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NOS. 4-14-0364, 4-14-0365, 4-14-0366, 4-14-0367, 4-14-0368, 4-14-0369, 4-14-0370, 4-14-0371, 4-14-0372, 4-14-0373, 4-14-0374, 4-14-0375, 4-14-0376 cons.

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: L.R., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0364) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	Appeal from Circuit Court of Vermilion County No. 14JA15
In re: D.B., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0365) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA16
In re: B.B., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0366) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA17
In re: C.R., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0367) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA18

In re: D.R., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0368) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA19
In re: K.U., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0369) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA20
In re: E.G., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0370) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA21
In re: L.F., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0371) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 14JA24
In re: G.A., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0372) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 10JA87

In re: G.A., a Minor THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0373) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 10JA88
In re: M.L., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0374) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 13JA126
In re: B.L., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0375) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 13JA127
In re: J.H., a Minor, THE PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. (No. 4-14-0376) BOBBIE GREGG, Acting Director of The Department of Children and Family Services, Respondent-Appellant.	)	No. 13JA133 Honorable Claudia S. Anderson, Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: Juvenile court orders requiring DCFS to provide drug testing to foster parents shortly following placement of a minor in the foster parents' care were reversed where, although statutory authority for such action exists, the court exceeded its authority by failing to base its orders on an individualized assessment of the particular cases before it.

¶ 2 In these 13 consolidated interlocutory appeals, respondent, Bobbie Gregg, the Acting Director of the Illinois Department of Children and Family Services (collectively, DCFS), challenges juvenile court orders requiring DCFS to provide drug tests to foster parents shortly following a minor's placement in the foster parents' care. On appeal, DCFS argues the court lacked authority to enter its orders. Specifically, it contends (1) foster parents were not parties to the underlying proceedings and the juvenile court lacked jurisdiction over them, (2) the juvenile court has only limited statutory authority to issue orders affecting the placement of minors once DCFS has been granted custody or guardianship, (3) requiring foster parents to submit to drug testing is illogical and improperly interferes with the relationship between DCFS and its foster parents, and (4) the court's orders are barred by sovereign immunity. We reverse.

¶ 3 I. BACKGROUND

¶ 4 In December 2013, an incident occurred before the juvenile court in Vermilion County, which precipitated the orders at issue on appeal. On that occasion, the court suspected a foster parent, who was present in court in connection with a case unrelated to these appeals, was under the influence of an illegal substance. Upon request, that foster parent submitted to a drug test and tested positive for amphetamines and marijuana.

¶ 5 Thereafter, in January and February 2014, the juvenile court entered orders entitled "FOSTER PARENT DRUG DROP ORDER" in the underlying cases, case Nos. 14-JA-15, 14-JA-16, 14-JA-17, 14-JA-18, 14-JA-19, 14-JA-20, 14-JA-21, 14-JA-24, 10-JA-87, 10-JA-88, 13-JA-126, 13-JA-127, and 13-JA-133. The records reflect the orders were entered at various stages in juvenile abuse and neglect proceedings after each minor had been removed from his or her parents' care and placed in the custody of DCFS. Specifically, in case Nos. 14-JA-15, 14-JA-

16, 14-JA-17, 14-JA-18, 14-JA-19, 14-JA-20, 14-JA-21, and 14-JA-24, the orders were entered the same date the court entered its temporary custody orders. In case Nos. 13-JA-126, 13-JA-127, and 13-JA-133, the foster parent drug drop orders were entered the same date the court entered its adjudicatory orders. Finally, in case Nos. 10-JA-87 and 10-JA-88, the foster parent drug drop orders were entered the same date the court entered permanency orders. Each order contained the same language, providing as follows:

> "On December 6, 2013, in case number[s]: 2013 JA 117-118, the foster parent that appeared in court was asked to do a drug drop after court and the results were positive for drugs; and the court being interested in the safety and welfare of the children that appear before the court:
>
> IT IS HEREBY ORDERED that [DCFS] as the fiduciary and the party ultimately responsible for the welfare and best interest of its child wards, is responsible for providing a drug drop, with instant read results, for the foster parent(s) within 24 hours of placement or by substantial compliance (*i.e.*[,] as soon as possible)."

¶ 6 DCFS complied with the juvenile court's orders but, on February 21, 2014, filed a motion to vacate in each case. DCFS argued (1) the foster parents were not parties to the cases at issue and the court did not have jurisdiction to order them to comply with a "drug drop," (2) neither the relevant statutes nor DCFS's own regulations require foster parents to routinely submit to drug testing, (3) the ordered testing interfered with foster parents' personal liberty interests with-

out due process, and (4) the court's orders were barred by sovereign immunity.

¶ 7 On April 2, 2014, the juvenile court conducted a consolidated hearing on DCFS's motions to vacate. DCFS reiterated its position as set forth in its motions. The State, two guardians *ad litem*, and an assistant public defender, representing at least one of the biological parents in the underlying proceedings, each recommended denial of the motions to vacate, arguing the court had authority to enter its foster parent drug drop orders.

¶ 8 Following the parties' arguments the juvenile court denied DCFS's motions. Initially, it agreed that foster parents were not parties to the cases at issue and the court lacked jurisdiction over them. However, the court found it had "absolute jurisdiction over" DCFS, as well as "the authority to ensure the best interests of the child." The court went on to explain its ruling and the rationale behind its foster parent drug drop orders, noting concerns regarding the training of foster parents and caseworkers about drug use, the vetting and investigation of foster parents in advance of placement, the high turnover rate of caseworkers, and the caseworkers' lack of knowledge and understanding regarding the cases to which they were assigned. In explaining its ruling, the court further stated as follows:

> "My exercise of discretion in this case [*sic*] again is because I have jurisdiction over [DCFS], who is absolutely charged with having personal knowledge of what their contract agencies and foster parents are doing. A foster parent, in essence, is an employee of [DCFS].
>
> ***
>
> We've had DCFS here telling us how they train their case-

workers, and that's not happening. We don't have enough caseworkers. We had a caseworker sit in here this morning and tell me that she had 40 cases. In fact, that's the one that didn't have a clue about the [case] that she was testifying in and she'd just been assigned.

I am not going to be a passive observer in juvenile court. My responsibility is to be, I think, the policeman of the wards that are entrusted to a Department that is absolutely—absolutely—out of control. Don't have enough caseworkers, aren't educating them, taking a year to get somebody into therapy, taking, you know, months to get adoptions done.

I don't want to rag at these poor caseworkers. They're making their best effort, but they're not being trained; they're not being assisted; they're not being paid. They don't have the services. We don't have the services available to us because [DCFS] only contracts with certain people, and those folks aren't always sufficient.

Under those circumstances, I'm happy for you to raise the issue. I'm happy for you to address the issue. And maybe at the very least it will cause [DCFS] to develop its own policies and procedures to properly vet foster parents."

¶ 9 The Director filed interlocutory appeals in each case pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Feb. 26, 2010). The cases have been consolidated on appeal and the

office of the State's Attorneys Appellate Prosecutor has filed a brief opposing DCFS's position on appeal.

¶ 10 II. ANALYSIS

¶ 11 A. Mootness

¶ 12 Initially, both DCFS and the State agree that these appeals are moot. "An appeal is moot if no controversy exists or if events have occurred which foreclose the reviewing court from granting effectual relief to the complaining party." *In re Shelby R.*, 2013 IL 114994, ¶ 15, 995 N.E.2d 990. "Courts of review will generally not decide questions which are abstract, hypothetical, or moot." *In re James W.*, 2014 IL 114483, ¶ 18, 10 N.E.3d 1224.

¶ 13 The orders at issue in these appeals required DCFS to provide "a drug drop" to each foster parent within 24 hours of a minor's placement in the foster parent's care (or as soon as possible thereafter). There is no dispute that DCFS complied with those orders. However, as a result, this court is unable to grant any effectual relief to the agency from those specific orders. Nevertheless, DCFS argues the capable-of-repetition-yet-avoiding-review exception to the mootness doctrine applies in this instance. Under that exception (1) "the challenged action must be of a duration too short to be fully litigated prior to its cessation" and (2) "there must be a reasonable expectation that 'the same complaining party would be subjected to the same action again.' " *In re Alfred H.H.*, 233 Ill. 2d 345, 358, 910 N.E.2d 74, 82 (2009) (quoting *In re Barbara H.*, 183 Ill. 2d 482, 491, 702 N.E.2d 555, 559 (1998)).

¶ 14 We agree with DCFS's position. First, the parties agree that the second prong of the capable-of-repetition-yet-avoiding-review exception applies. In particular, the State asserts "no doubt exists that this issue is *capable* of repetition." (Emphasis in original.) Further, the ju-

venile court's orders and comments support a finding that it will likely subject DCFS to the same action again.

¶ 15 Second, the challenged orders were of too short a duration to permit appellate review. As DCFS points out, orders limited to 90 days and 180 days have been found to be of too short a duration to obtain review. See *Alfred H.H.*, 233 Ill. 2d at 358, 910 N.E.2d at 82 (holding there was no question that an order limited to 90 days was of too short a duration to obtain review); *Barbara H.*, 183 Ill. 2d at 491-92, 702 N.E.2d at 559 (finding 90-day orders for the involuntary administration of psychotropic medication and 180-day orders for involuntary hospitalizations were "far too brief to permit appellate review"). Here, the court's orders were of an even shorter duration and required DCFS to act within 24 hours after placement of a minor with a foster parent or "as soon as possible" thereafter.

¶ 16 The State does not dispute that the juvenile court's orders were of a short duration; however, it contends the issue presented by these appeals "only evaded review because DCFS failed to pursue the issue and assert its position in any individual case." The State maintains DCFS should have "pursued an order of friendly contempt in a good-faith effort to secure an interpretation of th[e] issue from the appellate court."

¶ 17 We recognize that "exposing one's self to a finding of contempt is an appropriate method of testing the validity of a court order." *In re Marriage of Beyer*, 324 Ill. App. 3d 305, 321, 753 N.E.2d 1032, 1046 (2001); see also Ill. S. Ct. R. 304(b)(5) (eff. Feb. 26, 2010) (providing that appealable orders include "[a]n order finding a person or entity in contempt of court which imposes a monetary or other penalty"). However, here, DCFS had an available method for testing the court's orders without exposing itself to contempt. See Ill. S. Ct. R. 307(a)(1) (eff.

Feb. 26, 2010) (permitting appeals from interlocutory orders of the circuit court "granting, modifying, refusing, dissolving, or refusing to dissolve or modify an injunction"); see also *In Interest of R.V.*, 288 Ill. App. 3d 860, 865, 681 N.E.2d 660, 664 (1997) (finding a juvenile court order directing DCFS to videotape its interviews of minors was "properly viewed as 'injunctive' and capable of review" under Rule 307(a)(1). We reject any assertion that DCFS was required to pursue an order of "friendly contempt" before it could seek review of the juvenile court's orders. Under the circumstances presented, the capable-of-repetition-yet-avoiding-review exception to the mootness doctrine applies and we review the merits of the DCFS's appeal.

¶ 18 B. Standard of Review

¶ 19 DCFS argues the issues raised on appeal involve questions of law and are subject to *de novo* review. "[I]n an interlocutory appeal, the scope of review is normally limited to an examination of whether or not the trial court abused its discretion in granting or refusing the requested interlocutory relief." *In re Lawrence M.*, 172 Ill. 2d 523, 526, 670 N.E.2d 710, 712 (1996); see also *Pekin Insurance Co. v. Hiera*, 362 Ill. App. 3d 699, 701, 840 N.E.2d 1236, 1237 (2005) (stating that, generally, the abuse-of-discretion standard of review is appropriate when an interlocutory appeal is taken pursuant to Rule 307(a)(1). "However, where the question presented is one of law, a reviewing court determines it independently of the trial court's judgment." *Lawrence M.*, 172 Ill. 2d at 526, 670 N.E.2d at 712. We agree the issues presented by these appeals present questions of law, including matters of statutory construction, and are, therefore, subject to *de novo* review. See *In re Marriage of Turk*, 2014 IL 116730, ¶ 14, 12 N.E.3d 40 (holding "[s]tatutory construction is a question of law" and subject to *de novo* review).

¶ 20 C. Juvenile Court's Jurisdiction Over Foster Parents

¶ 21 On appeal, DCFS contends the juvenile court lacked authority to enter orders requiring all foster parents to be drug tested. It first points out that foster parents are not parties to abuse and neglect proceedings. See *In re A.H.*, 195 Ill. 2d 408, 424, 748 N.E.2d 183, 193 (2001) (stating that necessary parties to juvenile abuse and neglect proceedings "include the parents or legal guardian, not the foster parent"). Thus, DCFS maintains the court lacked jurisdiction over the foster parents and could not directly order them to submit to tests for illegal drug use. However, as argued by the State, this argument mischaracterizes the court's orders. The plain language of the court's orders shows the orders were directed at DCFS and not the individual foster parents. As a result, DCFS's argument is misplaced and does not warrant reversal of the court's orders.

¶ 22 D. Juvenile Court's Statutory Authority

¶ 23 DCFS next argues the juvenile court lacked statutory authority under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 *et seq*. (West 2012)) to order that DCFS drug test its foster parents. For the reasons that follow, we find that the Act contains provisions which allow for the type of orders entered by the juvenile court in this case, but only when those orders are entered based upon the particular facts of the case before it. We find no statutory authority exists for a blanket order entered without an individualized assessment by the court of the particular case in which the order is entered.

¶ 24 Through the Act, the legislature made removal of a child from his or her parents' care as a result of abuse, neglect, or dependency a "justiciable matter." *A.H.*, 195 Ill. 2d at 415-16, 748 N.E.2d at 188-89. "Because a justiciable matter is statutorily derived, the legislature may define it in such a way as to limit or preclude the circuit court's authority." *A.H.*, 195 Ill. 2d

at 416, 748 N.E.2d at 189. "Where *** the circuit court's power to act is controlled by statute, the court must proceed within the strictures of the statute, and may not take any action that exceeds its statutory authority." *People ex rel. Devine v. Stralka*, 226 Ill. 2d 445, 453, 877 N.E.2d 416, 422 (2007); see also *In re A.L.*, 294 Ill. App. 3d 441, 444, 689 N.E.2d 1167, 1169 (1998) (holding "the fact that circuit court jurisdiction is constitutionally derived does not permit a juvenile court to exceed its statutorily prescribed authority"). "Moreover, a court exercising jurisdiction over a minor pursuant to the provisions of the Act is not at liberty to reject or embellish its statutory authority even if there is a perceived need or desirability for such action." *Stralka*, 226 Ill. 2d at 454, 877 N.E.2d at 422.

¶ 25 To support its position that the juvenile court lacked the statutory authority to enter its orders, DCFS emphasizes that juvenile courts are generally not authorized to order DCFS to make a specific foster placement. It cites section 2-23(3) of the Act (705 ILCS 405/2-23(3) (West 2012)), which provides that "[u]nless otherwise specifically authorized by law, the court is not empowered *** to order specific placements, specific services, or specific service providers to be included in the [service] plan." DCFS argues that "by requiring that all foster parents take drug tests, the juvenile court is stripping [DCFS] of the discretion to place minors with those foster parents who are unwilling to submit to [a drug test]." Again, we find DCFS's argument is misplaced and does not speak to the circumstances presented by these appeals. The juvenile court's orders do not direct DCFS to make any specific placement. Rather, they order DCFS to provide drug testing to foster parents within a certain time frame after a placement is made. Thus, the court's orders neither violate section 2-23(3)'s prohibition against the ordering of specific placements nor do they strip DCFS of its placement discretion.

¶ 26 Here, not only do we find that section 2-23(3) of the Act did not prohibit the juvenile court's orders in the instant case, we also find that section contains language which actually authorizes the type of order entered by the court. That section provides that "[t]he court *** shall *enter any other orders necessary to fulfill the service plan*, including, but not limited to, (i) orders requiring parties to cooperate with services, (ii) restraining orders controlling the conduct of any party likely to frustrate the achievement of the goal, and (iii) visiting orders." (Emphasis added.) 705 ILCS 405/2-23(3) (West 2012). In *A.L.*, 294 Ill. App. 3d at 447, 689 N.E.2d at 1171, the Second District determined the language in section 2-23(3) of the Act, which permits a juvenile court to "enter any other orders necessary to fulfill the service plan," authorized the juvenile court to enter an order removing and transferring minors from their foster home. The court stated as follows:

> "The prevailing purpose of the Act is to serve the best interests of the minor [citations], and the provisions of the Act must be construed liberally to effectuate this purpose [citations]. Specifically, section 2-23(3) states that '[t]he court also shall enter *any other orders* necessary to fulfill the service plan.' *** 705 ILCS 405/2-23(3) (West 1996). After reviewing the record, we find that the juvenile court examined the efforts made towards achieving the service plan and found it necessary to enter an order to accomplish the goal set forth in the service plan—the minors' return home to [the] respondent [mother]. The record reveals that the juvenile court was acting in the best interests of the minors. When viewing

> the hearing and the juvenile court's order in light of the overriding purpose of the Act, we read section 2-23(3) of the Act as conferring the authority upon the juvenile court to enter the order removing [the minors] from [their] foster home and requesting DCFS to select alternative placement." (Emphasis in original.) *A.L.*, 294 Ill. App. 3d at 447, 689 N.E.2d at 1171.

¶ 27 We note the Act provides that service plans must be "consistent with the health, safety and best interests of the minor." 705 ILCS 405/2-10.1 (West 2012). Further, the Illinois Administrative Code (Code) states that the purpose of a service plan is to:

> "1) formulate goals for the child based on the child's needs for health, safety, and well-being that were identified during the assessment process;
>
> 2) identify what actions the family, the caseworker, caregiver, and others will take to meet the needs of the child and achieve permanency; [and]
>
> 3) identify what additional interventions and services will be provided to the family, the caregiver, and the child in order to meet the child's needs and achieve permanency." 89 Ill. Adm. Code 315.130(a) (2012).

The Code also provides that service plans must contain information related to a minor's out of home placement and permanency goals. 89 Ill. Adm. Code 315.130(d) (2012).

¶ 28 Given that service plans necessarily concern a minor's best interests and his or her

placement outside of the home, we find the language set forth in section 2-23(3), which requires a juvenile court to enter "orders necessary to fulfill the service plan," authorizes a court to enter orders of the type entered in this case when they are made in the context of reviewing a service plan and are necessary to serve a minor's best interests. Additionally, we note section 2-23(3) of the Act expressly contemplates that orders necessary to fulfill a service plan might include "orders controlling the conduct of *any party* likely to frustrate the achievement of the goal." (Emphasis added.) 705 ILCS 405/2-23(3) (West 2012). We construe this language as permitting the juvenile court to enter orders controlling the conduct of DCFS, as a minor's legal guardian, when the court believes DCFS is not acting consistently with the minor's best interests relative to the service plan and its goals, including a minor's current placement. See *A.H.*, 195 Ill. 2d at 424, 748 N.E.2d at 193 ("Under the Act, 'necessary parties' include the parents or legal guardian ***.").

¶ 29 We note that in the instant cases on appeal, many of the juvenile court's foster parent drug drop orders were entered at the time temporary custody orders were pending. Section 2-10(2) of the Act (705 ILCS 405/2-10(2) (West 2012)) provides that "[i]f the minor is ordered placed in a shelter care facility of [DCFS] *** the court may *enter such other orders related to the temporary custody as it deems fit and proper*." (Emphasis added.) In *A.H.*, 195 Ill. 2d at 420, 748 N.E.2d at 191, the supreme court held that although "no provision in the Act specifically addresses the particular circumstance *** where the shelter care in which the minor was placed for his protection becomes a threat. *** [t]he phrase 'such other orders' [contained in section 2-10(2) of the Act] contemplates the authority to enter an order to remove a minor from his temporary foster care because that order is related to the minor's temporary custody." The court

further stated as follows:

> "At the outset, it is apparent that the jurisdiction of the juvenile court over the minor is not limited to the entry of the temporary custody order. The plain language of section 2-10(2) demonstrates that the juvenile court retains jurisdiction over the temporary custody, both physical and legal, of the minor and that jurisdiction extends to the minor's temporary foster placement. The source of the court's continuing jurisdiction is found in that portion of section 2-10 which gives the court authority to enter orders 'related to' the minor's temporary custody." *A.H.*, 195 Ill. 2d at 419, 748 N.E.2d at 190-91 (quoting 705 ILCS 405/2-10(2) (West 1998)).

The court went on to hold that the juvenile court must make a best interest determination when entering an order related to the minor's temporary custody. *A.H.*, 195 Ill. 2d at 422, 748 N.E.2d at 192.

¶ 30 Here, again, we find section 2-10(2) of the Act provided the juvenile court with the authority to enter the type of order entered in the underlying cases when the minor is in DCFS's temporary custody. Just as an order removing a minor from his temporary foster placement is an order "related to the temporary custody" (705 ILCS 405/2-10(2) (West 2012)), so too is an order requiring DCFS to provide drug testing to the minor's temporary foster parents when such an order is found to be in the minor's best interests.

¶ 31 Although we find sections 2-23(3) and 2-10(2) of the Act authorize a juvenile

court to enter orders requiring DCFS to provide drug testing to foster parents with whom it places a minor, we also find such orders must be based on the particular facts and circumstances of each individual case—specifically, facts and circumstances indicating illicit drug use is a concern. As discussed, section 2-23(3) (705 ILCS 405/2-23(3) (West 2012)) permits the court to "enter any other orders necessary to fulfill *the service plan*" while section 2-10(2) (705 ILCS 405/2-10(2) (West 2012)) provides that a court may "enter such other orders *related to the temporary custody* as it deems fit and proper." (Emphases added.) Both sections involve best interest determinations.

¶ 32 Recently, we held statutory language that requires a juvenile court to make a best interest finding meant "the court must make some type of particularized finding relating to the specific minor's case." *In re N.M.*, 2014 IL App (4th) 130604, ¶ 19, 13 N.E.3d 761. Similar reasoning applies here. The statutory language in both sections 2-23(3) and 2-10(2) indicates the court must base its orders on the particular facts presented by the case before it. As DCFS points out on appeal, no statutory provision requires DCFS to subject all of its foster parents to drug testing. Further, there is also no statutory provision which would permit the juvenile court to mandate such a requirement in all cases. Thus, while a juvenile court may properly oversee its wards and act to ensure that individual juvenile abuse and neglect cases are proceeding in the best interests of the minor at issue, the court is without authority under the Act to set the standards and procedures DCFS must follow in all cases—no matter how commendable its goals.

¶ 33 We note the State emphasizes that the juvenile court below entered orders in each individual case. However, the records on appeal fail to reflect that the court made particularized factual findings that the use of illicit drugs was a concern in any of the individual cases at issue.

Moreover, the court's own orders indicate they were entered in response to events that occurred in an unrelated juvenile abuse and neglect case rather than any of the cases which are the subject of these appeals. Thus, although statutory authority exists for the type of orders entered by the court, the orders were not based upon appropriate considerations and exceeded the court's statutory authority.

¶ 34 E. Sovereign Immunity

¶ 35 Finally, on appeal, DCFS argues the juvenile court's orders were barred by sovereign immunity. It argues (1) DCFS is required to pay for the foster parent drug tests, making the court's orders essentially money judgments against the State over which the Illinois Court of Claims has exclusive jurisdiction; and (2) the court's orders improperly "control the actions of the State by forcing it to obtain drug tests for foster parents that it does not wish to obtain."

¶ 36 "While sovereign immunity dictates that the state can be sued only in the Court of Claims, the determination of whether an action is in fact a suit against the state turns upon an analysis of the issues involved and the relief sought, rather than the formal designation of the parties." *Lawrence M.*, 172 Ill. 2d at 527, 670 N.E.2d at 713. In *Lawrence M.*, 172 Ill. 2d at 527, 670 N.E.2d at 713, the supreme court held that juvenile court orders that required DCFS to provide and pay for inpatient drug treatment services "were not barred by the doctrine of sovereign immunity, where the orders essentially directed DCFS administrators to provide mandated services." In so holding, the court stated that "[a] suit against state officials which seeks to compel them to perform their duty is not held to be a suit against the state even though the duty to be performed arises under a certain statute, and the payment of state funds may be compelled." *Lawrence M.*, 172 Ill. 2d at 527, 670 N.E.2d at 713; see also *In re Detention of Hayes*, 321 Ill.

App. 3d 178, 191, 747 N.E.2d 444, 455-56 (2001) (holding a trial court order was "in the nature of a suit compelling a state official to perform her or his duty and is not barred by sovereign immunity" whether or not the court's belief that it was statutorily authorized to enter the order was correct).

¶ 37 The orders at issue on appeal essentially sought to compel DCFS administrators to perform their duties under the Act. Thus, we reject DCFS's contention that the juvenile court's orders were barred by sovereign immunity.

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we reverse the juvenile court's orders requiring DCFS to provide drug testing to foster parents shortly following placement of a minor in the foster parents' care. Although the Act contains provisions which authorize such action, in the instant cases, the court improperly failed to base its orders on the particular facts and circumstances of the cases before it, thereby exceeding its statutory authority under the Act.

¶ 40 Reversed.