JUDICIAL BENCH CARD

Kinship in Demand (KIND) Act (P.A. 103-1061) Family Finding & Relative Engagement Requirements, Relative Caregiver Certification, and Oversight Recommendations



ACLU Illinois

DISCLAIMER: This document contains general information about the law. It is not legal advice. It is offered as a resource to help you generally. If you have questions, please reach out to us.

PURPOSE

The Kinship in Demand (KIND) Act strengthens Illinois' commitment to ensure meaningful family connections and placement of children with relatives by requiring DCFS to engage and support relatives. Additionally, the Act removes barriers to the permanency goal of guardianship, making this option more accessible for families and inclusive of their voices. The law went into effect on February 5, 2025, with some provisions going into effect on July 1, 2025. Courts play a critical oversight role to ensure DCFS is meeting its statutory obligations to identify, notify, and engage relatives in a timely and thorough manner, provide relatives due process, and avoid unnecessary delays in placement or permanency.

This bench card is a guide to compliance with state and federal law regarding family finding, relative engagement, relative care, and guardianship in child welfare proceedings.

Read the Judicial Bench Card online: **www.aclu-il.org/KIND-Bench-Card**
For questions or more information, contact us at **kind@aclu-il.org**.

KEY STATUTORY & REGULATORY REQUIREMENTS

1. Initial Identification & Notification

WITHIN 5 DAYS OF CHILD REMOVAL, DCFS MUST (SEE 89 ILL. ADM. CODE § 415.35(j)):

- Attempt to locate and interview each person named by the parents or child to determine the relative's interest and ability for placement or other support.
- When interviewing relatives, ask if the relative is aware of other relatives of the child who should be contacted.
- Identify and contact all adult relatives identified by the family, even when an initial placement has been made with a relative caregiver.
  - Notice shall **NOT** be sent to a relative for whom there is a known family violence or domestic violence related criminal conviction, indicated finding, or court finding of family or domestic violence. The permanency worker **MUST** obtain a copy of the conviction, indicated finding, or court finding and place it in the record.
- If the relative cannot be contacted, document the reason the relative could not be contacted.
- If a case worker is contacted by an unidentified relative, the case worker must meet with or call the relative to conduct an interview and determine how the relative is related to the child.
- If a sibling group is involved, the case worker must ask relatives how they are related to each of the siblings in care.
- All interviews must be documented in a contact note.

WITHIN 30 DAYS OF CHILD REMOVAL, DCFS MUST:

- Identify and exercise due diligence to locate all adult relatives unless the court grants an **exception** in accordance with Section 2-27.3 of the Juvenile Court Act of 1987 [705 ILCS 405]. Notice shall **NOT** be sent to a relative for whom there is a known family violence or domestic violence related criminal conviction, indicated finding, or court finding of family or domestic violence in accordance with 42 U.S.C. § 671(a)(29) and 89 Ill. Adm. Code § 415.35(k)(3). This is the **ONLY** legally permissible reason for not completing notice to relatives.
- Provide **written and oral notice** to all adult relatives of (See 705 ILCS 405/2-27.3(a)(2)):
  - The child's removal.
  - The availability of placement, visitation, and support.
  - Adoption and certified guardianship assistance options.
  - Health care coverage for children in care under the medical assistance program established under Article V of the Illinois Public Aid Code.
  - The requirements for relative caregiver certification.
  - Information about the kinship navigator program (anticipated 2028).

NOTE: If a parent's whereabouts or identity is not known at the time of the child's removal, DCFS must complete family finding and relative engagement efforts **within 30 days** of an unknown parent's identity being determined or a parent whose whereabouts were unknown being located. (See 705 ILCS 405/2-10(2.5)).

2. Ongoing Family Finding & Relative Engagement

- DCFS must continue family finding efforts **throughout the case** until permanency is achieved. However, if DCFS believes that ongoing family finding and relative engagement efforts would be futile and no longer in the child's best interest, DCFS shall document the basis of its determination, maintain the documentation in the child's case file, and inform the court of the reasons ongoing relative engagement should cease in accordance with 89 Ill. Adm. Code § 415.95(c). DCFS **cannot** discontinue these efforts **without the court's approval**, according to 705 ILCS 405/2-27.3(a)(3).
- **Ultimately, decisions regarding family finding are within the court's discretion and require its approval.**
- DCFS must **provide a report to the court no later than 45 days** after a child is placed in DCFS' custody, and **with each case plan submitted to the court thereafter**, describing efforts to identify, locate, and engage relatives in a manner consistent with the child's best interest. (See 705 ILCS 405/2-27.3(a)(2)). The report should include:
  - A list of contacts made and the outcome of each contact.
  - Which relatives have been evaluated as placement options.
  - Diligent efforts taken by DCFS to remove barriers to placement.
  - The **manner** in which a relative or caregiver is engaged with the child, **such as**: in person visitation, virtual visitation, phone contact, supervising visitation with parents or siblings, transportation, respite care, and/or placement.

3. Relative Placement Presumption

- A child **must** be placed with a relative **unless evidence demonstrates that such placement would be contrary to the child's best interests**. (See ILCS 405/2-10(2)).
- New best interest factors include: (See P.A. 103-1061, 705 ILCS 405/1-3).
  - The child's wishes and long-term goals, including the child's wishes regarding available permanency options and the child's wishes regarding maintaining connections with parents, siblings, and other relatives (4.05(e)).
  - The preferences of the persons available to care for the child, including willingness to provide permanency to the child, either through subsidized guardianship or through adoption (4.05(j)).

THE KIND ACT: BY THE NUMBERS

WITHIN 5 DAYS of child removal, DCFS must:

Attempt to locate and interview each person named by the parents or child to determine the relative's interest and ability for placement or support.



WITHIN 30 DAYS of child removal, DCFS must:

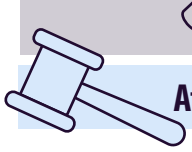
Identify and exercise due diligence to locate all adult relatives and fictive kin unless the court grants an exception.



WITHIN 45 DAYS of a child's placement in DCFS custody, DCFS must:

Provide a report to the court describing efforts to identify, locate, and engage relatives in a manner consistent with the child's best interest.





At ALL HEARINGS the court should follow up on family finding and relative engagement efforts.

JUDICIAL CHECKLISTS: What to Ask During Hearings

1. Shelter Care Hearings

□ If the child has not been placed with a relative, has DCFS **produced the required evidence** to the court as to the **reasonable efforts** that were made to place the child in the home of a relative **OR** the reasons why no efforts reasonably could be made to place the child in the home of a relative, consistent with the best interests of the child? (See 705 ILCS 405/2-19(2)).

□ If the court is placing the child in the temporary custody of DCFS, has DCFS engaged in the required **initial family finding** and **relative engagement** efforts? (See 705 ILCS 405/2-19(2.5))

2. All Subsequent Hearings to Shelter Care Hearings, including Permanency Hearings

At all subsequent hearings to the shelter care hearing (including permanency hearings), the court should consider the following questions when reviewing compliance with family finding, placement, certification, and other relative supports.

Each case may require a variation of the questions below based on the specific facts and status of the case, but these should all be considered when relevant.

A. FAMILY FINDING & RELATIVE ENGAGEMENT

□ What new **family finding efforts** have been made **since the last hearing**? Has DCFS documented continued diligent efforts to **identify, notify, and engage relatives**? Has DCFS completed **the 45-day report**? (See 705 ILCS 405/2-27.3(a)(2)).

- The court **MUST** order DCFS to make diligent efforts in family finding and relative engagement at the shelter care hearing if the court awards guardianship to DCFS. (See 705 ILCS 405/2-23(1)(c)).

□ Which relatives have been contacted since the last hearing, and what was their response?

- Notice shall **NOT** be sent to a relative for whom there is a known family violence or domestic violence related criminal conviction, indicated finding, or court finding of family or domestic violence in accordance with 42 U.S.C. § 671(a)(29) and 89 Ill. Adm. Code § 415.35(k)(3). All other adult relatives **MUST** be provided **oral AND written** notification of their rights and options. (See 20 ILCS 505/7(b)(2)).

□ Are relatives being offered **opportunities to be involved** (placement, support, visitation, services) and is DCFS continuing to engage with relatives on an ongoing basis, including when case circumstances change?

- If relatives were denied from visitation and/or placement, did DCFS provide written notice as required by law stating clear reasons (safety, capacity, willingness) for denial? Did the relatives request a **Decision Review** (higher level internal review)? If so, what was the outcome?

At permanency hearings ONLY, the court must address specific requirements pursuant to the amendments made by the KIND Act. The following questions provide assistance in addressing those requirements:

□ Has the agency provided a **written description** of its **ongoing family finding** and **relative engagement** efforts since its most recent report to the court to plan for the emotional and legal permanency of the child? (See 705 ILCS 405/2-28(2)(B)).

□ If the child is not currently in a placement likely to achieve permanency, is there an identified and willing potential permanent caregiver for the child? If so, what is the potential permanent caregiver's **intent** regarding guardianship and adoption? (See 705 ILCS 405/2-28(2.4)(H)).

□ Has the agency documented continued **reasonable efforts toward permanency by identifying, notifying, and engaging relatives**?

- The court must review DCFS' Ongoing Family Finding and Relative Engagement plan. If the court finds that the plan is not in the child's best interest, the court shall enter specific factual findings and order DCFS to modify the plan consistent with the court's findings. (See 705 ILCS 405/2-28(2.4)(H)).

B. RELATIVE CAREGIVER SUPPORT, PLACEMENT, AND CERTIFICATION

□ Since the last hearing, has DCFS **considered a placement change to a relative if a relative option is available**?

□ Has DCFS assessed **support needs of relative caregivers** (training, financial supports, caseworker contact, respite)?

- All certified relative caregivers must receive orientation in a manner and location that is convenient for them. However, any issues with or delay in orientation **CANNOT** delay certification. (See 89 Ill. Adm. Code § 415.60).
- Residents of certified relative caregiver homes must be provided with orientation opportunities, but are **NOT required and CANNOT cause a delay** in the certification process for certified relative caregiver homes. (See 89 Ill. Adm. Code § 415.60(g), 225 ILCS 10/3.4(e)).

□ Has DCFS made **diligent efforts** as defined by Rule 415 to help remove barriers to placement with a relative, such as home adjustments or needed childcare equipment? (See ILCS 505/5(l-1)).

- DCFS is obligated to ensure that prospective relative caregivers are provided reasonable assistance to correct deficiencies or address issues to enable the relative to meet conditions for certification where possible. (See 89 Ill. Adm. Code § 415.115(a)(2), (b)).
- "Diligent efforts" means conscientious attempts to accomplish all aspects of intervention with respect to thoroughness, timelines, availability, and responsiveness. (See 89 Ill. Adm. Code § 415.35).
- Diligent efforts in the context of family finding and relative engagement **may include**, but are not limited to, interviewing the child's parents, interviewing the child if age and developmentally appropriate, interviewing identified relatives regarding other relatives not yet identified, conducting computer-based searches, and assessing the relative for certification. (Id.)

□ Does the placement promote the child's **culture, community, and continuity of family ties and relationships**? (See new best interest factors: P.A. 103-1061, 705 ILCS 405/1-3).

- The child's wishes and long-term goals, including the child's wishes regarding available permanency options and the child's wishes regarding maintaining connections with parents, siblings, and other relatives (4.05(e)).
- The preferences of the persons available to care for the child, including willingness to provide permanency to the child, either through subsidized guardianship or through adoption (4.05(j)).

□ What is the **status of relative caregiver certification** for current or pending relative placements? Has DCFS completed necessary background checks and caregiver and home assessments? If certification or placement is delayed, what documented "good cause" exists? (See 20 ILCS 505/7(2)(B)-(C)).

□ Have the **certification** and **Decision Review** processes been explained to relatives? (See 225 ILCS 10/3.4(c)).

□ If relatives are currently caring for a child, are they **receiving the payments** they are entitled to from DCFS? (See 20 ILCS 505/5(u-5)).

C. ADOPTION, GUARDIANSHIP, AND THE TERMINATION OF PARENTAL RIGHTS

If the hearing adresses adoption or guardianship, the following questions must be addressed:

□ Is the **permanency goal** consistent with family connections (guardianship, adoption)?

□ Has **guardianship** been fully explained to caregivers as an option when reunification is not viable?

- DCFS is **required to discuss adoption and guardianship** options with caregivers and the court must ensure DCFS has met this obligation, even in the cases pursuing expedited termination of parental rights. (See ILCS 405/2-28 (2-3)(D)(i)-(v)).
- The court may terminate the parental rights of a parent at the initial dispositional hearing only if the petitioner has demonstrated that DCFS has discussed the permanency options of guardianship and adoption with the caregiver and DCFS has informed the court of the caregiver's wishes as to the permanency goal. (See 705 ILCS 405/2-21(5)(A-1)).

□ Have the differences between **guardianship** and **adoption** been explained to caregivers, parents (as appropriate), and children (as age and developmentally appropriate) as required when the goal of guardianship or adoption is being considered? What is the **preference** of the **caregiver, parents, and child**: guardianship or adoption? (See ILCS 405/2-28 (2)(D)(i)-(v)).

BOTTOM LINE FOR JUDGES:
Judges are the gatekeepers of ensuring family integrity. Every hearing should include inquiry into family finding, relative engagement, and support for relatives as a pathway to permanency.

RESOURCES

Quick Reference: Statutes & Rules

- P.A. 103-1061 (Kinship in Demand Act)
- 89 Ill. Adm. Code 415
- 42 U.S.C. § 671(a)(29) (Fostering Connections)

Statutes Amended by the KIND Act:

- Sections 1-3, 1-5, 2-10, 2-13, 2-21, 2-22, 2-23, 2-27, 2-28, 2-28.1 and 5-745 of the Juvenile Court Act of 1987 (and adding Section 2-27.3)
- Sections 2.05, 2.17, 4, 4.3, 5, 7.3, and 7.4 of the Child Care Act of 1969 (and adding Sections 2.36, 2.37, 2.38, 2.39, 2.40 and 3.4)
- Sections 4d, 5, 6a, 7, and 7.3 of the Children and Family Services Act (and adding Sections 46 and 55)
- Sections 4.1 and 15.1 of the Adoption Act

DCFS Resources:

- Rule 415: Relative Home Certification
- Procedures 415: Relative Caregiver Placement and Certification

Additional Resources:

If you'd like to discuss your courtroom experiences, share insights or suggestions, or ask questions about the KIND Act, please reach out to us at kind@aclu-il.org. If you'd like us to provide you with a presentation on the KIND Act, please feel free to contact us to schedule a time. For more information about relative and parental rights, access additional resources at **www.aclu-il.org/KIND**.