



Rep. Sara Feigenholtz

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1 AMENDMENT TO HOUSE BILL 4636

2 AMENDMENT NO. _____. Amend House Bill 4636, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Child Care Act of 1969 is amended by
6 changing Sections 2.04, 2.05, 2.17, 4, and 5 as follows:

7 (225 ILCS 10/2.04) (from Ch. 23, par. 2212.04)

8 Sec. 2.04. "Related" means any of the following
9 relationships by blood, marriage, civil union, or adoption:
10 parent, grandparent, great-grandparent, great-uncle,
11 great-aunt, brother, sister, stepgrandparent, stepparent,
12 stepbrother, stepsister, uncle, aunt, nephew, niece, or first
13 cousin or second cousin. A person is related to a child as a
14 first cousin or a second cousin if they are both related to the
15 same ancestor as either grandchild or great-grandchild. A child
16 whose parent has executed a consent, a surrender, or a waiver

1 pursuant to Section 10 of the Adoption Act, whose parent has
2 signed a denial of paternity pursuant to Section 12 of the
3 Vital Records Act or Section 12a of the Adoption Act, or whose
4 parent has had his or her parental rights terminated is not a
5 related child to that person, unless (1) the consent is
6 determined to be void or is void pursuant to subsection O of
7 Section 10 of the Adoption Act; or (2) the parent of the child
8 executed a consent to adoption by a specified person or persons
9 pursuant to subsection A-1 of Section 10 of the Adoption Act
10 and a court finds that the consent is void; or (3) the order
11 terminating the parental rights of the parent is vacated by a
12 court of competent jurisdiction.

13 (Source: P.A. 80-459.)

14 (225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

15 Sec. 2.05. "Facility for child care" or "child care
16 facility" means any person, group of persons, agency,
17 association, organization, corporation, institution, center,
18 or group, whether established for gain or otherwise, who or
19 which receives or arranges for care or placement of one or more
20 children, unrelated to the operator of the facility, apart from
21 the parents, with or without the transfer of the right of
22 custody in any facility as defined in this Act, established and
23 maintained for the care of children. "Child care facility"
24 includes a relative, as defined in Section 2.17 of this Act,
25 who is licensed as a foster family home under Section 4 of this

1 Act.

2 (Source: P.A. 94-586, eff. 8-15-05.)

3 (225 ILCS 10/2.17) (from Ch. 23, par. 2212.17)

4 Sec. 2.17. "Foster family home" means a facility for child
5 care in residences of families who receive no more than 8
6 children unrelated to them, unless all the children are of
7 common parentage, or residences of relatives who receive no
8 more than 8 related children placed by the Department, unless
9 the children are of common parentage, for the purpose of
10 providing family care and training for the children on a
11 full-time basis, except the Director of Children and Family
12 Services, pursuant to Department regulations, may waive the
13 limit of 8 children unrelated to an adoptive family for good
14 cause and only to facilitate an adoptive placement. The
15 family's or relative's own children, under 18 years of age,
16 shall be included in determining the maximum number of children
17 served. For purposes of this Section, a "relative" includes any
18 person, 21 years of age or over, other than the parent, who (i)
19 is currently related to the child in any of the following ways
20 by blood or adoption: grandparent, sibling, great-grandparent,
21 uncle, aunt, nephew, niece, first cousin, great-uncle, or
22 great-aunt; or (ii) is the spouse of such a relative; or (iii)
23 is a child's step-father, step-mother, or adult step-brother or
24 step-sister; "relative" also includes a person related in any
25 of the foregoing ways to a sibling of a child, even though the

1 person is not related to the child, when the child and its
2 sibling are placed together with that person. For purposes of
3 placement of children pursuant to Section 7 of the Children and
4 Family Services Act and for purposes of licensing requirements
5 set forth in Section 4 of this Act, for children under the
6 custody or guardianship of the Department pursuant to the
7 Juvenile Court Act of 1987, after a parent signs a consent,
8 surrender, or waiver and after a parent's rights are
9 terminated, and while the child remains in the custody or
10 guardianship of the Department, the child is considered to be
11 related to those to whom the child was related under this
12 Section prior to the signing of the consent, surrender, or
13 waiver or the order of termination of parental rights. The term
14 "foster family home" includes homes receiving children from any
15 State-operated institution for child care; or from any agency
16 established by a municipality or other political subdivision of
17 the State of Illinois authorized to provide care for children
18 outside their own homes. The term "foster family home" does not
19 include an "adoption-only home" as defined in Section 2.23 of
20 this Act. The types of foster family homes are defined as
21 follows:

22 (a) "Boarding home" means a foster family home which
23 receives payment for regular full-time care of a child or
24 children.

25 (b) "Free home" means a foster family home other than an
26 adoptive home which does not receive payments for the care of a

1 child or children.

2 (c) "Adoptive home" means a foster family home which
3 receives a child or children for the purpose of adopting the
4 child or children.

5 (d) "Work-wage home" means a foster family home which
6 receives a child or children who pay part or all of their board
7 by rendering some services to the family not prohibited by the
8 Child Labor Law or by standards or regulations of the
9 Department prescribed under this Act. The child or children may
10 receive a wage in connection with the services rendered the
11 foster family.

12 (e) "Agency-supervised home" means a foster family home
13 under the direct and regular supervision of a licensed child
14 welfare agency, of the Department of Children and Family
15 Services, of a circuit court, or of any other State agency
16 which has authority to place children in child care facilities,
17 and which receives no more than 8 children, unless of common
18 parentage, who are placed and are regularly supervised by one
19 of the specified agencies.

20 (f) "Independent home" means a foster family home, other
21 than an adoptive home, which receives no more than 4 children,
22 unless of common parentage, directly from parents, or other
23 legally responsible persons, by independent arrangement and
24 which is not subject to direct and regular supervision of a
25 specified agency except as such supervision pertains to
26 licensing by the Department.

1 (Source: P.A. 92-318, eff. 1-1-02.)

2 (225 ILCS 10/4) (from Ch. 23, par. 2214)

3 Sec. 4. License requirement; application; notice.

4 (a) Any person, group of persons or corporation who or
5 which receives children or arranges for care or placement of
6 one or more children unrelated to the operator must apply for a
7 license to operate one of the types of facilities defined in
8 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
9 relative, as defined in Section 2.17 of this Act, who receives
10 a child or children for placement by the Department on a
11 full-time basis may apply for a license to operate a foster
12 family home as defined in Section 2.17 of this Act.

13 (a-5) Any agency, person, group of persons, association,
14 organization, corporation, institution, center, or group
15 providing adoption services must be licensed by the Department
16 as a child welfare agency as defined in Section 2.08 of this
17 Act. "Providing adoption services" as used in this Act,
18 includes facilitating or engaging in adoption services.

19 (b) Application for a license to operate a child care
20 facility must be made to the Department in the manner and on
21 forms prescribed by it. An application to operate a foster
22 family home shall include, at a minimum: a completed written
23 form; written authorization by the applicant and all adult
24 members of the applicant's household to conduct a criminal
25 background investigation; medical evidence in the form of a

1 medical report, on forms prescribed by the Department, that the
2 applicant and all members of the household are free from
3 communicable diseases or physical and mental conditions that
4 affect their ability to provide care for the child or children;
5 the names and addresses of at least 3 persons not related to
6 the applicant who can attest to the applicant's moral
7 character; and fingerprints submitted by the applicant and all
8 adult members of the applicant's household.

9 (c) The Department shall notify the public when a child
10 care institution, maternity center, or group home licensed by
11 the Department undergoes a change in (i) the range of care or
12 services offered at the facility, (ii) the age or type of
13 children served, or (iii) the area within the facility used by
14 children. The Department shall notify the public of the change
15 in a newspaper of general circulation in the county or
16 municipality in which the applicant's facility is or is
17 proposed to be located.

18 (d) If, upon examination of the facility and investigation
19 of persons responsible for care of children, the Department is
20 satisfied that the facility and responsible persons reasonably
21 meet standards prescribed for the type of facility for which
22 application is made, it shall issue a license in proper form,
23 designating on that license the type of child care facility
24 and, except for a child welfare agency, the number of children
25 to be served at any one time.

26 (e) The Department shall not issue or renew the license of

1 any child welfare agency providing adoption services, unless
2 the agency (i) is officially recognized by the United States
3 Internal Revenue Service as a tax-exempt organization
4 described in Section 501(c)(3) of the Internal Revenue Code of
5 1986 (or any successor provision of federal tax law) and (ii)
6 is in compliance with all of the standards necessary to
7 maintain its status as an organization described in Section
8 501(c)(3) of the Internal Revenue Code of 1986 (or any
9 successor provision of federal tax law). The Department shall
10 grant a grace period of 24 months from the effective date of
11 this amendatory Act of the 94th General Assembly for existing
12 child welfare agencies providing adoption services to obtain
13 501(c)(3) status. The Department shall permit an existing child
14 welfare agency that converts from its current structure in
15 order to be recognized as a 501(c)(3) organization as required
16 by this Section to either retain its current license or
17 transfer its current license to a newly formed entity, if the
18 creation of a new entity is required in order to comply with
19 this Section, provided that the child welfare agency
20 demonstrates that it continues to meet all other licensing
21 requirements and that the principal officers and directors and
22 programs of the converted child welfare agency or newly
23 organized child welfare agency are substantially the same as
24 the original. The Department shall have the sole discretion to
25 grant a one year extension to any agency unable to obtain
26 501(c)(3) status within the timeframe specified in this

1 subsection (e), provided that such agency has filed an
2 application for 501(c)(3) status with the Internal Revenue
3 Service within the 2-year timeframe specified in this
4 subsection (e).

5 (Source: P.A. 94-586, eff. 8-15-05.)

6 (225 ILCS 10/5) (from Ch. 23, par. 2215)

7 Sec. 5. (a) In respect to child care institutions,
8 maternity centers, child welfare agencies, day care centers,
9 day care agencies and group homes, the Department, upon
10 receiving application filed in proper order, shall examine the
11 facilities and persons responsible for care of children
12 therein.

13 (b) In respect to foster family and day care homes,
14 applications may be filed on behalf of such homes by a licensed
15 child welfare agency, by a State agency authorized to place
16 children in foster care or by out-of-State agencies approved by
17 the Department to place children in this State. In respect to
18 day care homes, applications may be filed on behalf of such
19 homes by a licensed day care agency or licensed child welfare
20 agency. In applying for license in behalf of a home in which
21 children are placed by and remain under supervision of the
22 applicant agency, such agency shall certify that the home and
23 persons responsible for care of unrelated children therein, or
24 the home and relatives, as defined in Section 2.17 of this Act,
25 responsible for the care of related children therein, were

1 found to be in reasonable compliance with standards prescribed
2 by the Department for the type of care indicated.

3 (c) The Department shall not allow any person to examine
4 facilities under a provision of this Act who has not passed an
5 examination demonstrating that such person is familiar with
6 this Act and with the appropriate standards and regulations of
7 the Department.

8 (d) With the exception of day care centers, day care homes,
9 and group day care homes, licenses shall be issued in such form
10 and manner as prescribed by the Department and are valid for 4
11 years from the date issued, unless revoked by the Department or
12 voluntarily surrendered by the licensee. Licenses issued for
13 day care centers, day care homes, and group day care homes
14 shall be valid for 3 years from the date issued, unless revoked
15 by the Department or voluntarily surrendered by the licensee.
16 When a licensee has made timely and sufficient application for
17 the renewal of a license or a new license with reference to any
18 activity of a continuing nature, the existing license shall
19 continue in full force and effect for up to 30 days until the
20 final agency decision on the application has been made. The
21 Department may further extend the period in which such decision
22 must be made in individual cases for up to 30 days, but such
23 extensions shall be only upon good cause shown.

24 (e) The Department may issue one 6-month permit to a newly
25 established facility for child care to allow that facility
26 reasonable time to become eligible for a full license. If the

1 facility for child care is a foster family home, or day care
2 home the Department may issue one 2-month permit only.

3 (f) The Department may issue an emergency permit to a child
4 care facility taking in children as a result of the temporary
5 closure for more than 2 weeks of a licensed child care facility
6 due to a natural disaster. An emergency permit under this
7 subsection shall be issued to a facility only if the persons
8 providing child care services at the facility were employees of
9 the temporarily closed day care center at the time it was
10 closed. No investigation of an employee of a child care
11 facility receiving an emergency permit under this subsection
12 shall be required if that employee has previously been
13 investigated at another child care facility. No emergency
14 permit issued under this subsection shall be valid for more
15 than 90 days after the date of issuance.

16 (g) During the hours of operation of any licensed child
17 care facility, authorized representatives of the Department
18 may without notice visit the facility for the purpose of
19 determining its continuing compliance with this Act or
20 regulations adopted pursuant thereto.

21 (h) Day care centers, day care homes, and group day care
22 homes shall be monitored at least annually by a licensing
23 representative from the Department or the agency that
24 recommended licensure.

25 (Source: P.A. 89-21, eff. 7-1-95; 89-263, eff. 8-10-95; 89-626,
26 eff. 8-9-96.)

1 Section 10. The Adoption Act is amended by changing
2 Sections 1, 2, and 4 as follows:

3 (750 ILCS 50/1) (from Ch. 40, par. 1501)

4 Sec. 1. Definitions. When used in this Act, unless the
5 context otherwise requires:

6 A. "Child" means a person under legal age subject to
7 adoption under this Act.

8 B. "Related child" means a child subject to adoption where
9 either or both of the adopting parents stands in any of the
10 following relationships to the child by blood, ~~or~~ marriage,
11 adoption, or civil union: parent, grand-parent,
12 great-grandparent, brother, sister, step-parent,
13 step-grandparent, step-brother, step-sister, uncle, aunt,
14 great-uncle, great-aunt, first cousin, or second ~~or~~ ~~cousin of~~
15 ~~first degree~~. A person is related to the child as a first
16 cousin or second cousin if they are both related to the same
17 ancestor as either grandchild or great-grandchild. A child
18 whose parent has executed a ~~final irrevocable~~ consent to
19 adoption, ~~or~~ a ~~final irrevocable~~ surrender, or a waiver
20 pursuant to Section 10 of this Act or whose parent has signed a
21 denial of paternity pursuant to Section 12 of the Vital Records
22 Act or Section 12a of this Act ~~for purposes of adoption~~, or
23 whose parent has had his or her parental rights terminated, is
24 not a related child to that person, unless (1) the consent is

1 determined to be void or is void pursuant to subsection O of
2 Section 10 of this Act; or (2) the parent of the child executed
3 a consent to adoption by a specified person or persons pursuant
4 to subsection A-1 of Section 10 of this Act and a court of
5 competent jurisdiction finds that such consent is void; or (3)
6 the order terminating the parental rights of the parent is
7 vacated by a court of competent jurisdiction.

8 C. "Agency" for the purpose of this Act means a public
9 child welfare agency or a licensed child welfare agency.

10 D. "Unfit person" means any person whom the court shall
11 find to be unfit to have a child, without regard to the
12 likelihood that the child will be placed for adoption. The
13 grounds of unfitness are any one or more of the following,
14 except that a person shall not be considered an unfit person
15 for the sole reason that the person has relinquished a child in
16 accordance with the Abandoned Newborn Infant Protection Act:

17 (a) Abandonment of the child.

18 (a-1) Abandonment of a newborn infant in a hospital.

19 (a-2) Abandonment of a newborn infant in any setting
20 where the evidence suggests that the parent intended to
21 relinquish his or her parental rights.

22 (b) Failure to maintain a reasonable degree of
23 interest, concern or responsibility as to the child's
24 welfare.

25 (c) Desertion of the child for more than 3 months next
26 preceding the commencement of the Adoption proceeding.

1 (d) Substantial neglect of the child if continuous or
2 repeated.

3 (d-1) Substantial neglect, if continuous or repeated,
4 of any child residing in the household which resulted in
5 the death of that child.

6 (e) Extreme or repeated cruelty to the child.

7 (f) There is a rebuttable presumption, which can be
8 overcome only by clear and convincing evidence, that a
9 parent is unfit if:

10 (1) Two or more findings of physical abuse have
11 been entered regarding any children under Section 2-21
12 of the Juvenile Court Act of 1987, the most recent of
13 which was determined by the juvenile court hearing the
14 matter to be supported by clear and convincing
15 evidence; or

16 (2) The parent has been convicted or found not
17 guilty by reason of insanity and the conviction or
18 finding resulted from the death of any child by
19 physical abuse; or

20 (3) There is a finding of physical child abuse
21 resulting from the death of any child under Section
22 2-21 of the Juvenile Court Act of 1987.

23 No conviction or finding of delinquency pursuant
24 to Article V ~~5~~ of the Juvenile Court Act of 1987 shall
25 be considered a criminal conviction for the purpose of
26 applying any presumption under this item (f).

1 (g) Failure to protect the child from conditions within
2 his environment injurious to the child's welfare.

3 (h) Other neglect of, or misconduct toward the child;
4 provided that in making a finding of unfitness the court
5 hearing the adoption proceeding shall not be bound by any
6 previous finding, order or judgment affecting or
7 determining the rights of the parents toward the child
8 sought to be adopted in any other proceeding except such
9 proceedings terminating parental rights as shall be had
10 under either this Act, the Juvenile Court Act or the
11 Juvenile Court Act of 1987.

12 (i) Depravity. Conviction of any one of the following
13 crimes shall create a presumption that a parent is deprived
14 which can be overcome only by clear and convincing
15 evidence: (1) first degree murder in violation of paragraph
16 1 or 2 of subsection (a) of Section 9-1 of the Criminal
17 Code of 1961 or the Criminal Code of 2012 or conviction of
18 second degree murder in violation of subsection (a) of
19 Section 9-2 of the Criminal Code of 1961 or the Criminal
20 Code of 2012 of a parent of the child to be adopted; (2)
21 first degree murder or second degree murder of any child in
22 violation of the Criminal Code of 1961 or the Criminal Code
23 of 2012; (3) attempt or conspiracy to commit first degree
24 murder or second degree murder of any child in violation of
25 the Criminal Code of 1961 or the Criminal Code of 2012; (4)
26 solicitation to commit murder of any child, solicitation to

1 commit murder of any child for hire, or solicitation to
2 commit second degree murder of any child in violation of
3 the Criminal Code of 1961 or the Criminal Code of 2012; (5)
4 predatory criminal sexual assault of a child in violation
5 of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961
6 or the Criminal Code of 2012; (6) heinous battery of any
7 child in violation of the Criminal Code of 1961; or (7)
8 aggravated battery of any child in violation of the
9 Criminal Code of 1961 or the Criminal Code of 2012.

10 There is a rebuttable presumption that a parent is
11 depraved if the parent has been criminally convicted of at
12 least 3 felonies under the laws of this State or any other
13 state, or under federal law, or the criminal laws of any
14 United States territory; and at least one of these
15 convictions took place within 5 years of the filing of the
16 petition or motion seeking termination of parental rights.

17 There is a rebuttable presumption that a parent is
18 depraved if that parent has been criminally convicted of
19 either first or second degree murder of any person as
20 defined in the Criminal Code of 1961 or the Criminal Code
21 of 2012 within 10 years of the filing date of the petition
22 or motion to terminate parental rights.

23 No conviction or finding of delinquency pursuant to
24 Article 5 of the Juvenile Court Act of 1987 shall be
25 considered a criminal conviction for the purpose of
26 applying any presumption under this item (i).

1 (j) Open and notorious adultery or fornication.

2 (j-1) (Blank).

3 (k) Habitual drunkenness or addiction to drugs, other
4 than those prescribed by a physician, for at least one year
5 immediately prior to the commencement of the unfitness
6 proceeding.

7 There is a rebuttable presumption that a parent is
8 unfit under this subsection with respect to any child to
9 which that parent gives birth where there is a confirmed
10 test result that at birth the child's blood, urine, or
11 meconium contained any amount of a controlled substance as
12 defined in subsection (f) of Section 102 of the Illinois
13 Controlled Substances Act or metabolites of such
14 substances, the presence of which in the newborn infant was
15 not the result of medical treatment administered to the
16 mother or the newborn infant; and the biological mother of
17 this child is the biological mother of at least one other
18 child who was adjudicated a neglected minor under
19 subsection (c) of Section 2-3 of the Juvenile Court Act of
20 1987.

21 (l) Failure to demonstrate a reasonable degree of
22 interest, concern or responsibility as to the welfare of a
23 new born child during the first 30 days after its birth.

24 (m) Failure by a parent (i) to make reasonable efforts
25 to correct the conditions that were the basis for the
26 removal of the child from the parent during any 9-month

1 period following the adjudication of neglected or abused
2 minor under Section 2-3 of the Juvenile Court Act of 1987
3 or dependent minor under Section 2-4 of that Act, or (ii)
4 to make reasonable progress toward the return of the child
5 to the parent during any 9-month period following the
6 adjudication of neglected or abused minor under Section 2-3
7 of the Juvenile Court Act of 1987 or dependent minor under
8 Section 2-4 of that Act. If a service plan has been
9 established as required under Section 8.2 of the Abused and
10 Neglected Child Reporting Act to correct the conditions
11 that were the basis for the removal of the child from the
12 parent and if those services were available, then, for
13 purposes of this Act, "failure to make reasonable progress
14 toward the return of the child to the parent" includes the
15 parent's failure to substantially fulfill his or her
16 obligations under the service plan and correct the
17 conditions that brought the child into care during any
18 9-month period following the adjudication under Section
19 2-3 or 2-4 of the Juvenile Court Act of 1987.
20 Notwithstanding any other provision, when a petition or
21 motion seeks to terminate parental rights on the basis of
22 item (ii) of this subsection (m), the petitioner shall file
23 with the court and serve on the parties a pleading that
24 specifies the 9-month period or periods relied on. The
25 pleading shall be filed and served on the parties no later
26 than 3 weeks before the date set by the court for closure

1 of discovery, and the allegations in the pleading shall be
2 treated as incorporated into the petition or motion.
3 Failure of a respondent to file a written denial of the
4 allegations in the pleading shall not be treated as an
5 admission that the allegations are true.

6 (m-1) Pursuant to the Juvenile Court Act of 1987, a
7 child has been in foster care for 15 months out of any 22
8 month period which begins on or after the effective date of
9 this amendatory Act of 1998 unless the child's parent can
10 prove by a preponderance of the evidence that it is more
11 likely than not that it will be in the best interests of
12 the child to be returned to the parent within 6 months of
13 the date on which a petition for termination of parental
14 rights is filed under the Juvenile Court Act of 1987. The
15 15 month time limit is tolled during any period for which
16 there is a court finding that the appointed custodian or
17 guardian failed to make reasonable efforts to reunify the
18 child with his or her family, provided that (i) the finding
19 of no reasonable efforts is made within 60 days of the
20 period when reasonable efforts were not made or (ii) the
21 parent filed a motion requesting a finding of no reasonable
22 efforts within 60 days of the period when reasonable
23 efforts were not made. For purposes of this subdivision
24 (m-1), the date of entering foster care is the earlier of:
25 (i) the date of a judicial finding at an adjudicatory
26 hearing that the child is an abused, neglected, or

1 dependent minor; or (ii) 60 days after the date on which
2 the child is removed from his or her parent, guardian, or
3 legal custodian.

4 (n) Evidence of intent to forgo his or her parental
5 rights, whether or not the child is a ward of the court,
6 (1) as manifested by his or her failure for a period of 12
7 months: (i) to visit the child, (ii) to communicate with
8 the child or agency, although able to do so and not
9 prevented from doing so by an agency or by court order, or
10 (iii) to maintain contact with or plan for the future of
11 the child, although physically able to do so, or (2) as
12 manifested by the father's failure, where he and the mother
13 of the child were unmarried to each other at the time of
14 the child's birth, (i) to commence legal proceedings to
15 establish his paternity under the Illinois Parentage Act of
16 1984 or the law of the jurisdiction of the child's birth
17 within 30 days of being informed, pursuant to Section 12a
18 of this Act, that he is the father or the likely father of
19 the child or, after being so informed where the child is
20 not yet born, within 30 days of the child's birth, or (ii)
21 to make a good faith effort to pay a reasonable amount of
22 the expenses related to the birth of the child and to
23 provide a reasonable amount for the financial support of
24 the child, the court to consider in its determination all
25 relevant circumstances, including the financial condition
26 of both parents; provided that the ground for termination

1 provided in this subparagraph (n)(2)(ii) shall only be
2 available where the petition is brought by the mother or
3 the husband of the mother.

4 Contact or communication by a parent with his or her
5 child that does not demonstrate affection and concern does
6 not constitute reasonable contact and planning under
7 subdivision (n). In the absence of evidence to the
8 contrary, the ability to visit, communicate, maintain
9 contact, pay expenses and plan for the future shall be
10 presumed. The subjective intent of the parent, whether
11 expressed or otherwise, unsupported by evidence of the
12 foregoing parental acts manifesting that intent, shall not
13 preclude a determination that the parent has intended to
14 forgo his or her parental rights. In making this
15 determination, the court may consider but shall not require
16 a showing of diligent efforts by an authorized agency to
17 encourage the parent to perform the acts specified in
18 subdivision (n).

19 It shall be an affirmative defense to any allegation
20 under paragraph (2) of this subsection that the father's
21 failure was due to circumstances beyond his control or to
22 impediments created by the mother or any other person
23 having legal custody. Proof of that fact need only be by a
24 preponderance of the evidence.

25 (o) Repeated or continuous failure by the parents,
26 although physically and financially able, to provide the

1 child with adequate food, clothing, or shelter.

2 (p) Inability to discharge parental responsibilities
3 supported by competent evidence from a psychiatrist,
4 licensed clinical social worker, or clinical psychologist
5 of mental impairment, mental illness or an intellectual
6 disability as defined in Section 1-116 of the Mental Health
7 and Developmental Disabilities Code, or developmental
8 disability as defined in Section 1-106 of that Code, and
9 there is sufficient justification to believe that the
10 inability to discharge parental responsibilities shall
11 extend beyond a reasonable time period. However, this
12 subdivision (p) shall not be construed so as to permit a
13 licensed clinical social worker to conduct any medical
14 diagnosis to determine mental illness or mental
15 impairment.

16 (q) (Blank).

17 (r) The child is in the temporary custody or
18 guardianship of the Department of Children and Family
19 Services, the parent is incarcerated as a result of
20 criminal conviction at the time the petition or motion for
21 termination of parental rights is filed, prior to
22 incarceration the parent had little or no contact with the
23 child or provided little or no support for the child, and
24 the parent's incarceration will prevent the parent from
25 discharging his or her parental responsibilities for the
26 child for a period in excess of 2 years after the filing of

1 the petition or motion for termination of parental rights.

2 (s) The child is in the temporary custody or
3 guardianship of the Department of Children and Family
4 Services, the parent is incarcerated at the time the
5 petition or motion for termination of parental rights is
6 filed, the parent has been repeatedly incarcerated as a
7 result of criminal convictions, and the parent's repeated
8 incarceration has prevented the parent from discharging
9 his or her parental responsibilities for the child.

10 (t) A finding that at birth the child's blood, urine,
11 or meconium contained any amount of a controlled substance
12 as defined in subsection (f) of Section 102 of the Illinois
13 Controlled Substances Act, or a metabolite of a controlled
14 substance, with the exception of controlled substances or
15 metabolites of such substances, the presence of which in
16 the newborn infant was the result of medical treatment
17 administered to the mother or the newborn infant, and that
18 the biological mother of this child is the biological
19 mother of at least one other child who was adjudicated a
20 neglected minor under subsection (c) of Section 2-3 of the
21 Juvenile Court Act of 1987, after which the biological
22 mother had the opportunity to enroll in and participate in
23 a clinically appropriate substance abuse counseling,
24 treatment, and rehabilitation program.

25 E. "Parent" means a person who is the legal mother or legal
26 father of the child as defined in subsection X or Y of this

1 Section. For the purpose of this Act, a parent who has executed
2 a consent to adoption, a surrender, or a waiver pursuant to
3 Section 10 of this Act, who has signed a Denial of Paternity
4 pursuant to Section 12 of the Vital Records Act or Section 12a
5 of this Act, or whose parental rights have been terminated by a
6 court, is not a parent of the child who was the subject of the
7 consent, surrender, waiver, or denial unless (1) the consent is
8 void pursuant to subsection O of Section 10 of this Act; or (2)
9 the person executed a consent to adoption by a specified person
10 or persons pursuant to subsection A-1 of Section 10 of this Act
11 and a court of competent jurisdiction finds that the consent is
12 void; or (3) the order terminating the parental rights of the
13 person is vacated by a court of competent jurisdiction ~~the~~
14 ~~father or mother of a lawful child of the parties or child born~~
15 ~~out of wedlock. For the purpose of this Act, a person who has~~
16 ~~executed a final and irrevocable consent to adoption or a final~~
17 ~~and irrevocable surrender for purposes of adoption, or whose~~
18 ~~parental rights have been terminated by a court, is not a~~
19 ~~parent of the child who was the subject of the consent or~~
20 ~~surrender, unless the consent is void pursuant to subsection O~~
21 ~~of Section 10.~~

22 F. A person is available for adoption when the person is:

23 (a) a child who has been surrendered for adoption to an
24 agency and to whose adoption the agency has thereafter
25 consented;

26 (b) a child to whose adoption a person authorized by

1 law, other than his parents, has consented, or to whose
2 adoption no consent is required pursuant to Section 8 of
3 this Act;

4 (c) a child who is in the custody of persons who intend
5 to adopt him through placement made by his parents;

6 (c-1) a child for whom a parent has signed a specific
7 consent pursuant to subsection 0 of Section 10;

8 (d) an adult who meets the conditions set forth in
9 Section 3 of this Act; or

10 (e) a child who has been relinquished as defined in
11 Section 10 of the Abandoned Newborn Infant Protection Act.

12 A person who would otherwise be available for adoption
13 shall not be deemed unavailable for adoption solely by reason
14 of his or her death.

15 G. The singular includes the plural and the plural includes
16 the singular and the "male" includes the "female", as the
17 context of this Act may require.

18 H. "Adoption disruption" occurs when an adoptive placement
19 does not prove successful and it becomes necessary for the
20 child to be removed from placement before the adoption is
21 finalized.

22 I. "Habitual residence" has the meaning ascribed to it in
23 the federal Intercountry Adoption Act of 2000 and regulations
24 promulgated thereunder.

25 J. "Immediate relatives" means the biological parents, the
26 parents of the biological parents and siblings of the

1 biological parents.

2 K. "Intercountry adoption" is a process by which a child
3 from a country other than the United States is adopted by
4 persons who are habitual residents of the United States, or the
5 child is a habitual resident of the United States who is
6 adopted by persons who are habitual residents of a country
7 other than the United States.

8 L. "Intercountry Adoption Coordinator" means a staff
9 person of the Department of Children and Family Services
10 appointed by the Director to coordinate the provision of
11 services related to an intercountry adoption.

12 M. "Interstate Compact on the Placement of Children" is a
13 law enacted by all states and certain territories for the
14 purpose of establishing uniform procedures for handling the
15 interstate placement of children in foster homes, adoptive
16 homes, or other child care facilities.

17 N. (Blank).

18 O. "Preadoption requirements" means any conditions or
19 standards established by the laws or administrative rules of
20 this State that must be met by a prospective adoptive parent
21 prior to the placement of a child in an adoptive home.

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

26 (a) inflicts, causes to be inflicted, or allows to be

1 inflicted upon the child physical injury, by other than
2 accidental means, that causes death, disfigurement,
3 impairment of physical or emotional health, or loss or
4 impairment of any bodily function;

5 (b) creates a substantial risk of physical injury to
6 the child by other than accidental means which would be
7 likely to cause death, disfigurement, impairment of
8 physical or emotional health, or loss or impairment of any
9 bodily function;

10 (c) commits or allows to be committed any sex offense
11 against the child, as sex offenses are defined in the
12 Criminal Code of 2012 and extending those definitions of
13 sex offenses to include children under 18 years of age;

14 (d) commits or allows to be committed an act or acts of
15 torture upon the child; or

16 (e) inflicts excessive corporal punishment.

17 Q. "Neglected child" means any child whose parent or other
18 person responsible for the child's welfare withholds or denies
19 nourishment or medically indicated treatment including food or
20 care denied solely on the basis of the present or anticipated
21 mental or physical impairment as determined by a physician
22 acting alone or in consultation with other physicians or
23 otherwise does not provide the proper or necessary support,
24 education as required by law, or medical or other remedial care
25 recognized under State law as necessary for a child's
26 well-being, or other care necessary for his or her well-being,

1 including adequate food, clothing and shelter; or who is
2 abandoned by his or her parents or other person responsible for
3 the child's welfare.

4 A child shall not be considered neglected or abused for the
5 sole reason that the child's parent or other person responsible
6 for his or her welfare depends upon spiritual means through
7 prayer alone for the treatment or cure of disease or remedial
8 care as provided under Section 4 of the Abused and Neglected
9 Child Reporting Act. A child shall not be considered neglected
10 or abused for the sole reason that the child's parent or other
11 person responsible for the child's welfare failed to vaccinate,
12 delayed vaccination, or refused vaccination for the child due
13 to a waiver on religious or medical grounds as permitted by
14 law.

15 R. "Putative father" means a man who may be a child's
16 father, but who (1) is not married to the child's mother on or
17 before the date that the child was or is to be born and (2) has
18 not established paternity of the child in a court proceeding
19 before the filing of a petition for the adoption of the child.
20 The term includes a male who is less than 18 years of age.
21 "Putative father" does not mean a man who is the child's father
22 as a result of criminal sexual abuse or assault as defined
23 under Article 11 of the Criminal Code of 2012.

24 S. "Standby adoption" means an adoption in which a parent
25 consents to custody and termination of parental rights to
26 become effective upon the occurrence of a future event, which

1 is either the death of the parent or the request of the parent
2 for the entry of a final judgment of adoption.

3 T. (Blank).

4 T-5. "Biological parent", "birth parent", or "natural
5 parent" of a child are interchangeable terms that mean a person
6 who is biologically or genetically related to that child as a
7 parent.

8 U. "Interstate adoption" means the placement of a minor
9 child with a prospective adoptive parent for the purpose of
10 pursuing an adoption for that child that is subject to the
11 provisions of the Interstate Compact on Placement of Children.

12 V. "Endorsement letter" means the letter issued by the
13 Department of Children and Family Services to document that a
14 prospective adoptive parent has met preadoption requirements
15 and has been deemed suitable by the Department to adopt a child
16 who is the subject of an intercountry adoption.

17 W. "Denial letter" means the letter issued by the
18 Department of Children and Family Services to document that a
19 prospective adoptive parent has not met preadoption
20 requirements and has not been deemed suitable by the Department
21 to adopt a child who is the subject of an intercountry
22 adoption.

23 X. "Legal father" of a child means a man who is recognized
24 as that child's father:

25 (1) because of his marriage to or civil union with the
26 child's parent at the time of the child's birth or within

1 300 days prior to that child's birth, unless he signed a
2 denial of paternity pursuant to Section 12 of the Vital
3 Records Act or a waiver pursuant to Section 10 of this Act;
4 or

5 (2) because his paternity of the child has been
6 established pursuant to the Illinois Parentage Act, the
7 Illinois Parentage Act of 1984, or the Gestational
8 Surrogacy Act; or

9 (3) because he is listed as the child's father or
10 parent on the child's birth certificate, unless he is
11 otherwise determined by an administrative or judicial
12 proceeding not to be the parent of the child or unless he
13 rescinds his acknowledgment of paternity pursuant to the
14 Illinois Parentage Act of 1984; or

15 (4) because his paternity or adoption of the child has
16 been established by a court of competent jurisdiction.

17 Y. "Legal mother" of a child means a woman who is
18 recognized as that child's mother:

19 (1) because she gave birth to the child except as
20 provided in the Gestational Surrogacy Act; or

21 (2) because her maternity of the child has been
22 established pursuant to the Illinois Parentage Act of 1984
23 or the Gestational Surrogacy Act; or

24 (3) because her maternity or adoption of the child has
25 been established by a court of competent jurisdiction; or

26 (4) because of her marriage to or civil union with the

1 child's other parent at the time of the child's birth or
2 within 300 days prior to the time of birth; or

3 (5) because she is listed as the child's mother or
4 parent on the child's birth certificate unless she is
5 otherwise determined by an administrative or judicial
6 proceeding not to be the parent of the child.

7 (Source: P.A. 97-227, eff. 1-1-12; 97-1109, eff. 1-1-13;
8 97-1150, eff. 1-25-13; 98-455, eff. 1-1-14; 98-532, eff.
9 1-1-14; revised 9-24-13.)

10 (750 ILCS 50/2) (from Ch. 40, par. 1502)

11 Sec. 2. Who may adopt a child.

12 A. Any of the following persons, who is under no legal
13 disability (except the minority specified in sub-paragraph
14 (b)) and who has resided in the State of Illinois continuously
15 for a period of at least 6 months immediately preceding the
16 commencement of an adoption proceeding, or any member of the
17 armed forces of the United States who has been domiciled in the
18 State of Illinois for 90 days, may institute such proceeding:

19 (a) A reputable person of legal age and of either sex,
20 provided that if such person is married and has not been living
21 separate and apart from his or her spouse for 12 months or
22 longer, his or her spouse shall be a party to the adoption
23 proceeding, including a husband or wife desiring to adopt a
24 child of the other spouse, in all of which cases the adoption
25 shall be by both spouses jointly;

1 (b) A minor, by leave of court upon good cause shown.

2 B. The residence requirement specified in paragraph A of
3 this Section shall not apply to:

4 (a) an adoption of a related child; or

5 (b) an adoption of a child placed by an agency.

6 ~~The residence requirement specified in paragraph A of this~~
7 ~~Section shall not apply to an adoption of a related child or to~~
8 ~~an adoption of a child placed by an agency.~~

9 (Source: P.A. 96-328, eff. 8-11-09.)

10 (750 ILCS 50/4) (from Ch. 40, par. 1505)

11 Sec. 4. Venue ~~Jurisdiction and venue.~~

12 An adoption proceeding may be commenced in any county in
13 this State ~~the circuit court of the county in which petitioners~~
14 ~~reside, or the county in which the person to be adopted~~
15 ~~resides, or was born, or the county in which the parents of~~
16 ~~such person reside, provided, however, if an agency has~~
17 ~~acquired the custody and control of a child and such agency is~~
18 ~~authorized to consent to the adoption of such child, the~~
19 ~~proceeding may be commenced in any county, and provided further~~
20 ~~that if a guardian of the person of such child has been~~
21 ~~appointed by a court of competent jurisdiction, the proceeding~~
22 ~~may be commenced in any county.~~

23 (Source: Laws 1965, p. 3308.)".