

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- ii) The Program Coordinator (and Assistant Coordinator) shall be a Chief Instructor or shall become a Chief Instructor within 18 months after becoming a Program Coordinator (or Assistant Coordinator).
 - iii) The Program Coordinator (and Assistant Coordinator) shall be knowledgeable of cycle safety as well as administrative and personnel management issues.
 - iv) The Program Coordinator (and Assistant Coordinator) must have the ability to effectively teach the concepts and lessons of the Program.
 - v) The Program Coordinator (and Assistant Coordinator, ~~if applicable~~) must teach either at least one beginner course and one instructor preparation course or four beginner courses annually. The Program Coordinator or Assistant Coordinator will not be compensated for teaching these annual minimum requirement courses.
- B) Responsibilities of the Program Coordinator and Assistant Coordinator include, but are not limited to:
- i) Preparation of contract proposals;
 - ii) Management of program costs;
 - iii) Training activities as well as monitoring training activities performed by other instructors;
 - iv) Supervision and evaluation of instructors;
 - v) Selection and equipping of training sites;
 - vi) Development and distribution of course schedules;
 - vii) Procurement and management of cycles and related training equipment;

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- viii) Preparation of reports; and
 - ix) Documentation of costs for reimbursement purposes.
- 4) Chief Instructor Qualifications
Chief Instructors shall meet the following requirements:
- A) Complete a Chief Instructor Course, as required by the course curricula (~~see~~ See Section 455.40 for course curricula); and
 - B) Maintain Chief Instructor recertification requirements, as required by the course curricula.
- 5) Beginner Course Instructor Qualifications
Instructors of the beginner course shall meet the following requirements:
- A) Possess a Student Completion Card (see Section 455.70(i));
 - B) Possess a valid Class M driver's license (i.e., motorcycle (150 or more cubic centimeters displacement)) or the equivalent license of another state;
 - C) Possess a valid Red Cross Basic First Aid Card or Division-approved equivalent (e.g., military first aid training, emergency medical technician);
 - D) Be knowledgeable of and able to perform basic cycle maintenance;
 - E) Be able to operate a 5 pound (minimum) dry-chemical (Type A, B or C) fire extinguisher;
 - F) Successfully complete an instructor training course that meets the standards of the Division-approved curriculum and demonstrate riding ability to the satisfaction of the Chief Instructor (~~see~~ See Section 455.40 for Division-approved curriculum);
 - G) Successfully practice teach designated portions of a beginner course under the supervision and in the presence of a Chief Instructor;

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- H) Maintain instructor certification in accordance with the curriculum;
~~and~~
 - I) Attend an annual Instructor Update Seminar conducted by a Regional Center; ~~and-~~
 - J) Possess a safe riding and driving record (an out-of-state instructor shall furnish a copy of his or her driving record) that, for purposes of this Program, means having no more than two convictions for violations of traffic regulations governing the movement of vehicles committed within a 12-month period, and no possibility that the instructor's license could be suspended. An instructor or instructor candidate convicted of any traffic violation that could result in the suspension or revocation of his or her driving privileges, including, but not limited to, DUI (Driving Under the Influence) or DWI (Driving While Intoxicated), shall be disqualified for a period of three years from the date of the suspension.
- 6) Advanced Course Instructor Qualifications
Instructors of the advanced course shall meet the following requirements:
- A) Maintain beginner course instructor certification in accordance with the curriculum;
 - B) Complete a one-day advanced instructor course taught by a qualified Chief Instructor; and
 - C) Complete an annual Instructor Update Seminar conducted by a Regional Center.
- 7) Range Aide Qualifications
Persons employed as Range Aides shall meet the following requirements:
- A) Possess a Beginner Course Student Completion Card (see Section 455.70(i));

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- B) Possess a valid Class M Illinois driver's license or Class L driver's license (i.e., motor driven cycle (under 150 cubic centimeters displacement)) or the equivalent license of another state; and
- C) Be knowledgeable of and able to perform basic cycle maintenance and repair.

b) Training Sites

Courses may be conducted at various training sites established as needed throughout a Region. The Program Coordinator shall consider the following factors when selecting a training site: cycle crash data by county, cycle registrations by county, the number of requests for courses, and the availability of an acceptable site.

- 1) All training sites shall be approved by the Division prior to use. The Division will approve a training site when the requirements of subsections (b)(1)(A) through (b)(1)(C) are met.

A) Range Areas

- i) A range area shall be a paved surface free from street traffic and surface obstructions. All range areas must be approved by the Division. Adequate room must be provided on the range to conduct maneuvers. A range drawing indicating the location, area dimensions and exercise layouts specified shall be submitted to the Division two weeks prior to use and shall indicate any potential hazards on or adjacent to the range. Potential hazards may include, but are not limited to, light poles, fences, raised medians, or parking blocks. If the range or adjacent area changes, an updated drawing shall be submitted to the Division at the following address within one week after the Program Coordinator's knowledge of the change.

Manager, Regulations and Training Unit
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212

1340 North 9th Street ~~3215 Executive Park Drive~~

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- ii) The paved range area must meet standards established by the Division in subsection (b)(1)(A)(i). The Division may approve exceptions to the standards based on an on-site evaluation of the range. Exceptions may include reduced range size and changes to layouts and exercise areas due to potential hazards such as those listed in subsection (b)(1)(A)(i).
 - B) Classroom Facilities
The classroom shall be a room that is usually within walking distance of the range area. The classroom shall be equipped with desks that provide a writing space for each student. A desk or podium and chair shall be provided for the instructor, along with a table to accommodate any audio-visual equipment.
 - C) Storage Facilities
A locked storage facility shall be provided with space adequate for the storage of cycles and related training equipment kept at the site overnight (e.g., helmets, course cones).
- 2) Training Equipment
For a beginner course, the Regional Centers shall furnish the cycles and helmets used during the course. Cycle size and type shall be determined by the Division. For an advanced course, the student will be required to furnish a helmet and a cycle.
- A) Helmet Standards
All helmets shall meet or exceed FMVSS 218.
 - B) Cycle Acquisition
Cycles may be acquired through dealer loan agreements or the Division may purchase cycles for each Regional Center. Cycles are usually purchased from funds deposited into the Cycle Rider Safety Training Fund as authorized in Section 6 of the Act. Cycles are sometimes donated by cycle manufacturers, dealers, clubs, organizations and/or individuals. The Division may also authorize a Regional Center to purchase cycles used in its Region.

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- c) Insurance
- 1) The Regional Center shall obtain liability insurance for each cycle used by a beginner course student in the Program.
 - 2) Minimum insurance limitations and coverages shall be:
 - A) Bodily injury and property damage liability;
 - B) A combined single limit of \$1,000,000 for each occurrence and \$2,000,000 aggregate;
 - C) ~~\$500100~~ deductible per crash (paid by the Regional Center);
 - D) Comprehensive and collision coverage for motorcycles shall be based on their actual cash value as determined annually by the Regional Center using the most current edition of the Kelley or National Automobile Dealers Association (NADA) blue book values~~Actual cash value comprehensive and collision~~; and
 - E) Excess medical coverage in the amount of \$10,000 per person.
 - 3) Proof of insurance shall be submitted to the Division by the Regional Center prior to the start of any beginner or advanced course. The insurance policy shall contain a 30-day written notice (to the Regional Center) of cancellation clause. Insured entities shall include:
 - A) the Regional Center;
 - B) the Department, the Division, their guests, officers and employees;
 - C) the owners of selected training sites; and
 - D) the participating cycle dealers (if applicable).
 - 4) All advanced course students must provide their own cycle or have the owner's written permission to use a borrowed cycle. All cycles used by

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advanced course students must be properly registered and insured for liability damage.

- 5) Regional Centers carry excess medical insurance coverage for students enrolled in the Program. If a student is injured while participating in the Program, he/she must first submit the medical bills to his/her own insurance carrier. The Regional Center's coverage is considered a secondary policy. If the student does not have medical insurance, the Regional Center's medical coverage will be the primary insurer for the claim, up to the limit of its coverage.
- d) **Public Relations**
A Regional Center may implement a multi-media public relations program. Regional Centers are encouraged to secure free promotional opportunities through any news media.
- e) **Logo**
The Division will approve an official Program logo. The official logo must be used on all Program materials (e.g., course schedules, informational brochures, web sites) used by Regional Centers. Each Regional Center may adopt a unique logo specific to its Region. The Regional logo may be used in addition to the Program logo. All Regional logos and Program materials shall be approved by the Division prior to use.
- f) **Record Retention**
All records and reports completed by a Regional Center while under contract with the Division are the property of the Division.
 - 1) **Fiscal Records**
Fiscal records shall be retained by the Regional Center for a period of three years after the final reimbursement claim of the contract year has been paid by the Division. All fiscal records that are subject to an audit finding shall be maintained until the finding is resolved.
 - 2) **Record Accessibility**
The State of Illinois or its representatives shall have access to all Program-related records, documents or reports generated at the Regional Center.
- g) **Audits**

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All contract costs are subject to audit by the State of Illinois or its representative. Audits will be conducted after receipt of the final reimbursement claim for a contract year. The audit procedure may include an on-site inspection of all applicable Program records. The Division reserves the right to conduct audits on a random basis to verify compliance with this Part. Regional Centers will be required to reimburse the Division for any unauthorized or improperly documented expenditures.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 455.70 Cycle Rider Safety Training Courses

- a) **Course Cost**
No fee shall be charged for the Cycle Rider Safety Training courses, except for a nominal registration fee that shall be refunded upon completion of the course. Students may donate the registration fee to the Regional Center.
- b) **Student Eligibility**
To participate in the Cycle Rider Safety Training Program, a student must:
 - 1) be a resident of the State of Illinois;
 - 2) be at least 16 years of age;
 - 3) hold a valid driver's license or permit; and
 - 4) show current proof of liability insurance (advanced course students only).
- c) Every student must sign a "Waiver or Release of Liability" form stating that he/she will not hold the Department liable for any injury or harm that may have occurred during his/her participation in the Program. This form is retained by the Regional Center for a minimum of seven years following the student's completion of the course. Any student under 18 years of age must have the written consent of a parent or guardian to participate in the Program. The parent or guardian's signature must be included on the "Waiver or Release of Liability" form.
- d) **Course Curricula**
The curricula for beginner and advanced courses is selected by the Division. Either the Division or the Program Coordinator may make modifications to the

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curricula to improve the safety, effectiveness or efficiency of the Program. An example of a modification is changing the direction of the cycles' flow due to geographical logistics of the range. Any proposed modification made by a Program Coordinator must be pre-approved by the Division. The proposed modification must be submitted in writing to the Division at the address provided in Section 455.50(b)(1)(A)(i) at least two weeks prior to implementation.

e) Instructor's Manual

Each Regional Center shall compile and print an Instructor's Manual for distribution to each instructor teaching courses within the Region. The Manual shall detail information instructors will need to train students in the Program. The Manual may be revised as needed. All revisions shall be made in accordance with this Part and shall be submitted to the Division for approval at the address provided in Section 455.50(b)(1)(A)(i) at least two weeks prior to use. The Manual shall include:

1) An introduction

A brief history of the Cycle Rider Safety Training Program shall be included. (History information is available by contacting the Division at the address provided in Section 455.50(b)(1)(A)(i).)

2) Procedures

The following Sections of this Part:

Section 455.50(a)(5) Beginner Course Instructor Qualifications
Section 455.50(a)(6) Advanced Course Instructor Qualifications
Section 455.50(a)(7) Range Aide Qualifications
Section 455.70(f) Class Size and Instructor/Range Aide Ratios
Section 455.70(g) Safety Regulations.

3) Regional Boundaries

An identification of the counties to be served by the Regional Center. The address, telephone number and website address of each Regional Center shall be listed in the Manual.

4) Public Relations

An explanation of the importance of a strong public relations program, together with examples of established and suggested public relations materials and procedures.

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- 5) **Cycle Use**
An explanation of the proper use of Program cycles (e.g., not allowing the cycle to be operated for personal use).
- 6) **Conduct**
Guidelines for the proper conduct of instructors, range aides and students. The instructor shall have the authority to evict any student from the instruction period or from the course if the student disrupts the course or if the student displays conduct that may endanger himself/herself or any other person.
- 7) **Duties**
An explanation of the duties of chief instructors, instructors and range aides. Instructions shall also be included that require the instructor to attach completed Student Registration Forms to Program Attendance Records and submit them to the Regional Center as soon as practicable after the completion of a course. Both documents are to be maintained at the Regional Center for at least five years.
- 8) **Student Status**
A definition of student eligibility as provided in subsection (b) and the criteria for passing the course as provided in subsection (e)(12).
- 9) **Course Documents**
Examples of forms provided in the manual shall include:

Waiver or Release of Liability
Student Registration
Attendance Record
Crash/Incident Report (Instructor and Student)
Claim Form for Reimbursable Costs.
- 10) **Student Identification Number (SIN)**
An explanation of the criteria used to develop the SIN shall be provided.
 - A) Each student who attends any portion of a course must complete and sign a Student Registration form and is assigned a SIN. The

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SIN is a nine digit number that identifies all students enrolled in the Program.

- B) An explanation of the nine-digit SIN used on the Student Registration form is as follows:

Field 1: Year (two digits)

Field 2: Regional Center and Training Site (three digits)

Field 3: Course number (two digits)

Field 4: Student number (two digits).

- C) The Regional Center and training site numbers assigned to the Region and training site shall be included in each Instructor's Manual.

- 11) Compensation

A statement of the pay rates used to compensate instructors and range aides.

- 12) Passing Criteria

An explanation of the criteria used to determine if a student passes a beginner or advanced course shall be included in the manual.

- A) Pass means the student attended all sessions and attained a passing score on the riding and written evaluations (beginner course only). ~~A student is considered to have passed the course if he/she has attended 100% of the course and passed the appropriate skills and written test (for beginner course only).~~ (Also see subsections (h)(1) and (h)(2) of this Section for pass/fail criteria.)

- B) Students who successfully pass the course shall be issued a Student Completion Card either at the completion of the course or by U.S. mail following the completion of the course.

- C) The instructor shall have the authority to fail any student from a course if the student displayed unsafe conduct that may have endangered him/herself or any other person.

- 13) Division Questionnaire

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The instructor shall inform each student that he/she may receive a questionnaire from the Division concerning the course. The student will be provided a self-addressed stamped envelope and will be requested to return the questionnaire within 14 business days after completion of the course.

14) Instructional Plan

A plan that outlines the lessons normally taught during each course session. The plan also details instructor course requirements (e.g., how early instructors should arrive before each session).

f) Class Size and Instructor/Range Aide Ratios

1) Beginner Courses

A) A minimum of ~~six~~eight registered students and a maximum of 12 registered students at the first course session is required to conduct a beginner course.

B) Regional Centers may be required to limit the number of students in a beginner course if the Regional Center cannot provide a cycle for each student registered to take the course.

C) Student/instructor ratio for beginner course range training shall not be greater than six to one. Every range session shall have a minimum of two qualified persons (either an instructor and range aide or two instructors) present at all times.

2) Advanced Courses

A) A minimum of ~~six~~eight registered students and a maximum of 12 registered students at the first course session is required to conduct an advanced course.

B) Student/instructor ratios shall not be greater than six to one. Every range session shall have at least two advanced course instructors.

g) Safety Regulations

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- 1) Protective equipment shall be worn by the instructors, range aides and students at all times when students are sitting on a cycle. Instructors and range aides are not required to wear protective equipment when starting Program cycles. Protective equipment includes:
 - A) A helmet that meets or exceeds the requirements of Section 455.50(b)(2)(A);
 - B) Full-fingered gloves;
 - C) Long-sleeved clothing (i.e., jacket or shirt);
 - D) Long pants;
 - E) Sturdy over-the-ankle footwear (not cloth or canvas); and
 - F) Eye protection (i.e., glasses, goggles or helmet visor).
- 2) The following emergency equipment must be present and readily available at all training sites:
 - A) A fully-charged 5-pound (minimum) dry-chemical (Type A, B or C) fire extinguisher;
 - B) A fully-stocked industrial-quality first aid kit; and
 - C) Specific procedures to follow in the event of a crash (including 911, at the discretion of the instructors, and additional telephone numbers, such as students' designated emergency contact numbers).
- 3) A telephone must be available within easy access of all training sites.
- 4) If training cycles are stored away from the range, they shall not be ridden to or from the range.
- 5) Training will not be conducted during a thunderstorm, snowstorm or windstorm. Training will also not be conducted when ice is present on the

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range or if the instructor or instructors determine that the students' safety is at risk.

- 6) Crash and Incident Reporting
 - A) When any crash occurs during a training session, the instructor shall complete a Motorcycle Crash/Incident Report (MCIR) form. The student involved in the crash shall also complete a Student MCIR form explaining his/her version of the crash. The instructor shall submit both MCIRs to the Regional Center within two working days after the crash. The Regional Center shall submit both MCIRs to the Division within two working days after receiving the forms.
 - B) If any crash occurs during a training session that requires emergency medical attention, the instructor shall notify the Regional Center by telephone within 24 hours after the crash. The Regional Center shall inform the Division by telephone within 24 hours after being notified by the instructor. The instructor shall complete and submit the Instructor MCIR to the Regional Center within two working days after the crash. The student involved shall also complete a Student MCIR and submit it to the Regional Center as soon as possible. The Regional Center shall submit both MCIR forms to the Division within two working days after receiving the forms.
 - C) If any damage occurs to a cycle, the instructor shall complete an MCIR and submit it to the Regional Center as soon as practicable. The Regional Center shall submit the form to the Division within 20 working days after receiving it.
- h) Student Status at Course Completion

Each registered student will be classified as a Pass, Fail or Drop at course completion based on the following:

 - 1) Pass – Student attended all sessions and attained a passing score on the riding and written evaluations~~100% of the course, passed the skills and written test for beginner course, and was certified by the instructor as~~

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~~having reached the general level of knowledge, awareness and competence expected of graduates of the course.~~

- 2) Fail – Student ~~completed the class, but failed one or both of the evaluations, attended at least 50% but less than 100% of the course; failed the skills or written test for beginner course;~~ or displayed unsafe conduct that endangered himself/herself or any other person.
- 3) Drop – Student ~~left the course before either evaluation for any reason attended less than 50% of the course.~~

i) Student Completion Card

- 1) ~~Those students who pass a course shall be issued an official Student Completion Card by Regional Center staff and mailed from the Regional Center office, a reflectorized helmet decal, when available, and an experienced rider course pin (for experienced course graduates only, when available).~~
- 2) ~~Replacement cards shall be issued by the Regional Center, upon request, for a period not to exceed one year from the course completion date. Letters or certificates confirming course completion shall be issued, upon request, when the course completion date exceeds one year but not more than three years. Those students who pass a beginner or advanced course shall be issued an official Student Completion Card. Replacement cards shall only be issued by the Regional Center to students who request a replacement card within three calendar years from the date of course completion.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 455.80 Reimbursement Process

- a) The Division shall reimburse the Regional Center for actual costs incurred that are necessary to administer the Program as specified in the Program contract. All actual costs must be considered eligible expenses as predetermined by the contract.

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- b) Actual costs to be claimed shall be documented on the Regional Center's Claim Form for Reimbursable Costs. The Claim Form must identify the:
- 1) Vendor;
 - 2) Amount Paid;
 - 3) Transaction Date; and
 - 4) Budget Line Item for Each Cost.
- c) Receipts (original or copies) that document Program costs listed in subsection (b) shall either be attached to the Claim Form and submitted to the Division at the address provided in Section 455.50(b)(1)(A)(i) or maintained at the Regional Center for at least three years after the final reimbursement claim for a contract year has been paid. Receipts maintained at the Regional Center must be available for inspection by the Division during normal business hours.
- d) If a Regional Center has not complied with all provisions of this Section, the Department may require a Regional Center to submit all future receipts with its Claim Form.
- e) Actual costs for monthly expenditures shall be claimed within 60 calendar days after the month the course was completed. A final claim that documents any costs that were unresolved or pending ~~in 2011 must~~ may be submitted to the Division within ~~135~~ 90 days after the "riding season" (i.e., expiration of the annual contract). A final claim that documents any costs that were unresolved or pending in 2012 or later must be submitted to the Division within 90 days after the riding season.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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Section 455.APPENDIX A Regional Centers and Counties

Region A	Northern Illinois University Motorcycle Safety Project Division of Continuing Education DeKalb, Illinois 60115-2854 (800)892-9607 (815)753-1683 www.outreach.niu.edu/mcycle/	Boone, Carroll, DeKalb, DuPage, JoDaviess, Kane, Lake, Lee, McHenry, Ogle, Stephenson, Whiteside, Winnebago
Region B	Illinois State University Health Science Department 5221 Motor Cycle Safety Program Normal, Illinois 61790-5221 (800)322-7619 (309)438-2352 www.motorcyclesafety.ilstu.edu www.ilstu.edu/depts/mcsafety/	Bureau, Cass, DeWitt, Fulton, Grundy, Hancock, Henderson, Henry, Kendall, Knox, LaSalle, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Mercer, Peoria, Piatt, Putnam, Rock Island, Sangamon, Schuyler, Stark, Tazewell, Warren, Woodford
Region C	University of Illinois Motorcycle Rider Program Department of Community Health #4 Gerty Drive Champaign, Illinois 61820 (800)252-3348 (217)333-7856 http://mrp.illinois.edu www.mrc.uiuc.edu	Champaign, Cook, Ford, Iroquois, Kankakee, Vermilion, Will

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Region D

Southern Illinois University Carbondale
 Motorcycle Rider Program
 Center for Injury Control and
 Work Site Health Promotion
 Carbondale, Illinois 62901-6731
 (800)642-9589
 (618)453-2877
<http://mrp.siu.edu>~~www.siu.edu/~eyele~~

Adams, Alexander,
 Bond, Brown, Calhoun,
 Christian, Clark, Clay,
 Clinton, Coles,
 Crawford, Cumberland,
 Douglas, Edgar,
 Edwards, Effingham,
 Fayette, Franklin,
 Gallatin, Greene,
 Hamilton, Hardin,
 Jackson, Jasper,
 Jefferson, Jersey,
 Johnson, Lawrence,
 Macoupin, Madison,
 Marion, Massac,
 Monroe, Montgomery,
 Morgan, Moultrie, Perry,
 Pike, Pope, Pulaski,
 Randolph, Richland, St.
 Clair, Saline, Scott,
 Shelby, Union, Wabash,
 Washington, Wayne,
 White, Williamson

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Elder Rights
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
270.210	Amendment
270.220	Amendment
270.221	New Section
270.275	Amendment
270.280	New Section
270.285	New Section
270.290	New Section
270.295	New Section
270.300	New Section
- 4) Statutory Authority: 20 ILCS 105/4.01(11) and 320 ILCS 20/3(c), 4, 6, 10, and 14
- 5) Effective Date of Amendments: May 12, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 19133; December 10, 2010
- 10) Has JCAR issued a Statement of Objections to these rulemakings? No
- 11) Differences between proposal and final version:

Section 270.210: change "HotLine" to "Hotline".

Section 270.221(d)(1): after "review teams" add "(i.e., mission statement, applicable legislative authorizations, the Open Meetings Act and statutory confidentiality requirements)"

Section 270.275(b): after "information: add "(see subsection (c))".

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The other changes made to this rulemaking were grammatical and editorial at the recommendation of the Joint Committee on Administrative Rules and the Administrative Code Division.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No

Summary and Purpose of Amendments: This project updates the rules of the Elder and Neglect Program by revising definitions; adding a provision regarding the authority of a regional administrative agency to procure services during non-business hours for a combined or shared service area under Public Act 95-76; adding new provisions regarding Elder Abuse Fatality Review Teams as authorized under Public Act 95-402; updating references to various new categories of individuals who are authorized to request confidential elder abuse records under Public Act 96-526; and establishing rules governing the use of volunteers in local elder abuse programs under Public Act 94-431.

Information and questions regarding these adopted rulemakings shall be directed to:

Karen Alice Kloppe
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield, Illinois 62702-1271

217/785-3346

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGINGPART 270
ELDER RIGHTS

SUBPART A: INTRODUCTION

Section
270.10 Summary and Purpose

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section
270.100 Long Term Care Ombudsman Program
270.105 Definitions
270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman
270.115 Display of Ombudsman Poster
270.120 Access to Resident Records
270.130 Conflict of Interest

SUBPART C: ELDER ABUSE AND NEGLECT PROGRAM

Section
270.200 Purpose
270.205 Elder Abuse and Neglect Program
270.210 Definitions
270.215 Organizational Standards and Responsibilities: Department on Aging
270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies
| [270.221 Elder Abuse Fatality Review Teams](#)
270.225 Organizational Standards and Responsibilities: Elder Abuse Provider Agencies
270.230 Elder Abuse Reporting
270.235 Immunity
270.240 Intake of ANE Reports
270.245 Access to Eligible Adults
270.250 Minimum Assessment and Classification Standards
270.255 ANE Case Work, Follow-Up, Referral to Law Enforcement and Case Closure

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270.260	Authority to Consent to Services and Court Petitions
270.265	Emergency Intervention Services
270.270	Multi-disciplinary Teams
270.275	Confidentiality and Disclosure

SUBPART D: ELDER ABUSE VOLUNTEER CORPSSection

<u>270.280</u>	<u>Definitions</u>
<u>270.285</u>	<u>Selection and Screening</u>
<u>270.290</u>	<u>Training</u>
<u>270.295</u>	<u>Volunteer Agreement and Volunteer Responsibilities</u>
<u>270.300</u>	<u>Activities and Supervision</u>

AUTHORITY: Implementing Section 4.04(c) and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.04(c) and 4.01(11)] and Section 10 of the Elder Abuse and Neglect Act [320 ILCS 20/10].

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011.

SUBPART C: ELDER ABUSE AND NEGLECT PROGRAM

Section 270.210 Definitions

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]

"Act" means the Elder Abuse and Neglect Act. [320 ILCS 20].

~~*"After Hours Line" means the toll-free statewide number that can be called to report suspected cases of elder abuse, neglect and exploitation on holidays, weekends and weekdays before 8:30 a.m. and after 5:00 p.m.*~~

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"Allegation" means a charge or a claim of abuse, neglect, or financial exploitation.

"Alleged abuser" means a person who is reported as abusing, neglecting, or financially exploiting an older person.

"Alleged victim" means the older person who is reported as being abused, neglected, or financially exploited.

"ANE" means abuse, neglect, and financial exploitation.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect or exploitation is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

"Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living. [320 ILCS 20/2(a-7)]

"Casework" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the ANE Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect or financial exploitation is occurring or has occurred.

"Client" is an eligible adult who is receiving services from the elder abuse provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse or

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neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the provider agencies involved. The provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an older person for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Domestic living situation" means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the MR/DD Community Care Act;

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35]; and

~~A "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140]; and~~

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A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135].

"Elder Abuse Hotline" means the 24-hour toll-free statewide number that can be called to report suspected cases of elder abuse, neglect, or financial exploitation.

"Elder abuse provider agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect and financial exploitation.

"Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual. [320 ILCS 20/2(e)]

"Emergency Intervention Services" are the services purchased by elder abuse provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

"Financial exploitation" means the use of an older person's resources by another to the disadvantage of the older person and/or the profit or advantage of a person other than the older person.

"Follow-up" means the monitoring of substantiated cases of ANE for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Intake" means the point at which an elder abuse provider agency receives a report of alleged or suspected abuse, neglect, or financial exploitation; screens the case to make an initial determination that the alleged victim is an eligible adult;

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and, if so, opens a case file to keep a record of the case.

"Intervention" means an action initiated by the elder abuse caseworker or the elder abuse provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency, or supportive services to, or on behalf of, the elder abuse victim or alleged victim.

"Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

a professional or professional's delegate while engaged in:

social services,

law enforcement,

education,

the care of an eligible adult or eligible adults, or

any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the Dietetic and Nutrition Services Practice Act [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], the Respiratory Care Practice Act [225 ILCS 106], the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act~~Illinois Nursing and Advanced Practice Nursing Act~~ [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act ~~of 1987~~ [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107], the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], the

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Veterinary Medicine and Surgery Practice Act of 1994 [225 ILCS 115], and the Illinois Public Accounting Act [225 ILCS 450];

an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

an administrator, employee, or person providing services in or through an unlicensed community-based facility;

any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential~~*a Christian Science Practitioner;*~~

field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report elder abuse, although they may voluntarily do so;

any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

a person who performs the duties of a coroner or medical examiner; or

a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]

"Neglect" means another individual's failure to provide an eligible adult with or

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willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or medical care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that must be met to reach a "some indication" substantiation decision in the ANE Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect or financial exploitation is occurring or has occurred.

"Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. [320 ILCS 20/2(h)]

"Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated. [320 ILCS 20/2(i)]

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited.

"Review team" means a regional interagency elder abuse fatality review team established pursuant to Section 15 of the Act. Each review team shall be

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comprised of representatives of the Department on Aging, the coroner's or medical examiner's office, the State's Attorney's office, local police departments, forensic units, the provider agency, and other interested parties, the purpose of which is to review suspicious or unexplained deaths of seniors in a domestic living situation.

"Senior HelpLine" means the Department's toll-free statewide number that can be called to report suspected cases of elder abuse, neglect and financial exploitation, or to obtain additional information about services available to eligible adults.

"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.

"Shared service area" means the designated area within a planning and service area where two or more provider agencies are responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the provider agencies involved. The provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Source of information" means the point of origin of information about the client.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an elder abuse provider agency determines, after a review of all available information, that abuse, neglect or financial exploitation of an eligible adult has occurred.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect or financial exploitation in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred. [320 ILCS 20/2(j)]

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"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, or financial exploitation.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

(Source: Amended at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies

- a) *Each regional administrative agency shall designate provider agencies within its planning and service area with prior approval by the Department on Aging. [320 ILCS 20/3(b)]*
- b) The standard term for designation shall be for six years, unless such designation is terminated by action of the regional administrative agency or the Department, or unless a provider agency declines to continue its designation. The contract for services in a specified geographical area shall be awarded to a designated elder abuse provider agency for a period of one year. The contract for services may be renewed annually by the regional administrative agency, with the prior approval of the Department.
- c) A procurement process shall be held by the regional administrative agency for the designation of an elder abuse provider agency in each service area every six years, except as provided in subsection (f)(1).
- d) If a review of the proposals submitted during a procurement process fails to produce an acceptable provider agency for the service area, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis.
- e) The regional administrative agency, after notification to, and concurrence by, the Department, may terminate the designation of an elder abuse provider agency for failure to provide services in accordance with the contract and this Part.

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- f) If the designation of an elder abuse provider agency has been terminated, either at the initiative of the regional administrative agency or an elder abuse provider agency, the regional administrative agency shall designate, with the prior approval of the Department, a qualified agency on an emergency basis until such time that a subsequent procurement process produces an acceptable provider agency for the service area.
- 1) When an organization or agency has been selected on an emergency basis, the agency shall be designated for the balance of the fiscal year in which such designation was awarded, and for up to one additional year.
 - 2) Not later than two years following the emergency designation, the regional administrative agency shall conduct a procurement process for the designation of an elder abuse provider agency for the specified service area.
- g) A regional administrative agency may elect, for its planning and service area, to designate provider agencies, from those agencies designated in accordance with subsections (a) through (f) of this Section, for the purpose of providing either a combined or shared service area response, during non-business hours, to reports of alleged or suspected abuse or neglect when an eligible adult is at risk of death or serious physical injury. Each regional administrative agency shall follow the steps outlined in subsections (a) through (f) for procuring services for non-business hours for a combined or shared service area.
- h) The regional administrative agencies shall provide technical assistance to elder abuse provider agencies and shall seek from Department staff policy clarifications and interpretations of standards and procedures.
- i) Regional administrative agencies shall monitor the performance of elder abuse provider agencies, according to Departmental policies.

(Source: Amended at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.221 Elder Abuse Fatality Review Teams

- a) Establishment
The Department, or any other State or county agency with Departmental

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approval, may establish regional interagency elder abuse fatality review teams to:

- 1) assist local agencies in identifying and reviewing suspicious deaths of elderly victims of alleged, suspected, or substantiated abuse or neglect in domestic living situations [320 ILCS 20/2(d)]; and
- 2) facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect, or financial exploitation of persons 60 years of age or older [320 ILCS 20/15(b)].

b) Composition

Each review team shall be composed of representatives of entities and individuals including, but not limited to, the Department on Aging, coroners or medical examiners (or both), State's Attorneys, local police departments, forensic units, and providers of services for persons 60 years of age or older in domestic living situations. [320 ILCS 20/15(b)]

c) Designation Process

- 1) Unless the review team selects, by majority vote, another member, the coroner or medical examiner of the county in which the review team is located shall serve as chair. For review teams in which more than one county is participating, the review team shall select, by majority vote, the chair.
- 2) The chair of a review team shall apply to the Department for official designation under the Elder Abuse and Neglect Program. The application shall be in writing and must include the following information:
 - A) the county or counties that will participate in the review team;
 - B) the names, offices, business addresses, and emergency contact information of the members of the review team;
 - C) a copy of the proposed procedures and protocols for the review team or a statement by the chair that the review team is adopting the statewide standard designed by the Department; and

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D) the date on which, if a designation is approved, the review team proposes to begin its work.

3) Upon receipt of an application, the Department will have 25 calendar days to respond. If the Department refuses to approve a designation, the reason or reasons for that refusal will be promptly transmitted, in writing, to the chair. An application for official designation as a review team that has been refused previously by the Department may be resubmitted, with appropriate changes, at any time.

d) Procedures and Protocols

1) The Department will design a statewide standard for procedures and protocols of review teams (i.e., mission statement, applicable legislative authorizations, the Open Meetings Act and statutory confidentiality requirements) and create a standardized form for data collection about investigations and referral recommendations, which will be available for use by any interested review team.

2) Upon being organized, a review team shall adopt either the statewide standard in a substantially similar form or individual procedures and protocols to review cases as required by subsection (e). Required procedures include protocols for recordkeeping relating to the outcome of investigations and referral recommendations; maintaining confidential communications and records; sharing information about cases with other offices for adult protective services, criminal investigation and prosecution, or court-ordered discovery; data aggregation, collection, and analysis; and allocation of the time and resources of the review team for investigating cases in the event its composition consists of members from more than one county.

3) A review team shall meet not less than 6 times a year to discuss cases for its possible review. Each review team, with the advice and consent of the Department, shall establish criteria to be used by review teams in discussing cases of alleged, suspected, or substantiated abuse or neglect for review. [320 ILCS 20/15(c)]

e) Review of Cases

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- 1) *A review team shall review cases of deaths of persons 60 years of age or older in domestic living situations:*
 - A) *involving blunt force trauma or an undetermined manner or suspicious cause of death;*
 - B) *if requested by the deceased's attending physician;*
 - C) *upon referral by a health care provider; or*
 - D) *constituting an open or closed case from a senior protective services agency, law enforcement agency, or State's Attorney's office that involves alleged or suspected abuse, neglect, or financial exploitation.*

- 2) *A team may also review other cases of deaths of persons 60 years of age or older if the alleged abuse or neglect occurred while the person was residing in a domestic living situation. [320 ILCS 20/15(c)]*

f) Confidentiality

- 1) *Any document or oral or written communication shared within, or produced by, a review team relating to a case discussed or reviewed by the review team is confidential and is not subject to disclosure to, or discoverable by, another party.*
- 2) *Any document or oral or written communication provided to a review team by an individual or entity, or created by that individual or entity solely for the use of the review team, is confidential and is not subject to disclosure to, or discoverable by, another party.*
- 3) *Each individual or entity represented on an elder abuse fatality review team may share with other members of the team information in the individual's or entity's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the individual or entity to be pertinent to the review. Any such information shared by an individual or entity with other members of a team is confidential. The*

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intent of this subsection (f)(3) is to permit the disclosure to members of a team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law.

4) Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow Section 227(d) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/227(d)], which allows for the waiver of privilege afforded to guardians, executors, or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.

5) A coroner's or medical examiner's office may share with a review team medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death. [320 ILCS 20/15(d)]

g) Recommendations and Referrals

A review team's recommendation in relation to a case discussed or reviewed by the review team, including, but not limited to, a recommendation concerning an investigation or prosecution in relation to such a case, may be disclosed by the review team upon the completion of its review and at the discretion of a majority of its members who review the case. [320 ILCS 20/15(e)]

h) Data Collection and Analysis

1) Information on actual cases collected by the review teams shall be forwarded to the Department for aggregation and analysis.

2) The Department, in consultation with coroners, medical examiners, and law enforcement agencies, will use aggregated data gathered by review teams and review teams' recommendations to create an annual report and may use this data and recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for persons 60 years of age or older and their families. The data may include victim demographics; perpetrator demographics; descriptions of the victim's relationship with the perpetrator; cause of death; aggravating and other contributing risks

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factors for abuse, neglect, or financial exploitation; the outcome of investigations; referral recommendations; and the final dispositions in criminal prosecutions.

3) The Department or other State or county agencies, in consultation with coroners, medical examiners, and law enforcement agencies, also may use aggregated data gathered by review teams to create a database of at-risk individuals. [320 ILCS 20/15(f)]

(Source: Added at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.275 Confidentiality and Disclosure

- a) The Elder Abuse and Neglect Act provides that the identity of any person making a report of alleged or suspected elder abuse, neglect, or financial exploitation may be disclosed only with that person's written consent or by court order.
- b) *All records concerning reports of elder abuse, neglect, or financial exploitation and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by the Act or other applicable law. Access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, or financial exploitation as contained in such records, shall be allowed to the following persons and for the following persons:*
 - 1) *Department staff, provider agency staff, other aging network staff, and regional administrative agency staff in the furtherance of their responsibilities under the Act;*
 - 2) *A law enforcement agency investigating a known or suspected case of elder abuse, neglect, or financial exploitation. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;*
 - 3) *A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, or financially exploited or who has been referred to the Elder Abuse and Neglect Program;*

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- 4) *An eligible adult reported to be abused, neglected, or financially exploited, or such adult's authorized guardian or agent, unless the guardian or agent is the abuser or the alleged abuser;*
- 5) *An executor or administrator of the estate of an eligible adult who is deceased;*
- ~~6~~ *A court or a guardian ad litem upon its or his or her finding that access to such records may be necessary for the determination of an issue before such court;*
- ~~76~~ *A grand jury, upon its determination that access to such records is necessary for conduct of its official business;*
- ~~87~~ *Any person authorized by the Director, in writing, for audit or bona fide research purposes;*
- ~~98~~ *A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, or financial exploitation. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult; ~~and~~*
- ~~109~~ *A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between a provider agency and the coroner or medical examiner, under which the provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, or financial exploitation; and*
- ~~11~~ *Department of Financial and Professional Regulation staff and members of the Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act [225 ILCS 20] by provider agency staff. [320 ILCS 20/8]*
- c) All records must be maintained as confidential and stored in a designated and secure area within the elder abuse provider agency offices.

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(Source: Amended at 35 Ill. Reg. 8180, effective May 12, 2011)

SUBPART D: ELDER ABUSE VOLUNTEER CORPSSection 270.280 Definitions

Activity Plan: The document that describes and records the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of the individual volunteer.

Agreement: The document signed by an authorized representative of the elder abuse provider agency and the volunteer in which the elder abuse provider agency appoints the volunteer as an agent and representative of the Elder Abuse and Neglect Program and the volunteer accepts that appointment and the concomitant responsibilities. This agreement shall constitute the volunteer contract required by the State Employee Indemnification Act [5 ILCS 350].

Companion-type services: Activities intended to assist the eligible adults served by the elder abuse provider agency, which may include, but are not limited to, visitations, assistance in transportation, and other personal assistance that does not involve medical, nursing or professional services.

Elder abuse provider agency: An organization designated by the Department pursuant to Section 3 of the Act to provide services to eligible adults pursuant to that Act.

Public awareness: Activities designed to educate and inform the public, which may include, but are not limited to, giving public presentations and speeches; participation in public informational fairs; representing the elder abuse provider agency with community, social service or senior advocacy groups; the creation or production of television or radio public service announcements; and the writing, editing or distribution of newspaper articles, magazine articles, press releases or information sheets.

Regional Administrative Agency: A public or private entity that has been designated by the Department pursuant to Section 3 of the Act.

Volunteer: An individual who has been appointed by the elder abuse provider agency to provide "public awareness services" to that agency or "companion-type

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services" to eligible adults in accordance with the elder abuse provider agency's Volunteer Plan and the individual volunteer's Activity Plan.

Volunteer Plan: The document created by the elder abuse provider agency and approved by the Department that describes the procedure for the recruitment, selection, screening, training, appointment, assignment, supervision, and evaluation of volunteers.

(Source: Added at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.285 Selection and Screening

- a) Each elder abuse provider agency utilizing volunteers under this Subpart shall create a Volunteer Plan, approved by the Department, to recruit, select, screen, train, appoint, assign, supervise and evaluate volunteers.
- b) The recruitment, selection, and screening of volunteer applicants shall be the responsibility of the elder abuse provider agency. Each volunteer applicant shall submit the required personal, professional and background information (see subsection (c)) on a form prescribed by the Department.
- c) The elder abuse provider agency shall conduct a screening of each volunteer applicant. This screening process may include, but is not limited to, personal interviews; reference checks; fingerprint checks; credit checks; medical and mental health checks; background checks; driving record checks; and reviews of professional disciplinary actions, criminal prosecutions, and police records.
- d) The purpose of the screening process is solely to determine the suitability of the volunteer applicant to serve as an appointed volunteer. The elder abuse provider agency shall not seek any personal information on a volunteer applicant beyond that which is necessary to complete the screening process. The screening process of the volunteer applicant shall be the same regardless of expected assignment of the individual volunteer.
- e) Each volunteer applicant shall be required to sign an authorization for the release of the information the elder abuse provider agency has determined to be necessary to complete the screening process. All such information gathered in the course of the background checks and reviews of volunteer candidates shall be held in the strictest confidence permitted by law.

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- f) Upon the completion of the screening process, the elder abuse provider agency shall notify the volunteer applicant whether he or she will be designated as a volunteer. The elder abuse provider agency shall also inform those volunteer applicants who are not so selected of the basis for the decision. The decision of the elder abuse provider agency is final.

(Source: Added at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.290 Training

- a) The training of volunteers is the responsibility of the elder abuse provider agency, and shall be done according to the Volunteer Plan. Prior to being assigned any responsibilities, the volunteer must have satisfactorily completed an initial course of training of not less than six hours.
- b) The initial volunteer training shall include materials on program procedures, elder abuse provider agency organization, types of elder abuse and neglect, confidentiality, safety procedures, the dynamics of client interaction, and additional subjects as each elder abuse provider agency deems necessary.
- c) Each volunteer shall take the advanced training deemed appropriate and necessary by the elder abuse provider agency to undertake the activities to which the volunteer will be assigned.
- d) The initial volunteer training shall be repeated for classes of new volunteers as needed.
- e) As a part of the Volunteer Plan, the elder abuse provider agency shall maintain copies of past and current training agendas.

(Source: Added at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.295 Volunteer Agreement and Volunteer Responsibilities

Each volunteer, upon being appointed, and prior to entering into his or her assigned activities, shall sign a volunteer agreement with the elder abuse provider agency. The agreement shall have been approved by the Department, and shall include the name and contact information for the volunteer, the number of hours per week or month that the

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volunteer anticipates serving, a statement of the general activities to which the volunteer will be assigned, and the following stipulations by the volunteer:

- a) the volunteer agrees to maintain confidentiality as required by the Act, the standards of the Elder Abuse and Neglect Program, and the policies of the elder abuse provider agency, during and after the period of volunteer service;
- b) the volunteer acknowledges and accepts the responsibilities of being a mandated reporter for abuse of older adults, persons with disabilities, and children;
- c) the volunteer agrees to inform the elder abuse provider agency, in writing, of the existence of any apparent conflict of interest, including a preexisting personal or professional relationship with any client of the program to whom the volunteer might be assigned;
- d) the volunteer agrees to maintain the appropriate driver's license and statutorily required insurance coverage if the volunteer is to be acting as a driver for eligible adults; and
- e) the volunteer agrees to abide by all statutory law, administrative rules, Departmental policies, and elder abuse provider agency policies that apply to and govern the elder abuse provider agency.

(Source: Amended at 35 Ill. Reg. 8180, effective May 12, 2011)

Section 270.300 Activities and Supervision

- a) The elder abuse provider agency shall assign volunteers and provide supervision of each volunteer according to the Volunteer Plan. Each volunteer shall have an individualized Activity Plan, which shall include a job description of the specific assignment of the volunteer.
- b) A copy of the Activity Plan for each volunteer shall be maintained in the records of the elder abuse provider agency.
- c) Each individualized Activity Plan shall include a record of all the training, assignments, activities, supervision, and evaluations of the volunteer.

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- d) The Volunteer Plan shall be available for inspection and copying by law enforcement agencies, the Regional Administrative Agency, and the Department on Aging.
- e) The individual Activity Plans shall be available for inspection and copying by law enforcement agencies in the course of conducting a criminal investigation, and by the Department and appropriate Regional Administrative Agency (with redactions of identifying client information as necessary to maintain confidentiality) for monitoring and supervisory purposes.

(Source: Added at 35 Ill. Reg. 8180, effective May 12, 2011)

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- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.410 Adopted Action: Amended
- 4) Statutory Authority: 20 ILCS 505/5
- 5) Effective Date of Rulemaking: May 15, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: 34 Ill. Reg. 13011; September 10, 2010
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The Department made no changes other than nonsubstantive and grammatical changes suggested by JCAR after initial publication.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Department is amending Section 302.410 to comply with federal regulations in order to provide for the State to enter into kinship guardianship assistance agreements and to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed

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legal guardianship of the children for whom they have cared as foster parents and for whom they have committed care on a permanent basis.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TTY 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

The full text of the Adopted Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship Program (KinGap)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 28, 2011; amended at 35 Ill. Reg. 2899, effective February 8, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.410 Subsidized Guardianship (KinGap)

- a) General Provisions

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The subsidized guardianship program (KinGap) implements provisions of [42 USC 673](#)~~Public Law 110-351~~ that allow the State to enter into guardianship agreements to provide assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared as a licensed foster parent and for whom they have committed to care on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

b) Subsidized Guardianship Agreement

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the subsidized guardianship agreement. The child may require services in the future that are not currently being provided for pre-existing physical, emotional or mental health needs or risk factors. Any pre-existing conditions must be described in the subsidized guardianship agreement to be eligible for assistance through the Adoption Assistance Program at a future date. Assistance cannot be granted for services for pre-existing conditions if the conditions are not listed in the subsidized guardianship agreement. The subsidized guardianship agreement must be signed, and a copy of the signed agreement must be provided to the prospective guardian, prior to the transfer of guardianship.

c) Eligibility Criteria

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1) Eligibility for Subsidized Guardianship under KinGap

A) For a child to qualify for subsidized guardianship under KinGap, the following criteria must be met:

iA) the child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and the best interest of the child; and

iiB) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and

iiiC) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that the child has been in his/her home immediately prior to the establishment of the guardianship; and

ivD) being returned home or adopted are not appropriate permanency options for the child; and

vE) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and

viF) with respect to a child who has attained 14 years of age, the child has been consulted and the child has agreed to the guardianship arrangement;

B2) ~~Children who meet the following criteria, outlined in this subsection (c)(2), also qualify for subsidized guardianship under KinGap:~~ A) the child is a sibling of an eligible child who is placed with the same relative as the eligible child under a kinship

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guardianship agreement, ~~when and~~ DCFS and the relative guardian agree that the placement is appropriate, also qualifies for subsidized guardianship under KinGap. Siblings of an eligible child under subsection (c)(2)(B) are not eligible for the sibling exception; or

2) Eligibility for the State Funded Option of Subsidized Guardianship

AB) the child is 14 years of age or older; and

B) the child has lived with a licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:

- i) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and best interest of the child; and
- ii) the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the licensed non-relative home immediately prior to establishing guardianship; and
- iii) the prospective guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
- iv) being returned home or adopted are not appropriate permanency options for the child; and
- v) the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
- vi) the child has been consulted and has agreed to the guardianship arrangement.

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- d) Determination Whether Subsidized Guardianship under the KinGap Program is in the Best Interests of the Child
- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian and the guardian's demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
 - 2) The Department shall ensure that the subsidized guardianship arrangement is safe and suitable placement by means of a safety checks, which shall include a CANTS/SACWIS and LEADS check.
- e) Types of Assistance
A child meeting the eligibility criteria for subsidized guardianship is entitled to the following types of assistance: ~~The types of assistance that a family may apply for include:~~
- 1) Non-recurring Expenses
Payment for non-recurring expenses associated with obtaining legal guardianship for the child subject to the maximum of up to \$2000 per child. ~~Payment for non-recurring expenses for reasonable and necessary miscellaneous costs, and legal fees related to subsidy review, that are~~

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~~directly related to the transfer of guardianship, subject to the maximum set by the Department of up to \$500 per child.~~

- 2) Ongoing Monthly Payments
 - A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.
 - B) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c) of this Part.

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- 3) A Medicaid card.
- 4) Needs Not Payable through Other Sources
[A child meeting the eligibility criteria for subsidized guardianship entitled to the types of assistance outlined in subsections \(e\)\(1\), \(2\) and \(3\) may also apply for the following types of assistance:](#)
 - A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that the services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
 - B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement.
- 5) Therapeutic Day Care
Therapeutic day care is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that those services will begin and has approved the requested services, and a contract has been executed (when applicable).
- 6) Employment Related Day Care
Payment may be made for day care for children under the age of 3 years if the guardian is employed or in a training program that will lead to

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employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

- 7) College Scholarships and the Education and Training Voucher Program
Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships is awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship or are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.
- f) Responsibilities of the Subsidized Guardian
Subsidized guardians are responsible for the following:
 - 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
 - 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;
 - C) the child graduates from high school or equivalent;
 - D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;

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- I) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes; or
 - K) the guardianship is vacated.
- g) Department Responsibilities
- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).
 - 2) The Department shall explain in the child's service plan the following:
 - A) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
 - B) the reasons for any separation of siblings during placement;
 - C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;
 - D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;
 - E) the efforts the agency has made to discuss adoption with the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons not to pursue; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.

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- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
 - 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 5) The Department shall ensure that each guardian has access to post-guardianship staff to respond to requests for information and assistance.
 - 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process).
 - 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for the child to the extent the child's health or well-being is endangered.
- h) **Periodic Reviews**
Periodic reviews are annual re-certifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The guardians will receive written notice of the review, and response from the guardians to this notice is a requirement.
- i) **Termination of Payments**
Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:
- 1) when the terms of the subsidized guardianship agreement are fulfilled;
 - 2) the guardian has requested that the payment permanently stop;

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- 3) the guardian is no longer financially supporting the child;
- 4) the child becomes an emancipated minor;
- 5) the child marries;
- 6) the child enlists in the military;
- 7) the child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21;
- 8) the guardian dies;
- 9) the guardianship is vacated; or
- 10) the child dies.

(Source: Amended at 35 Ill. Reg. 8204, effective May 15, 2011)

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- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedures
- 2) Code Citation: 4 Ill. Adm. Code 2100
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2100.10	New
2100.20	New
2100.30	New
2100.40	New
2100.50	New
2100.60	New
2100.70	New
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 as specified in Title II regulations (28 CFR 35.107) and authorized by 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: June 1, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Administrative Office, Office of the State Appellate Defender, and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: January 14, 2011; 35 Ill. Reg. 719
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: Required rulemaking for the Office of the State Appellate Defender implementing Americans with Disabilities Act grievances procedures.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

David P. Bergschneider
P.O. Box 5240
Springfield, IL 62704

217/782-7203

The full text of the Adopted Rules begins on the next page:

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TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER LXXX: OFFICE OF THE STATE APPELLATE DEFENDERPART 2100
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
2100.10	Purposes
2100.20	Definitions
2100.30	Procedure
2100.40	Designated Coordinator Level
2100.50	Final Level
2100.60	Accessibility
2100.70	Case-By-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 9 of the State Appellate Defender Act [725 ILCS 105/9].

SOURCE: Adopted at 35 Ill. Reg. 8219, effective June 1, 2011.

Section 2100.10 Purposes

- a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations, 28 CFR 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator.
- b) In general, the ADA requires that each program, service and activity offered by the Office of the State Appellate Defender, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the Office to foster open communication with all individuals requesting readily accessible programs, services and activities. The Office encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

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Section 2100.20 Definitions

"Act" or "ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"Complainant" is an individual with a disability who files a Grievance Form provided by the Office under this procedure.

"Designated Coordinator" is the person appointed by the State Appellate Defender who is responsible for coordination of efforts of the Office to comply with and carry out its responsibilities under Title II of the ADA, including investigation of grievances filed by complainants. The Designated Coordinator may be contacted at Office of the State Appellate Defender, 400 W. Monroe St., Suite 202, Springfield IL 62704. (See 28 CFR 35.107.)

"Disabilities" shall have the same meaning set forth in the Americans With Disabilities Act.

"Grievance" is any complaint under the ADA that is reduced to writing by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Office and believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Office or has been subject to discrimination by the Office.

"Grievance Form" is prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, phone number, nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Office" means the Office of the State Appellate Defender.

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Office.

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Section 2100.30 Procedure

- a) Grievances must be submitted in accordance with procedures established in Sections 2100.40 and 2100.50. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the Designated Coordinator and/or the Final Levels described in Sections 2100.40 and 2100.50.
- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the Office given in the grievance procedure.
- c) The Office shall, upon being informed of individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

Section 2100.40 Designated Coordinator Level

- a) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance in completing the Grievance Form shall be provided by the Office.
- c) The Designated Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and the State Appellate Defender within 15 business days after receipt of the Grievance Form.

Section 2100.50 Final Level

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- a) If the grievance is not resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the State Appellate Defender for final review. The complainant shall submit these documents to the State Appellate Defender, together with a short written statement explaining the reasons for dissatisfaction with the Designated Coordinator's written response, within 15 business days after receipt by the complainant of the Designated Coordinator's response.
- b) Within 15 business days, the State Appellate Defender shall appoint a three-member panel to review the grievance at the Final Level. One member shall be designated chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.
- c) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the panel shall make recommendations in writing to the State Appellate Defender as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the State Appellate Defender in writing and shall sign the recommendation.
- e) Within 15 business days after receipt of recommendations from a panel, the State Appellate Defender or designee shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or her decision; and shall cause a copy of the decision to be served on the parties. The State Appellate Defender's decision shall be final. If the State Appellate Defender disapproves or modifies the panel's recommendations, the State Appellate Defender may include written reasons for that disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of

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the State Appellate Defender shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 2100.60 Accessibility

The Office shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

Section 2100.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Office. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Uniform Partnership Act (1997)
- 2) Code Citation: 14 Ill. Adm. Code 166
- 3) Section Number: 166.40 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1208 of the Uniform Partnership Act [805 ILCS 206/1208]
- 5) Effective Date of Amendment: May 13, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: January 28, 2011; 35 Ill. Reg. 1541
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes made between proposal and adoption.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? None were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 13) Summary and Purpose of Amendment: Update filing requirements for limited liability partnerships and foreign limited liability partnerships requiring proof of existence upon request by the Secretary of State.
- 14) Information and questions regarding this adopted amendment shall be directed to:

Michelle Nijm

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Assistant General Counsel
100 W. Randolph, Ste. 5-400
Chicago, IL 60601
312-814-7246

- 15) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 166
UNIFORM PARTNERSHIP ACT (1997)

Section	
166.10	Prohibited Terms in Title
166.15	Improper Names
166.20	Definitions
166.25	Applicability
166.30	Filing Location
166.35	Business Hours
166.40	Filing Requirements
166.45	Additional Requirements for Forms
166.50	Renewal Reports
166.55	Payment of Fees
166.60	Sale of Information
166.65	Refunds
166.70	Service of Process
166.75	Interrogatories
166.80	Right to Counsel

AUTHORITY: Implementing and authorized by Section 1208 of the Uniform Partnership Act [805 ILCS 206/1208].

SOURCE: Adopted at 32 Ill. Reg. 332, effective January 7, 2008; amended at 33 Ill. Reg. 9129, effective July 6, 2009; amended at 35 Ill. Reg. 8226, effective May 13, 2011.

Section 166.40 Filing Requirements

- a) All entities, other than natural persons, serving as partners in limited liability partnerships or foreign limited liability partnerships must provide evidence of existence upon request of the Secretary of State. The evidence shall be provided in the formats set forth in this subsection (a). All other entities not specifically addressed shall provide proof of existence in the manner prescribed by this subsection that most appropriately applies to their entity format.

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- 1) Corporations, limited liability companies, limited partnerships and limited liability partnerships serving as partners in limited liability partnerships or foreign limited liability partnerships shall provide either a Certificate of Existence or a Certificate of Good Standing duly authenticated by the proper officer from the state or country of domicile.
 - 2) General partnerships serving as partners in limited liability partnerships or foreign limited liability partnerships shall provide a statement of information that includes the names and addresses of all the partners, the state of formation, the date of formation, and the address of the records office. The statement shall be sworn to, dated and executed by one of the general partners.
 - 3) Trusts serving as partners in limited liability partnerships shall provide evidence of existence, including the name of the trust, the date of its creation, the names of all trustees, the state of location of the trust, and that the trust is currently in full force and effect. The statement shall be dated and executed by a trustee.
 - 4) Estates serving as partners in limited liability partnerships shall provide evidence of existence by a copy of the relevant court order, dated and executed.
- b) When filing its statement of foreign qualification pursuant to UPA Section 1103, a foreign limited partnership shall submit an original certificate of existence or good standing issued within the preceding 30 days by its state of jurisdiction or formation.
 - c) Documents transmitted for filing electronically must include the name of the person making the submission. The inclusion shall constitute the affirmation or acknowledgement of the person, under penalties of perjury, that the instrument is his or her act and deed or the act and deed of the limited liability partnership, as the case may be, and that the facts stated in the submission are true. Compliance with this Section shall satisfy the signature requirements of UPA Section 105.
 - a) ~~Corporations serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:~~
 - 1) ~~a domestic corporation shall be in good standing in Illinois and the statement of qualification shall be executed by a corporate officer.~~

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- 2) ~~a foreign corporation qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a corporate officer.~~
 - 3) ~~a foreign corporation not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction with the statement of qualification, which shall be executed by a corporate officer.~~
- b) ~~Limited liability companies serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:~~
- 1) ~~a domestic limited liability company shall be in good standing in Illinois and the statement of qualification shall be executed by a company member or manager.~~
 - 2) ~~a foreign limited liability company qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a member or manager.~~
 - 3) ~~a foreign limited liability company not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction with the statement of qualification, which shall be executed by a company member or manager.~~
- c) ~~Limited partnerships serving as partners in limited liability partnerships or foreign limited liability partnerships must comply with the following:~~
- 1) ~~a domestic limited partnership must be in good standing in Illinois and the statement of qualification shall be executed by a general partner.~~
 - 2) ~~a foreign limited partnership qualified in Illinois shall be in good standing in Illinois and the statement of qualification shall be executed by a general partner.~~
 - 3) ~~a foreign limited partnership not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by its state or jurisdiction~~

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~~with the statement of qualification, which shall be executed by a general partner.~~

- d) ~~General partnerships serving as partners in limited liability partnerships must comply with the following:~~
 - 1) ~~both domestic and foreign general partnerships must identify their state of formation, the county of their formation, and their office of records address.~~
 - 2) ~~all partners are to be identified by name and those partners that are partnerships, corporations, limited liability companies, or other non-personal entities shall provide documentation of their existence in good standing in the states of formation or organization.~~
- e) ~~Trusts serving as partners in limited liability partnerships must provide to the Secretary of State evidence of existence by a statement of trustee, dated and executed.~~
- f) ~~Estates serving as partners in limited liability partnerships must provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.~~
- g) ~~All entities, other than natural persons, serving as partners in limited liability partnerships must provide evidence of existence upon request of the Secretary of State, and must comply with the following:~~
 - 1) ~~any partner using an Illinois address must be qualified in Illinois.~~
 - 2) ~~any partner with a foreign address and not qualified in Illinois shall provide a certificate of good standing issued by the state of formation within the preceding 30 days.~~
- h) ~~When filing its statement of foreign qualification pursuant to Section 1102 of the UPA, any foreign limited liability partnership shall submit an original certified copy of the domestic registration as well as a certificate of existence issued by its state or jurisdiction of formation. The Department shall reject any proposed filing that does not contain both the original certified copy of the domestic registration and a certificate of existence or good standing by the state or jurisdiction of formation.~~

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- i) ~~When a limited partnership is a partner in a newly formed limited liability partnership, or when the limited partnership is substituted by amendment as a partner, then the name of the limited partnership shall be written, typed or printed in the space for the partner on the certificate of authority or amendments to the certificate.~~

(Source: Amended at 35 Ill. Reg. 8226, effective May 13, 2011)

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- 1) Heading of the Part: Uniform Limited Partnership Act (2001)
- 2) Code Citation: 14 Ill. Adm. Code 171
- 3) Section Number: 171.45 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1208 of the Uniform Partnership Act [805 ILCS 206/1208]
- 5) Effective Date of Amendment: May 13, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: January 28, 2011; 35 Ill. Reg. 1548
- 11) Has JCAR issued a Statement of Objection to this amendment? No
- 12) Differences between proposal and final version: No substantive changes were made between proposal and adoption.
- 13) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? None were necessary.
- 14) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 15) Are there any amendments pending on this Part? No
- 16) Summary and Purpose of Amendment: Update to filing requirements for limited partnerships requiring proof of existence upon request by the Secretary of State.
- 17) Information and questions regarding this adopted amendment shall be directed to:

Michelle Nijm

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Assistant General Counsel
100 W. Randolph, Ste. 5-400
Chicago, IL 60601

312/814-7246

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The full text of the Adopted Amendment begins on the next page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 171
UNIFORM LIMITED PARTNERSHIP ACT (2001)

Section	
171.10	Prohibited Terms in Title
171.15	Improper Names
171.20	Assumed Names
171.25	Definitions
171.30	Applicability
171.35	Filing Location
171.40	Business Hours
171.45	Filing Requirements
171.50	Additional Requirements for Forms
171.55	Payment of Fees
171.60	Sale of Information
171.65	Refunds
171.70	Service of Process
171.75	Interrogatories
171.80	Right to Counsel
171.85	New Practices and Technologies

AUTHORITY: Implementing and authorized by Sections 108, 108.5, 109 and 902 of the Illinois Uniform Limited Partnership Act [805 ILCS 215/108, 108.5, 109 and 902].

SOURCE: Adopted at 29 Ill. Reg. 19696, effective November 28, 2005; amended at 32 Ill. Reg. 346, effective January 7, 2008; amended at 32 Ill. Reg. 17971, effective December 1, 2008; amended at 35 Ill. Reg. 8233, effective May 13, 2011.

Section 171.45 Filing Requirements

- a) All entities, other than natural persons, serving as general partners in limited partnerships must provide evidence of existence upon request of the Secretary of State. The evidence shall be provided in the formats set forth in this subsection (a). All other entities not specifically addressed shall provide proof of existence in the manner prescribed by this subsection that most appropriately applies to their entity format.

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- 1) Corporations, limited liability companies, limited partnerships and limited liability limited partnerships serving as general partners in limited partnerships or foreign limited partnerships shall provide either a Certificate of Existence or a Certificate of Good Standing duly authenticated by the proper officer from the state or country of domicile.
 - 2) General partnerships serving as general partners in limited partnerships shall provide a statement of information that includes the names of the partnership, the state of formation, the country of formation, the date of formation, the address at which the records of the partnership are kept, and the names and addresses of all partners. The statement shall be sworn to, dated and executed by one of the general partners.
 - 3) Trusts serving as general partners in limited partnerships shall provide to the Secretary of State evidence of existence, including the name of the trust, the date of its creation, the name of all trustees, the state of location of the trust, and that the trust is currently in full force and effect. The statement shall be dated and executed by a trustee.
 - 4) Estates serving as general partners in limited partnerships shall provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.
- b) When filing its admission to transact business pursuant to ULPA Section 901, any foreign limited partnership shall submit an original certificate of existence issued by its state or jurisdiction of formation within the preceding 30 days. The Department shall reject any proposed filing that does not contain the certificate of existence or good standing by the state or jurisdiction of formation.
 - c) Documents transmitted for filing electronically must include the name of the person making the submission. The inclusion shall constitute the affirmation or acknowledgement of the person, under penalties of perjury, that the instrument is his or her act and deed or the act and deed of the limited liability company, as the case may be, and that the facts stated in the submission are true. Compliance with this Section shall satisfy the signature requirements of ULPA Section 204, which shall otherwise apply.
- a) Corporations serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:

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- 1) ~~a domestic corporation shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.~~
 - 2) ~~a foreign corporation qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.~~
 - 3) ~~a foreign corporation not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction with the partnership registration application executed by a corporate officer.~~
- b) ~~Limited liability companies serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:~~
- 1) ~~a domestic limited liability company shall be in good standing in Illinois and the partnership registration application shall be executed by a company member or manager.~~
 - 2) ~~a foreign limited liability company qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a company member or manager.~~
 - 3) ~~a foreign limited liability company not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction with the partnership registration application executed by a company member or manager.~~
- e) ~~Limited partnerships serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:~~
- 1) ~~a domestic limited partnership must be in good standing in Illinois and the partnership registration application shall be executed by a general partner.~~
 - 2) ~~a foreign limited partnership qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a general partner.~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 3) ~~a foreign limited partnership not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect issued within the preceding 30 days by that state or jurisdiction with the partnership registration application executed by a general partner.~~
- d) ~~General partnerships serving as general partners in limited partnerships must comply with the following:~~
 - 1) ~~both domestic and foreign general partnerships must identify their state of formation, the county of their formation, and their office of record address.~~
 - 2) ~~all partners are to be identified by name and those partners that are partnerships, corporations, limited liability companies, or other non-personal entities shall provide documentation of their existence in good standing in the states of formation or organization.~~
- e) ~~Trusts serving as general partners in limited partnerships must provide to the Secretary of State evidence of existence by a statement of trustee, dated and executed.~~
- f) ~~Estates serving as general partners in limited partnerships must provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.~~
- g) ~~All entities, other than natural persons, serving as general partners in limited partnerships must provide evidence of existence upon request of the Secretary of State, and must comply with the following:~~
 - 1) ~~any general partner using an Illinois address must be qualified in Illinois.~~
 - 2) ~~any general partner with a foreign address and not qualified in Illinois shall provide a certificate of good standing from the state of formation.~~
- h) ~~When filing its admission to transact business pursuant to Section 901 of the ULPA, any foreign limited partnership shall submit an original certificate of existence issued by its state or jurisdiction of formation within the preceding 30 days. The Department shall reject any proposed filing that does not contain the certificate of existence or good standing by the state or jurisdiction of formation.~~

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NOTICE OF ADOPTED AMENDMENT

- i) ~~When a limited partnership is a general partner in a newly formed limited partnership, or when the limited partnership is substituted by amendment as a general partner, then the name of the limited partnership shall be written, typed or printed in the space for the general partner on the certificate of authority or amendments to the certificate.~~

(Source: Amended at 35 Ill. Reg. 8233, effective May 13, 2011)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3) Section Number: 1010.550 Adopted Action:
New Section
- 4) Statutory Authority: Chapter 3 of the Illinois Vehicle Code and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)]
- 5) Effective Date of Amendment: May 16, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: February 4, 2011; 35 Ill. Reg. 1881
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: No substantive changes were made between proposal and adoption. All nonsubstantive changes recommended by JCAR were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The rule creates a standard method for determining the age of salvage vehicles.
- 16) Information and questions regarding this adopted amendment shall be directed to:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Cynthia Grant
Assistant General Counsel
298 Howlett Building
Springfield, Illinois 62756

217/785-3094
cgrant@ilsos.net

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The full text of the Adopted Amendment begins on the next page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section	
1010.10	Owner – Application of Term
1010.20	Secretary and Department

SUBPART B: TITLES

Section	
1010.110	Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120	Salvage Certificate – Assignments and Reassignments
1010.130	Exclusiveness of Lien on Certificate of Title
1010.140	Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150	Transferring Certificates of Title Upon the Owner's Death
1010.160	Repossession of Vehicles by Lienholders and Creditors
1010.170	Junking Notification
1010.180	Specially Constructed Vehicles – Defined
1010.185	Specially Constructed Vehicles – Required Documentation for Title and Registration
1010.190	Issuance of Title and Registration Without Standard Ownership Documents – Bond

SUBPART C: REGISTRATION

Section	
1010.200	Homemade Trailers – Title and Registration
1010.210	Application for Registration
1010.220	Vehicles Subject to Registration – Exceptions
1010.230	Refusing Registration or Certificate of Title
1010.240	Registration Plates To Be Furnished by the Secretary of State

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

- 1010.245 Electronic Registration and Titling (ERT) Program Provisions
1010.250 Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND
CANCELLATION OF REGISTRATION

Section

- 1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any
Registration
1010.310 Improper Use of Evidences of Registration
1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards
and Titles
1010.330 Operation of Vehicle Without Proper Illinois Registration
1010.350 Suspension or Revocation
1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section

- 1010.410 Temporary Registration – Individual Transactions
1010.420 Temporary Permit Pending Registration In Illinois
1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the
Secretary of State
1010.425 Non-Resident Drive-Away Permits
1010.426 Five Day Permits
1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for
Compensation and Tow Trucks
1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
1010.450 Special Plates
1010.451 Purple Heart License Plates
1010.452 Special Event License Plates
1010.453 Retired Armed Forces License Plates
1010.454 Gold Star License Plates
1010.455 Collectible License Plates
1010.456 Sample License Plates For Motion Picture and Television Studios
1010.457 Korean War Veteran License Plates
1010.458 Collegiate License Plates
1010.460 Special Plates for Members of the United States Armed Forces Reserves
1010.465 Requests for General Issuance Specialty License Plates

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1010.470 Dealer Plate Records
1010.480 State of Illinois In-Transit Plates

SUBPART F: FEES

Section
1010.510 Determination of Registration Fees
1010.520 When Fees Returnable
1010.530 Circuit Breaker Registration Discount
1010.540 Fees
[1010.550 Determining Age of Vehicle](#)

SUBPART G: MISCELLANEOUS

Section
1010.610 Unlawful Acts, Fines and Penalties
1010.620 Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section
1010.705 Reciprocity
1010.710 Vehicle Proration
1010.715 Proration Fees
1010.720 Vehicle Apportionment
1010.725 Trip Leasing
1010.730 Intrastate Movements, Foreign Vehicles
1010.735 Interline Movements
1010.740 Trip and Short-term Permits
1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.750 Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755 Mileage Tax Plates
1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760 Transfer for "For-Hire" Loads
1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775 Certificate of Safety

1010.APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1010.APPENDIX B	International Registration Plan
1010.APPENDIX C	Affirmation Supporting Salvage Certificate
1010.APPENDIX D	Specialty License Plates Request Form

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005; amended at 31 Ill. Reg. 2668, effective January 29, 2007; amended at 32 Ill. Reg. 17253, effective October 15, 2008; amended at 32 Ill. Reg. 17590, effective October 16, 2008; amended at 34 Ill. Reg. 3673, effective March 5, 2010; amended at 34 Ill. Reg. 10202, effective June 29,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

2010; amended at 35 Ill. Reg. 1652, effective January 13, 2011; amended at 35 Ill. Reg. 8240, effective May 16, 2011.

Section 1010.550 Determining Age of Vehicle

- a) When a salvage vehicle must be inspected by the Secretary of State Police under IVC Section 3-308, the age of the vehicle is to be determined by subtracting the model year of the vehicle from the calendar year of inspection.
- b) Ownership of Salvage Vehicle
 - 1) Pursuant to IVC Section 3-117.1, when an insurance company makes a payment of damages on a total loss claim for a vehicle, the insurance company shall be deemed the owner of the vehicle and the vehicle shall be considered to be salvage, except as provided in subsection (b)(2).
 - 2) Ownership of the following vehicles may, by agreement between the registered owner and the insurance company, be retained by the registered owner of the vehicle:
 - A) a vehicle that has incurred only hail damage that does not affect the operational safety of the vehicle; or
 - B) a vehicle that is 9 model years of age or older.
 - 3) To determine whether a vehicle is 9 model years of age or older, the model year of the vehicle shall be subtracted from the calendar year in which the insurance company makes a payment of damages.

(Source: Added at 35 Ill. Reg. 8240, effective May 16, 2011)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Pay Plan
- 2) Code Citations: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
310.50	Amendment
310.APPENDIX A TABLE AA	Amendment
- 4) Date Notice of Emergency Amendments Published in the Illinois Register: April 1, 2011; 35 Ill. Reg. 5633
- 5) Date JCAR Statement of Objection to Emergency Amendments Published in the Illinois Register: April 29, 2011; 35 Ill. Reg. 7220
- 6) Summary Action Taken by the Agency: The Department of Central Management Services (CMS) respectfully refuses to amend or repeal the emergency amendments because the pay implementation occurred, and immediate JCAR and public notification of the pay implementation was needed. CMS agrees that CMS should have avoided the emergency situation by initiating rulemaking nearer to December 30, 2009 and based on the Memorandum of Agreement signed August 10, 2009. CMS apologizes for the situation and will make a concerted effort to prevent a similar occurrence in the future.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

ENVIRONMENTAL PROTECTION AGENCY

Heading of the Part: Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions

Code Citation: 35 Ill. Adm. Code 276

<u>Section Numbers:</u>	276.101	276.301	276.312	276.506	276.802
	276.102	276.303	276.401	276.507	276.803
	276.103	276.304	276.403	276.508	276.901
	276.104	276.305	276.404	276.602	276.902
	276.201	276.306	276.405	276.604	276.903
	276.203	276.307	276.501	276.605	276.1001
	276.204	276.308	276.502	276.701	276.1002
	276.205	376.309	276.503	276.702	276.1101
	276.207	376.310	276.504	276.703	276.TABLE A
	276.209	376.311	276.505	276.704	276.TABLE B

Date Originally Published in the Illinois Register: 1/3/11
35 Ill. Reg. 14

At its meeting on May 10, 2011, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that EPA update its rules to implement statute in a more timely fashion.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Hospital Services

Code Citation: 89 Ill. Adm. Code 148

<u>Section Numbers:</u>	148.40	148.710
	148.117	148.720
	148.126	148.730
	148.140	148.740
	148.295	148.750
	148.700	148.760

Date Originally Published in the Illinois Register: 11/29/10
34 Ill. Reg. 17832

At its meeting on May 10, 2011, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that HFS cease its practice of adding substantive and significant requirements during the 1st Notice period that were not part of the rulemaking at the time it was originally published for public comment.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO AND
FILING PROHIBITION OF PROPOSED RULEMAKING

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

Heading of the Part: Title Insurance Act

Code Citation: 50 Ill. Adm. Code 8100

Section Numbers: 8100.2402

Date Originally Published in the Illinois Register: 10/22/10
34 Ill. Reg. 15926

At its meeting on May 10, 2011, the Joint Committee on Administrative Rules voted to object to the above proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest.

JCAR objects to and prohibits filing of the Department of Financial and Professional Regulation's rulemaking titled Title Insurance Act (50 Ill. Adm. Code 8100; 34 Ill. Reg. 15926) because, by establishing minimum fees charged for closing protection letters that will not be considered barred inducements under the Title Insurance Act, the Department is exceeding its specific statutory authority. JCAR finds that the proposed provision constitutes a serious threat to the public interest.

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Financial and Professional Regulation for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO AND
FILING PROHIBITION OF PROPOSED RULEMAKING

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Assistance Programs

Code Citation: 89 Ill. Adm. Code 120

<u>Section Numbers:</u>	120.10	120.62	120.379	120.385
	120.20	120.63	120.380	120.387
	120.40	120.65	120.381	120.388
	120.60	120.308	120.382	120.TABLE B
	120.61	120.347	120.384	

Date Originally Published in the Illinois Register: 8/13/10
34 Ill. Reg. 11664

At its meeting on May 10, 2011, the Joint Committee on Administrative Rules voted to object to the above-proposed rulemaking and prohibit its filing with the Secretary of State. The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest and welfare.

JCAR objects to and prohibits filing of the rulemaking because it contains provisions that are not necessary to implement the federal Deficit Reduction Act of 2005 with regard to eligibility for Medicaid long term care assistance. These provisions include application of asset transfer restrictions to transfers made prior to the effective date of the rulemaking; unclear standards for caseworkers to use in determining whether certain transfers are allowable or will be penalized; and a definition of undue hardship that is more restrictive than DRA requires. These provisions will have an adverse economic impact on the affected public and will cause residents of nursing homes to be penalized with loss of eligibility for Medicaid long term care assistance for actions that, when they were taken, did not violate rules. These provisions also make it more difficult for applicants to demonstrate that transfers were legitimate or to obtain undue hardship waivers when transfers are penalized. JCAR finds that these provisions constitute a threat to the public interest and welfare.

The proposed rulemaking may not be filed with the Secretary of State or enforced by the Department of Healthcare and Family Services for any reason following receipt of this certification and statement by the Secretary of State for as long as the Filing Prohibition remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

Agency: State Board of Education

Heading of the Part: Programs for the Preparation of Principals in Illinois

Code Citation: 23 Ill. Adm. Code 30

Section Numbers: 23.70(b)

Date Originally Published in the Illinois Register: 10/8/10
34 Ill. Reg. 14599

Date Filing Prohibition Published in Illinois Register: 4/29/11
35 Ill. Reg. 7228

Date Filing Prohibition Became Effective: 4/13/11

Date Filing Prohibition Withdrawn: 5/10/11, effective upon the filing of the rule without Section 23.70(b)

The Joint Committee on Administrative Rules certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act and contingent on the Board's agreement to remove Section 23.70(b) from the rulemaking, the Joint Committee, has withdrawn the Filing Prohibition. The Committee originally issued this Filing Prohibition at its 4/12/11 meeting.

Please take notice that the agency is no longer prohibited from filing the remainder of the rulemaking (without Sections 23.70(b) and 30.80(c)(6)) with the Secretary of State, as modified in accordance with agreements between the agency and the Joint Committee on Administrative Rules and the modifications submitted in response to the Objection and Filing Prohibition, and from enforcing or invoking the rule.

DEPARTMENT ON AGING

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION ON
PROPOSED RULEMAKING

- 1) Heading of the Part: Elder Rights
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
270.210	Agree
270.220	
270.221	
270.275	
270.280	
270.285	
270.290	
270.295	
270.300	
- 4) Date Notice of Proposed Amendments Published in the Register: December 10, 2010; 34 Ill. Reg. 19133
- 5) Date JCAR Statement of Recommendation Published in the Register: April 29, 2011; 35 Ill. Reg. 7216
- 6) Summary of Action by the Agency: At its meeting on April 12, 2011, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommended that the Department be more timely in proposing amendments to its rules implementing new Public Acts. The Department acknowledges the delay in promulgating part of these rules and will make a more conscientious effort to meet its statutory rulemaking obligations in a more expeditious manner in the future.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

Agency: State Board of Education

Heading of the Part: Programs for the Preparation of Principals in Illinois

Code Citation: 23 Ill. Adm. Code 30

Section Numbers: 30.80(c)(6)

Date Originally Published in the Illinois Register: 10/8/10
34 Ill. Reg. 14599

Date Filing Prohibition Published in Illinois Register: 4/29/11
35 Ill. Reg. 7230

Date Filing Prohibition Became Effective: 4/13/11

Date Filing Prohibition Withdrawn: 5/10/11, effective upon the filing of the rulemaking without Section 30.80(c)(6)

The Joint Committee on Administrative Rules certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act and contingent on the Board's agreement to remove Section 30.80(c)(6) from the rulemaking, the Joint Committee, at its meeting on May 10, 2011, has withdrawn the Filing Prohibition. The Committee originally issued this Filing Prohibition at its 4/12/11 meeting.

Please take notice that the agency is no longer prohibited from filing the remainder of the rulemaking (without Sections 23.70(b) and 30.80(c)(6)) with the Secretary of State, as modified in accordance with agreements between the agency and the Joint Committee on Administrative Rules and the modifications submitted in response to the Objection and Filing Prohibition, and from enforcing or invoking the rule.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 10, 2011 through May 16, 2011 and have been scheduled for review by the Committee at its June 14, 2011 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
6/23/11	<u>Secretary of State</u> , Regulations Under Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)	3/25/11 35 Ill. Reg. 4773	6/14/11
6/29/11	<u>Department of Insurance</u> , Minimum Standards for Determining Nonforfeiture Benefits for Certain Life Insurance Policies Having Intermediate Cash Benefits (50 Ill. Adm. Code 1415)	2/14/11 35 Ill. Reg. 2554	6/14/11

PROCLAMATIONS

2011-157**Childhood Drowning Prevention Month**

WHEREAS, drowning is the leading cause of accidental death for children ages 1-4, as well as the second leading cause of death for children under the age of 14; and,

WHEREAS, childhood drowning can occur in pools, bathtubs, hot tubs, decorative garden ponds and even buckets that contain as little as 2 inches of water, and,

WHEREAS, the state's annual "Get Water Wise...SUPERVISE!" campaign was developed in response to a recommendation from the Illinois Child Death Review Team, after it determined that all childhood drowning deaths were preventable if proper adult supervision was provided; and,

WHEREAS, the "Get Water Wise...SUPERVISE!" campaign is a collaborative effort of the Illinois Department of Children and Family Services (DCFS), Prevent Child Abuse Illinois (PCA Illinois), the American Red Cross Illinois Capital Area Chapter and Illinois Chapter, American Academy of Pediatrics, the Illinois Department of Public Health (DPH), and other community partners who wish to remind the public to help prevent child drowning tragedies by providing adult supervision when children are in or near water; and,

WHEREAS, it is important to recognize that constant adult supervision is needed when children are in or near water:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **CHILDHOOD DROWNING PREVENTION MONTH** in Illinois.

Issued by the Governor April 15, 2011

Filed by the Secretary of State May 10, 2011.

2011-158**Children's Day**

WHEREAS, children hold a special place in our lives. Raising happy, healthy children is the greatest success any parent can hope to achieve and should be an important goal of every member of society because children are profoundly influenced by the people and the environment around them; and,

WHEREAS, the strongest influence is often a child's family, but good schools and nurturing communities also play a vital role in helping children reach their full potential; and,

PROCLAMATIONS

WHEREAS, children are the future of Illinois and it is important that we take action to ensure that they are provided a positive start to life; and,

WHEREAS, in Illinois, we place the utmost value on the safety and welfare of our children and we strongly support programs designed to advocate for their best interests; and,

WHEREAS, it is important that all citizens work to promote an environment of hope and love for children; and,

WHEREAS, the State of Illinois is dedicated to ensuring the health, education and well-being of our children, and we pledge to continue our commitment to ensuring a bright future for all of our young people; and,

WHEREAS, Children's Day focuses on inspiring parents to take positive action and serve as role models for society, and encourages individuals to consider how their actions affect future generations; and,

WHEREAS, the second Sunday in June has been set aside as a day to celebrate children and reaffirm our commitment to their needs:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 12, 2011 as **CHILDREN'S DAY** in Illinois, and urge all members of the community to unite in participating in the education, recognition, and inspiration of our state's children.

Issued by the Governor April 15, 2011
Filed by the Secretary of State May 10, 2011.

2011-159**Automotive Service Professionals Week**

WHEREAS, the automotive service professional, an invaluable member of the automotive service industry in Illinois, is a highly trained and skilled individual; and,

WHEREAS, there are over 13,400 Automotive Service Excellence (ASE) Certified Automotive Service Professionals working in more than 5,000 automotive service and repair facilities throughout Illinois; and,

WHEREAS, the goal of the automotive service and repair industry in Illinois is to provide motorists with the best possible vehicle repair and service; and,

PROCLAMATIONS

WHEREAS, this goal can only be accomplished by developing and using the highly technical and diagnostic skills of automotive service professionals, who are responsible for maintaining, servicing, and repairing the vehicles that the motoring public depends on to travel safely and securely over our nation's roads; and,

WHEREAS, automotive service professionals provide prompt, complete, accurate, and quality service to the increasingly complex vehicles consumers depend upon daily, while diligently adhering to standards of professionalism and continuing technical education and training; and,

WHEREAS, automotive service professionals' ongoing efforts to fix an automobile right the first time are worthy of recognition and appreciation for their dedication to the car owners and vehicles in Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 6-12, 2011 as **AUTOMOTIVE SERVICE PROFESSIONALS WEEK** in Illinois, and encourage all citizens to recognize the valuable and meaningful contributions that automotive service professionals make to keep our cars and trucks running.

Issued by the Governor April 15, 2011
Filed by the Secretary of State May 10, 2011.

2011-160
Air Quality Awareness Month

WHEREAS, poor outdoor air quality can threaten the health of our citizens; and,

WHEREAS, it is estimated that one out of every three people in the United States is at risk of experiencing problems caused by ground-level ozone and particulate matter pollution, both contributors to poor air quality; and,

WHEREAS, children, people suffering from lung disease, older adults, and people with heart disease tend to be more vulnerable to outdoor pollution; and,

WHEREAS, studies have shown that one in eight Chicago children suffers from asthma; and,

WHEREAS, it is advantageous for people to learn more about the effects that poor air quality may have on their health if they fall into one of these sensitive groups; and,

WHEREAS, like the weather, an air quality forecast is released each day by the Illinois Environmental Protection Agency using the Air Quality Index; and,

WHEREAS, residents can sign up to receive their local air quality forecast via email as a free service through Illinois EnviroFlash; and,

PROCLAMATIONS

WHEREAS, knowledge of the air quality forecast can help empower residents to better protect their families; and,

WHEREAS, Partners for Clean Air and the Illinois Environmental Protection Agency are supporting efforts to encourage citizens to utilize the Air Quality Index, understand what causes poor air quality, and make strides to improve the overall outdoor air quality while protecting their health:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **AIR QUALITY AWARENESS MONTH** in the State of Illinois.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-161**Armenian Genocide Remembrance Day**

WHEREAS, the Armenian community, as well as the global community, remembers the Armenian Genocide, which occurred 96 years ago; and,

WHEREAS, during this tragic historical period between the years of 1915 and 1923, Armenians were forced to witness the genocide of their loved ones and the loss of their ancestral homelands; and,

WHEREAS, this extermination and forced relocation of over 1.5 million Armenians by the Ottoman Turks is recognized every year; and,

WHEREAS, Armenians continue to be a people filled with hope, courage, faith, and pride in their heritage, working together to rebuild a firm foundation for Armenia; and,

WHEREAS, many of the thousands of Armenian-Americans in Illinois are descendents or survivors of the Armenian genocide, and have been forthright in their efforts to preserve their culture, heritage, and language, while contributing much to our state and our nation's diverse society and economy; and,

WHEREAS, both recognition and education concerning past atrocities such as the Armenian Genocide are crucial in the prevention of future crimes against humanity:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 30, 2011 as **ARMENIAN GENOCIDE REMEMBRANCE DAY** in Illinois, in observance of the 96th Anniversary of the Armenian Genocide.

PROCLAMATIONS

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-162**National Children's Mental Health Awareness Day**

WHEREAS, addressing the continuing mental healthcare needs of children, youth, and their families today bears on the future wellbeing of all Illinoisans; and,

WHEREAS, the need for comprehensive and coordinated mental healthcare services for children and adolescents must be of vital concern and responsibility to our local communities; and,

WHEREAS, the Illinois Department of Human Services Division of Community Health and Prevention join with the Illinois Children's Mental Health Partnership and our All Our Kids (AOK) Networks to observe National Children's Mental Health Awareness Day by affirming the benefits and value of the work being done by the recent beneficiaries of federal SAMHSA grants in Illinois through Project LAUNCH; and,

WHEREAS, it is fitting that we set aside a day each year for the observance of the mental healthcare requirements of our young, to see where progress has been made, and to assess where there is more work to be done:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 3, 2011 as **NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY** in Illinois, and urge every citizen, state and local agency and private organization committed to advancing the mental wellbeing of children and adolescents to come together to raise awareness of this cause and of the importance of sustaining year-round mental health programs for children and youth and their families.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-163**Minnie Minoso Day**

WHEREAS, Orestes "Minnie" Minoso was born on November 29, 1925 in Havana Cuba; and,

WHEREAS, Minnie Minoso was a star baseball player in the Negro National League, Major League Baseball, and Mexican Leagues. Joining the White Sox on May 1st, 1951, Minnie Minoso became the first black player in the club's history; and,

PROCLAMATIONS

WHEREAS, Minnie Minoso, also known as "Mr. White Sox", was one of the most successful players in the history of the Chicago White Sox. He became a 7-time All-Star and three-time winner of the Gold Glove Award; and,

WHEREAS, Minnie Minoso's impressive career statistics include a .298 batting average, 1023 RBI, 1963 hits, 205 stolen bases, and a .389 on base percentage; and,

WHEREAS, Minnie Minoso is just one of two players in major league history to play in five separate decades, and the only player to have played professionally in seven different decades; and,

WHEREAS, the 1951 American League Rookie of the Year award winner and fourth on the White Sox career lists in both RBI and extra-base hits, Minnie Minoso's jersey number 9 was retired by the White Sox in 1983; and,

WHEREAS, Minnie Minoso was elected to the Chicago Sports Hall of Fame in 1984 and the World Baseball Hall of Fame in 1990; and,

WHEREAS, Minnie Minoso's commitment to the game of baseball, and serving others, is apparent in his current role as a community relations representative for the Chicago White Sox; and,

WHEREAS, the Chicago White Sox and Minnie Minoso will celebrate the 60th anniversary of breaking the White Sox color barrier on May 1st, 2011 during a pre-game ceremony at U.S. Cellular Field:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 1, 2011 as **MINNIE MINOSO DAY** in Illinois, in honor of one of the greatest baseball players ever to play for the Chicago White Sox.

Issued by the Governor April 29, 2011

Filed by the Secretary of State May 10, 2011.

2011-164**Ehlers-Danlos Syndrome Awareness Month**

WHEREAS, Ehlers-Danlos Syndrome is a group of genetic disorders involving mutations in connective tissue characterized by looseness, instability, and dislocations of the joints, fragile and often hyperelastic skin that bruises, scars, and tears easily, unpredictable arterial and organ rupture causing acute pain, excessive internal bleeding, shock, stroke, and premature death; and,

PROCLAMATIONS

WHEREAS, there are six major types of Ehlers-Danlos Syndrome that are characterized by distinctive features with life being shortened for individuals with the vascular type due to arterial or organ rupture. It is estimated the prevalence of all types of Ehlers-Danlos Syndrome is 1 in 5,000-10,000 births worldwide; and,

WHEREAS, a network of worldwide support groups have proved of great benefit to individuals with Ehlers-Danlos Syndrome. Not only do these organizations put people in touch with other individuals managing life with Ehlers-Danlos Syndrome, they are also vital in providing up to date information to the medical profession and public at large; and,

WHEREAS, there is a need for greater research into Ehlers-Danlos Syndrome. By encouraging further studies of Ehlers-Danlos Syndrome, new understanding, interventions, and improved treatments can be acquired, generating a growth in the knowledge base and hope for a cure; and,

WHEREAS, there is neither routine screening nor a cure for Ehlers-Danlos Syndrome, so individuals must seek a diagnosis from a knowledgeable health care provider and individual symptoms must be evaluated and cared for appropriately; physical and occupational therapy evaluation and intervention may be required to address basic life tasks. Early and accurate diagnosis can provide the opportunity to create life-saving emergency medical plans, ensure proper monitoring, and improve quality of life and support for Ehlers-Danlos Syndrome families; and,

WHEREAS, Ehlers-Danlos Syndrome is frequently misdiagnosed or undiagnosed, resulting in greater discomfort and disability for individuals and offspring; improved knowledge of the vascular form can prevent premature and tragic deaths.

WHEREAS, increased knowledge of all types of Ehlers-Danlos Syndrome allow earlier and more effective management, thereby increasing hope of a better quality of life, increased participation in society, reduced disability, pain, and medical expense for Ehlers-Danlos Syndrome families; and,

WHEREAS, the Ehlers Danlos Syndrome Network C.A.R.E.S. is an organization that is dedicated to educating the public and members of the medical profession, as well as supporting research. C.A.R.E.S. has designated the month of May as Ehlers-Danlos Syndrome Awareness Month in memory of those who have died from the syndrome and to raise public awareness:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **EHLERS-DANLOS SYNDROME AWARENESS MONTH** in Illinois.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

PROCLAMATIONS

2011-165**Employee Health and Fitness Month**

WHEREAS, healthy eating and regular physical activity are keys to a healthy lifestyle and better quality of life; and,

WHEREAS, Employee Health and Fitness Month is an international health observance, created by the National Association for Health and Fitness and ACTIVE Life to promote the benefits of regular physical activity for employees through health promotion activities at their worksite; and,

WHEREAS, employers throughout the nation are being asked to join in Employee Health and Fitness Month and design events that are fun, non-competitive and engage employees of all fitness levels to participate in healthy activities to encourage life-long health behaviors; and,

WHEREAS, research confirms that individuals who are physically active with healthy lifestyle habits come to work more often, are more productive at work, have fewer and lower long-term medical claims, have lower disability costs and their job satisfaction levels are much higher; and,

WHEREAS, worksite commitments toward policies and environments that provide opportunities for people to enjoy physical activity and make healthy eating choices on a regular basis is essential for effective, lasting change:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **EMPLOYEE HEALTH AND FITNESS MONTH** in Illinois, and encourage all citizens to participate in activities being planned for this observance in order to achieve improved health and fitness in this month and throughout the year.

Issued by the Governor April 29, 2011

Filed by the Secretary of State May 10, 2011.

2011-166**Exercise is Medicine Month**

WHEREAS, May 2011 has been designated as Exercise is Medicine Month by the American College of Sports Medicine; and,

WHEREAS, all citizens are encouraged to speak with their physicians about how physical activity and exercise may help treat or prevent numerous chronic conditions, such as hypertension, cardiac disease and diabetes; and,

PROCLAMATIONS

WHEREAS, all physicians and other health care providers are encouraged to talk to their patients about the health benefits of exercise and to strongly recommend that their patients engage in appropriate exercise; and,

WHEREAS, regular, moderate-intensity exercise has curative and protective health benefits; and,

WHEREAS, the health benefits of physical activity and exercise can do so much to improve the quality of life for everyone; and,

WHEREAS, a healthier populace means cost savings, greater participation in the workforce and other benefits to society at large; and,

WHEREAS, regular physical activity and exercise is indeed a powerful prescription, with great potential to improve the health of all Americans; and,

WHEREAS, the American College of Sports Medicine and the Midwest American College of Sports Medicine chapter call on health care organizations, physicians and other professionals, regardless of specialty, to assess, to advocate for, and to review every patient's physical activity program during every comprehensive visit:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **EXERCISE IS MEDICINE MONTH** in Illinois, and encourage all citizens to participate in activities and observances planned for this month in the interests of better health and quality of life for all.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-167
National Water Safety Month

WHEREAS, citizens of Illinois recognize the vital role that swimming and aquatic-related activities play in good physical and mental health, and that they enhance the quality of life for all people; and,

WHEREAS, water safety education prevents drowning and recreational water-related injuries and death; and,

WHEREAS, members of the recreational water industry, as represented by the organizations involved in the National Water Safety Month Coalition, have developed safe swimming

PROCLAMATIONS

facilities, aquatic programs, home pools and spas, and related activities which provides healthy places to recreate, learn, grow, and build self-esteem, confidence and sense of self-worth, contributing to the quality of life in a community; and,

WHEREAS, trained and certified aquatics professionals who develop water-safety rules allow for water recreation activities to be both fun and safe at the same time; and,

WHEREAS, members of the National Water Safety Month Coalition are dedicated to educating the public on pool and spa safety issues and initiatives by the pool, spa, waterpark, recreation and parks industries; and,

WHEREAS, the communication of water safety rules and programs to families and individuals of all ages, whether owners of private pools, users of public swimming facilities, or visitors to waterparks, is of vital importance; and,

WHEREAS, effective water-safety programs are one of the best ways to prevent water-related injuries and deaths:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **NATIONAL WATER SAFETY MONTH** in Illinois, and encourage all citizens to support and promote the importance of practicing safety in water recreation.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-168
Older Americans Month

WHEREAS, the State of Illinois is home to more than two million citizens aged 60 years or older; and,

WHEREAS, the older Americans of the State of Illinois are a vital part of our nation's demographic makeup; and,

WHEREAS, older citizens are members of our community entitled to dignified, independent lives free from fears, myths, and misconceptions about aging; and,

WHEREAS, each community in the United States must strive to recognize the contributions of our older citizens, understand and address their evolving needs, and support their caregivers; and,

PROCLAMATIONS

WHEREAS, our society is dependent upon intergenerational cooperation and support, and benefits from our collective efforts to serve older Americans and the people who love and care for them; and,

WHEREAS, increasing numbers of adults are reaching retirement age and remaining strong and active for longer than ever before; and,

WHEREAS, the State of Illinois has worked to develop strategies to get older adults engaged in civic activity in their communities and to encourage interaction between the generations; and,

WHEREAS, older adults in our state deserve to be recognized for the contributions they have made and will continue to make to the culture, economy, and character of our community and our nation:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2011 as **OLDER AMERICANS MONTH** in Illinois, and encourage all citizens to recognize the many ways in which older adults bring inspiration and continuity to the fabric of our communities which have benefitted the State of Illinois.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-169
World Lupus Day

WHEREAS, lupus is an autoimmune disease that can cause severe damage to tissue and organs in the body and, in some cases, death; and,

WHEREAS, more than five million people worldwide suffer the devastating effects of this disease and each year over a hundred thousand young women, men and children are newly diagnosed with lupus, the great majority of whom are women of childbearing age; and,

WHEREAS, medical research efforts into lupus for the discovery of safer, more effective treatments for lupus patients are under-funded in comparison with diseases of comparable magnitude and severity; and,

WHEREAS, many physicians worldwide are unaware of symptoms and health effects of lupus, causing people with lupus to suffer for many years before they obtain a correct diagnosis and medical treatment; and,

PROCLAMATIONS

WHEREAS, there is an urgent need to increase awareness in communities worldwide of the debilitating impact of lupus and to educate and support individuals and families affected by lupus; and,

WHEREAS, since 2004, May 10th has been designated as World Lupus Day on which lupus organizations around the globe call for increases in public and private sector funding for medical research on lupus, targeted education programs for health professionals, patients and the public, and worldwide recognition of lupus as a significant public health issue:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 10, 2011 as **WORLD LUPUS DAY** in Illinois, in order to increase awareness of this devastating and debilitating chronic disease.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-170**Sarcoidosis Awareness Month**

WHEREAS, sarcoidosis is a disease that causes inflammation of the body's tissues. It can occur in any organ of the body and upsets cells until they eventually form granulomas, which are small lumps that stay within the organ; and,

WHEREAS, sarcoidosis can affect people all across the globe. Although it was once viewed as a rare disease, over the last 35 years the affected population has increased. Sarcoidosis is now the most common fibrotic lung disorder and one of the most common chronic diseases in the world; and,

WHEREAS, symptoms of sarcoidosis are far ranging. Since the disease can affect any organ in the body, the symptoms are different for each organ. The most common symptoms include: fatigue, loss of appetite, fever, night sweats, enlarged lymph nodes, a skin rash, and shortness of breath and/or chest pain; and,

WHEREAS, sarcoidosis is not easily diagnosed and can often go undetected or misdiagnosed for a long period of time. Because of this, it is difficult to estimate the number of people living with the disease today; and,

WHEREAS, many patients with sarcoidosis do not require treatment and are able to function normally, particularly those without disabling symptoms. Although corticosteroids remain the primary treatment for sarcoidosis, a critical aspect of treatment is to keep the affected organs

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working and relieve the symptoms. Many times, symptoms will disappear spontaneously or without treatment; and,

WHEREAS, there are many dedicated organizations in this country working to raise awareness about this disease by providing educational awareness and support to the patients and their families as well as developing an ongoing campaign to promote awareness and medical research into the debilitating disease:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 2011 as **SARCOIDOSIS AWARENESS MONTH** in Illinois, and encourage all citizens to educate themselves on this unfortunate chronic illness, and do what they can to support those who are affected by it.

Issued by the Governor April 29, 2011
Filed by the Secretary of State May 10, 2011.

2011-171
Education and Sharing Day

WHEREAS, the State of Illinois recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded; and,

WHEREAS, in order to secure a bright future for America, we must instill in our children a love of learning as well as a spirit of compassion, two of our Nation's most cherished and enduring values; and,

WHEREAS, ethical values and principles have been the bedrock of society from the dawn of civilization, and were known in Judaism as the Seven Noahide Laws; and,

WHEREAS, the Seven Noahide Laws were recognized by the United States Congress in the preamble to the 1991 bill that established Education Day in honor of the birthday of Rabbi Menachem Mendel Schneerson, the leader of the Chabad-Lubavitch movement; and,

WHEREAS, the Chabad- Lubavitch movement has fostered and promoted the ethical values and principles embodied in the Seven Noahide Laws in more than 3000 communities around the world, and through the educational and social service programs of the thirty two centers in Illinois; and,

WHEREAS, the importance of education and kindness was promoted in the teachings and programs of Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe of righteous memory,

PROCLAMATIONS

by inspiring countless individuals to uphold these values in their own lives and communities; and,

WHEREAS, Rabbi Menachem Mendel Schneerson is universally respected and revered for his concern for all humanity, and the nineteenth anniversary of his passing falls on July 5, 2011:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 5, 2011, as **EDUCATION AND SHARING DAY** in Illinois, in commemoration of the nineteenth anniversary of the passing of Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, and encourage all citizens to observe this day with appropriate ceremonies and activities.

Issued by the Governor May 3, 2011

Filed by the Secretary of State May 10, 2011.

2011-172**Emma and Friends Rett Syndrome Awareness Day**

WHEREAS, Rett syndrome is a devastating neurodevelopmental disorder caused by a sporadic, genetic mutation of the MECP2 gene on the X chromosome and mainly affects females. This MECP2 gene makes a protein, also called MECP2, believed to play a pivotal role in silencing, turning off or regulating the activity of other genes. This mutation causes the turn-off regulatory mechanism to fail, allowing the other genes to function abnormally. At present there is no cure; and,

WHEREAS, every 2 hours a girl is born with Rett syndrome, but its symptoms usually do not appear until 6 to 18 months later. This disorder does not just affect those living in the United States, it affects families world - wide. It does not discriminate as to race, color or creed, and it has no boundaries; and,

WHEREAS, those affected are generally born healthy until they begin to show signs of regression, or stagnation of milestones that would otherwise be routinely accomplished. They lose their ability to speak (hence the name "Silent Angels"), walk and they also experience loss of hand control (hand washing) and seizures and scoliosis, all hallmarks of Rett syndrome; and,

WHEREAS, apraxia is one of the most severe handicaps caused by Rett syndrome and includes the inability to carry out learned purposeful movement because of the mutated gene; and,

WHEREAS, a lifetime of occupational, speech, developmental and physical therapies are needed to maintain their existing skills or perhaps to help in this effort, although these girls will never be capable of independent living. Loving parents are "caregivers" for the rest of these children's lives, lives which may be cut short because of this devastating disorder; and,

PROCLAMATIONS

WHEREAS, dedicated scientists and researchers across the United States and around the world are working hard to find treatments now in advance to finding a cure, this coming on the heels of the discovery in 2007 of the reversal of Rett symptoms in mice; and,

WHEREAS, these dedicated scientists and researchers are on the brink of finding suitable treatments to help with certain symptoms of this disorder. For the first time, the door is opening to identify drugs and other therapeutic approaches targeting Rett syndrome in a clinical setting; and,

WHEREAS, it is vital to continue efforts of bringing awareness of Rett syndrome to the medical community, therapists, teachers, caregivers, and the general public, as well as ensuring continued funding for researchers who are dedicated in finding a cure; and,

WHEREAS, on May 14th, 2011, families and friends will gather in the City of Midlothian, Illinois as the Emma & Friends Strollathon Strolls and Rolls for awareness of Rett syndrome and to raise funds to research a cure for Rett syndrome through the International Rett Syndrome Foundation (IRSF):

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 14, 2011 as **EMMA AND FRIENDS RETT SYNDROME AWARENESS DAY** in Illinois, to raise awareness of this disorder, to recognize the families affected by Rett syndrome, and in support of the important work of the International Rett Syndrome Foundation.

Issued by the Governor May 3, 2011
Filed by the Secretary of State May 10, 2011.

2011-173
Village of Northbrook Days

WHEREAS, this year the Village of Northbrook is celebrating its 110th Anniversary; and,

WHEREAS, the Village of Shermerville was founded in 1843, then incorporated in 1901, and renamed the Village of Northbrook in 1923; and,

WHEREAS, in honor of this milestone event, the Village will observe its 110th Anniversary on Memorial Day weekend, May 26-30, 2011 in the Village Park Green with a large number of full size United States flags to celebrate the occasion; and,

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WHEREAS, this celebration is being co-sponsored by Northbrook American Legion Post 791, the Northbrook Historical Society, and the Northbrook Veterans of Foreign Wars Post 10236; and,

WHEREAS, during this celebration citizens will honor the founders of the Village of Northbrook and all those who have served the village over the years since its founding; and,

WHEREAS, it is entirely fitting to set aside a time to recognize the historic service of the residents of the Village of Northbrook and the State of Illinois in times of peace and war; and,

WHEREAS, the people of Illinois join with the people of the Village of Northbrook in celebration of this significant milestone in their village's history:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 26-30, 2011 as **VILLAGE OF NORTHBROOK DAYS** in Illinois, in celebration of their 110th Anniversary.

Issued by the Governor May 3, 2011

Filed by the Secretary of State May 10, 2011.

2011-174**555th Parachute Infantry Battalion (Triple Nickles) Day**

WHEREAS, the 555th Parachute Infantry Battalion, officially activated on December 30, 1943, was the first airborne unit of the United States Army made up entirely of African-American soldiers from commanding officer down to the newest private; and,

WHEREAS, the 555th Parachute Infantry Battalion members were volunteers selected from personnel of the 92nd Infantry Division. These pioneers were specially selected for the task, from former university students and professional athletes to top-notch and veteran non-commissioned officers; and,

WHEREAS, the 555th Parachute Infantry Battalion received its nickname "Triple Nickles" because of its numerical designation and the selection of 17 of the original 20-member test platoon from the 92nd Infantry (Buffalo) Division. Hence, the origin of the term Buffalo Nickles – the spelling deriving from old English; three buffalo nickels joined in a triangle or pyramid is the Battalion's identifying symbol; and,

WHEREAS, by late 1944, the 555th Parachute Infantry Battalion was combat-ready for Europe, but the changing tides of the war resulted in a different assignment – jumping over the blazing forests of the American Northwest searching for Japanese balloon bombs, a job requiring exact

PROCLAMATIONS

skills and special courage and earning the Battalion another nickname – the "Smoke Jumpers"; and,

WHEREAS, during the winter of 1944-45, the Japanese sent 9000 fire balloons toward the western coast of North America. After three days, each balloon dropped an incendiary bomb. In order to conceal the efficacy of these attacks, the missions of the 555th Parachute Infantry Battalion were kept clandestine in nature. In addition to Japanese-influenced fires, the 555th courageously fought in over 1200 dangerous fire-fighting missions throughout the Pacific Northwest; and,

WHEREAS, the 555th Parachute Infantry Battalion was disbanded on August 22, 1950, but in fathering the 3rd Battalion, 505th Airborne Infantry Regiment, the 80th Airborne Anti-aircraft Battalion, the 503rd Airborne Artillery Battalion, and the 2nd Airborne Ranger Company, and serving in the 82nd, 101st, 11th and 13th Airborne Divisions, the 187th Airborne Regimental Combat Team, the 188th and 511th Airborne Infantry Regiments, the Airborne Center and Special Forces, the Triple Nickles served in more airborne units, in peace and war, than any other parachute group in history; and,

WHEREAS, on May 9, 2011, the United States Department of Labor and Asset Illinois are partnering to produce an event designed to provide employers with information and resources related to work force development and family assistance to support veterans. As part of this event, surviving members of the 555th Parachute Infantry Battalion will be recognized for their service to our nation and their important role in history as members of the first all African-American military unit:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 9, 2011 as 555TH **PARACHUTE INFANTRY BATTALION (TRIPLE NICKLES) DAY** in Illinois, in recognition of the service and sacrifice of these brave pioneering Soldiers.

Issued by the Governor May 4, 2011

Filed by the Secretary of State May 10, 2011.

ILLINOIS ADMINISTRATIVE CODE
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