

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (225 ILCS 10/2.04) (from Ch. 23, par. 2212.04)

7 Sec. 2.04. "Related" means any of the following
8 relationships by blood, marriage, civil union, or adoption:
9 parent, grandparent, great-grandparent, great-uncle,
10 great-aunt, brother, sister, stepgrandparent, stepparent,
11 stepbrother, stepsister, uncle, aunt, nephew, niece, or first
12 cousin or second cousin. A person is related to a child as a
13 first cousin or a second cousin if they are both related to the
14 same ancestor as either grandchild or great-grandchild. A child
15 whose parent has executed a consent, a surrender, or a waiver
16 pursuant to Section 10 of the Adoption Act, whose parent has
17 signed a denial of paternity pursuant to Section 12 of the
18 Vital Records Act or Section 12a of the Adoption Act, or whose
19 parent has had his or her parental rights terminated is not a
20 related child to that person, unless (1) the consent is
21 determined to be void or is void pursuant to subsection 0 of
22 Section 10 of the Adoption Act; or (2) the parent of the child
23 executed a consent to adoption by a specified person or persons

1 pursuant to subsection A-1 of Section 10 of the Adoption Act
2 and a court finds that the consent is void; or (3) the order
3 terminating the parental rights of the parent is vacated by a
4 court of competent jurisdiction.

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

6 (225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

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

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

20 (225 ILCS 10/2.17) (from Ch. 23, par. 2212.17)

21 Sec. 2.17. "Foster family home" means a facility for child
22 care in residences of families who receive no more than 8
23 children unrelated to them, unless all the children are of
24 common parentage, or residences of relatives who receive no

1 more than 8 related children placed by the Department, unless
2 the children are of common parentage, for the purpose of
3 providing family care and training for the children on a
4 full-time basis, except the Director of Children and Family
5 Services, pursuant to Department regulations, may waive the
6 limit of 8 children unrelated to an adoptive family for good
7 cause and only to facilitate an adoptive placement. The
8 family's or relative's own children, under 18 years of age,
9 shall be included in determining the maximum number of children
10 served. For purposes of this Section, a "relative" includes any
11 person, 21 years of age or over, other than the parent, who (i)
12 is currently related to the child in any of the following ways
13 by blood or adoption: grandparent, sibling, great-grandparent,
14 uncle, aunt, nephew, niece, first cousin, great-uncle, or
15 great-aunt; or (ii) is the spouse of such a relative; or (iii)
16 is a child's step-father, step-mother, or adult step-brother or
17 step-sister; "relative" also includes a person related in any
18 of the foregoing ways to a sibling of a child, even though the
19 person is not related to the child, when the child and its
20 sibling are placed together with that person. For purposes of
21 placement of children pursuant to Section 7 of the Children and
22 Family Services Act and for purposes of licensing requirements
23 set forth in Section 4 of this Act, for children under the
24 custody or guardianship of the Department pursuant to the
25 Juvenile Court Act of 1987, after a parent signs a consent,
26 surrender, or waiver or after a parent's rights are otherwise

1 terminated, and while the child remains in the custody or
2 guardianship of the Department, the child is considered to be
3 related to those to whom the child was related under this
4 Section prior to the signing of the consent, surrender, or
5 waiver or the order of termination of parental rights. The term
6 "foster family home" includes homes receiving children from any
7 State-operated institution for child care; or from any agency
8 established by a municipality or other political subdivision of
9 the State of Illinois authorized to provide care for children
10 outside their own homes. The term "foster family home" does not
11 include an "adoption-only home" as defined in Section 2.23 of
12 this Act. The types of foster family homes are defined as
13 follows:

14 (a) "Boarding home" means a foster family home which
15 receives payment for regular full-time care of a child or
16 children.

17 (b) "Free home" means a foster family home other than an
18 adoptive home which does not receive payments for the care of a
19 child or children.

20 (c) "Adoptive home" means a foster family home which
21 receives a child or children for the purpose of adopting the
22 child or children.

23 (d) "Work-wage home" means a foster family home which
24 receives a child or children who pay part or all of their board
25 by rendering some services to the family not prohibited by the
26 Child Labor Law or by standards or regulations of the

1 Department prescribed under this Act. The child or children may
2 receive a wage in connection with the services rendered the
3 foster family.

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

12 (f) "Independent home" means a foster family home, other
13 than an adoptive home, which receives no more than 4 children,
14 unless of common parentage, directly from parents, or other
15 legally responsible persons, by independent arrangement and
16 which is not subject to direct and regular supervision of a
17 specified agency except as such supervision pertains to
18 licensing by the Department.

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

20 (225 ILCS 10/4) (from Ch. 23, par. 2214)

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

22 (a) Any person, group of persons or corporation who or
23 which receives children or arranges for care or placement of
24 one or more children unrelated to the operator must apply for a
25 license to operate one of the types of facilities defined in

1 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
2 relative, as defined in Section 2.17 of this Act, who receives
3 a child or children for placement by the Department on a
4 full-time basis may apply for a license to operate a foster
5 family home as defined in Section 2.17 of this Act.

6 (a-5) Any agency, person, group of persons, association,
7 organization, corporation, institution, center, or group
8 providing adoption services must be licensed by the Department
9 as a child welfare agency as defined in Section 2.08 of this
10 Act. "Providing adoption services" as used in this Act,
11 includes facilitating or engaging in adoption services.

12 (b) Application for a license to operate a child care
13 facility must be made to the Department in the manner and on
14 forms prescribed by it. An application to operate a foster
15 family home shall include, at a minimum: a completed written
16 form; written authorization by the applicant and all adult
17 members of the applicant's household to conduct a criminal
18 background investigation; medical evidence in the form of a
19 medical report, on forms prescribed by the Department, that the
20 applicant and all members of the household are free from
21 communicable diseases or physical and mental conditions that
22 affect their ability to provide care for the child or children;
23 the names and addresses of at least 3 persons not related to
24 the applicant who can attest to the applicant's moral
25 character; and fingerprints submitted by the applicant and all
26 adult members of the applicant's household.

1 (c) The Department shall notify the public when a child
2 care institution, maternity center, or group home licensed by
3 the Department undergoes a change in (i) the range of care or
4 services offered at the facility, (ii) the age or type of
5 children served, or (iii) the area within the facility used by
6 children. The Department shall notify the public of the change
7 in a newspaper of general circulation in the county or
8 municipality in which the applicant's facility is or is
9 proposed to be located.

10 (d) If, upon examination of the facility and investigation
11 of persons responsible for care of children, the Department is
12 satisfied that the facility and responsible persons reasonably
13 meet standards prescribed for the type of facility for which
14 application is made, it shall issue a license in proper form,
15 designating on that license the type of child care facility
16 and, except for a child welfare agency, the number of children
17 to be served at any one time.

18 (e) The Department shall not issue or renew the license of
19 any child welfare agency providing adoption services, unless
20 the agency (i) is officially recognized by the United States
21 Internal Revenue Service as a tax-exempt organization
22 described in Section 501(c)(3) of the Internal Revenue Code of
23 1986 (or any successor provision of federal tax law) and (ii)
24 is in compliance with all of the standards necessary to
25 maintain its status as an organization described in Section
26 501(c)(3) of the Internal Revenue Code of 1986 (or any

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

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

24 (225 ILCS 10/5) (from Ch. 23, par. 2215)

25 Sec. 5. (a) In respect to child care institutions,

1 maternity centers, child welfare agencies, day care centers,
2 day care agencies and group homes, the Department, upon
3 receiving application filed in proper order, shall examine the
4 facilities and persons responsible for care of children
5 therein.

6 (b) In respect to foster family and day care homes,
7 applications may be filed on behalf of such homes by a licensed
8 child welfare agency, by a State agency authorized to place
9 children in foster care or by out-of-State agencies approved by
10 the Department to place children in this State. In respect to
11 day care homes, applications may be filed on behalf of such
12 homes by a licensed day care agency or licensed child welfare
13 agency. In applying for license in behalf of a home in which
14 children are placed by and remain under supervision of the
15 applicant agency, such agency shall certify that the home and
16 persons responsible for care of unrelated children therein, or
17 the home and relatives, as defined in Section 2.17 of this Act,
18 responsible for the care of related children therein, were
19 found to be in reasonable compliance with standards prescribed
20 by the Department for the type of care indicated.

21 (c) The Department shall not allow any person to examine
22 facilities under a provision of this Act who has not passed an
23 examination demonstrating that such person is familiar with
24 this Act and with the appropriate standards and regulations of
25 the Department.

26 (d) With the exception of day care centers, day care homes,

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

16 (e) The Department may issue one 6-month permit to a newly
17 established facility for child care to allow that facility
18 reasonable time to become eligible for a full license. If the
19 facility for child care is a foster family home, or day care
20 home the Department may issue one 2-month permit only.

21 (f) The Department may issue an emergency permit to a child
22 care facility taking in children as a result of the temporary
23 closure for more than 2 weeks of a licensed child care facility
24 due to a natural disaster. An emergency permit under this
25 subsection shall be issued to a facility only if the persons
26 providing child care services at the facility were employees of

1 the temporarily closed day care center at the time it was
2 closed. No investigation of an employee of a child care
3 facility receiving an emergency permit under this subsection
4 shall be required if that employee has previously been
5 investigated at another child care facility. No emergency
6 permit issued under this subsection shall be valid for more
7 than 90 days after the date of issuance.

8 (g) During the hours of operation of any licensed child
9 care facility, authorized representatives of the Department
10 may without notice visit the facility for the purpose of
11 determining its continuing compliance with this Act or
12 regulations adopted pursuant thereto.

13 (h) Day care centers, day care homes, and group day care
14 homes shall be monitored at least annually by a licensing
15 representative from the Department or the agency that
16 recommended licensure.

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

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

21 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

24 A. "Child" means a person under legal age subject to

1 adoption under this Act.

2 B. "Related child" means a child subject to adoption where
3 either or both of the adopting parents stands in any of the
4 following relationships to the child by blood, ~~or~~ marriage,
5 adoption, or civil union: parent, grand-parent,
6 great-grandparent, brother, sister, step-parent,
7 step-grandparent, step-brother, step-sister, uncle, aunt,
8 great-uncle, great-aunt, first cousin, or second ~~or~~ ~~cousin of~~
9 ~~first degree~~. A person is related to the child as a first
10 cousin or second cousin if they are both related to the same
11 ancestor as either grandchild or great-grandchild. A child
12 whose parent has executed a ~~final irrevocable~~ consent to
13 adoption, ~~or~~ a ~~final irrevocable~~ surrender, or a waiver
14 pursuant to Section 10 of this Act or whose parent has signed a
15 denial of paternity pursuant to Section 12 of the Vital Records
16 Act or Section 12a of this Act ~~for purposes of adoption~~, or
17 whose parent has had his or her parental rights terminated, is
18 not a related child to that person, unless (1) the consent is
19 determined to be void or is void pursuant to subsection O of
20 Section 10 of this Act; or (2) the parent of the child executed
21 a consent to adoption by a specified person or persons pursuant
22 to subsection A-1 of Section 10 of this Act and a court of
23 competent jurisdiction finds that such consent is void; or (3)
24 the order terminating the parental rights of the parent is
25 vacated by a court of competent jurisdiction.

26 C. "Agency" for the purpose of this Act means a public

1 child welfare agency or a licensed child welfare agency.

2 D. "Unfit person" means any person whom the court shall
3 find to be unfit to have a child, without regard to the
4 likelihood that the child will be placed for adoption. The
5 grounds of unfitness are any one or more of the following,
6 except that a person shall not be considered an unfit person
7 for the sole reason that the person has relinquished a child in
8 accordance with the Abandoned Newborn Infant Protection Act:

9 (a) Abandonment of the child.

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

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

14 (b) Failure to maintain a reasonable degree of
15 interest, concern or responsibility as to the child's
16 welfare.

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

19 (d) Substantial neglect of the child if continuous or
20 repeated.

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

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

25 (f) There is a rebuttable presumption, which can be
26 overcome only by clear and convincing evidence, that a

1 parent is unfit if:

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

8 (2) The parent has been convicted or found not
9 guilty by reason of insanity and the conviction or
10 finding resulted from the death of any child by
11 physical abuse; or

12 (3) There is a finding of physical child abuse
13 resulting from the death of any child under Section
14 2-21 of the Juvenile Court Act of 1987.

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

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

21 (h) Other neglect of, or misconduct toward the child;
22 provided that in making a finding of unfitness the court
23 hearing the adoption proceeding shall not be bound by any
24 previous finding, order or judgment affecting or
25 determining the rights of the parents toward the child
26 sought to be adopted in any other proceeding except such

1 proceedings terminating parental rights as shall be had
2 under either this Act, the Juvenile Court Act or the
3 Juvenile Court Act of 1987.

4 (i) Depravity. Conviction of any one of the following
5 crimes shall create a presumption that a parent is deprived
6 which can be overcome only by clear and convincing
7 evidence: (1) first degree murder in violation of paragraph
8 1 or 2 of subsection (a) of Section 9-1 of the Criminal
9 Code of 1961 or the Criminal Code of 2012 or conviction of
10 second degree murder in violation of subsection (a) of
11 Section 9-2 of the Criminal Code of 1961 or the Criminal
12 Code of 2012 of a parent of the child to be adopted; (2)
13 first degree murder or second degree murder of any child in
14 violation of the Criminal Code of 1961 or the Criminal Code
15 of 2012; (3) attempt or conspiracy to commit first degree
16 murder or second degree murder of any child in violation of
17 the Criminal Code of 1961 or the Criminal Code of 2012; (4)
18 solicitation to commit murder of any child, solicitation to
19 commit murder of any child for hire, or solicitation to
20 commit second degree murder of any child in violation of
21 the Criminal Code of 1961 or the Criminal Code of 2012; (5)
22 predatory criminal sexual assault of a child in violation
23 of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961
24 or the Criminal Code of 2012; (6) heinous battery of any
25 child in violation of the Criminal Code of 1961; or (7)
26 aggravated battery of any child in violation of the

1 Criminal Code of 1961 or the Criminal Code of 2012.

2 There is a rebuttable presumption that a parent is
3 deprived if the parent has been criminally convicted of at
4 least 3 felonies under the laws of this State or any other
5 state, or under federal law, or the criminal laws of any
6 United States territory; and at least one of these
7 convictions took place within 5 years of the filing of the
8 petition or motion seeking termination of parental rights.

9 There is a rebuttable presumption that a parent is
10 deprived if that parent has been criminally convicted of
11 either first or second degree murder of any person as
12 defined in the Criminal Code of 1961 or the Criminal Code
13 of 2012 within 10 years of the filing date of the petition
14 or motion to terminate parental rights.

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

19 (j) Open and notorious adultery or fornication.

20 (j-1) (Blank).

21 (k) Habitual drunkenness or addiction to drugs, other
22 than those prescribed by a physician, for at least one year
23 immediately prior to the commencement of the unfitness
24 proceeding.

25 There is a rebuttable presumption that a parent is
26 unfit under this subsection with respect to any child to

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

13 (1) Failure to demonstrate a reasonable degree of
14 interest, concern or responsibility as to the welfare of a
15 new born child during the first 30 days after its birth.

16 (m) Failure by a parent (i) to make reasonable efforts
17 to correct the conditions that were the basis for the
18 removal of the child from the parent during any 9-month
19 period following the adjudication of neglected or abused
20 minor under Section 2-3 of the Juvenile Court Act of 1987
21 or dependent minor under Section 2-4 of that Act, or (ii)
22 to make reasonable progress toward the return of the child
23 to the parent during any 9-month period following the
24 adjudication of neglected or abused minor under Section 2-3
25 of the Juvenile Court Act of 1987 or dependent minor under
26 Section 2-4 of that Act. If a service plan has been

1 established as required under Section 8.2 of the Abused and
2 Neglected Child Reporting Act to correct the conditions
3 that were the basis for the removal of the child from the
4 parent and if those services were available, then, for
5 purposes of this Act, "failure to make reasonable progress
6 toward the return of the child to the parent" includes the
7 parent's failure to substantially fulfill his or her
8 obligations under the service plan and correct the
9 conditions that brought the child into care during any
10 9-month period following the adjudication under Section
11 2-3 or 2-4 of the Juvenile Court Act of 1987.
12 Notwithstanding any other provision, when a petition or
13 motion seeks to terminate parental rights on the basis of
14 item (ii) of this subsection (m), the petitioner shall file
15 with the court and serve on the parties a pleading that
16 specifies the 9-month period or periods relied on. The
17 pleading shall be filed and served on the parties no later
18 than 3 weeks before the date set by the court for closure
19 of discovery, and the allegations in the pleading shall be
20 treated as incorporated into the petition or motion.
21 Failure of a respondent to file a written denial of the
22 allegations in the pleading shall not be treated as an
23 admission that the allegations are true.

24 (m-1) Pursuant to the Juvenile Court Act of 1987, a
25 child has been in foster care for 15 months out of any 22
26 month period which begins on or after the effective date of

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

22 (n) Evidence of intent to forgo his or her parental
23 rights, whether or not the child is a ward of the court,
24 (1) as manifested by his or her failure for a period of 12
25 months: (i) to visit the child, (ii) to communicate with
26 the child or agency, although able to do so and not

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

22 Contact or communication by a parent with his or her
23 child that does not demonstrate affection and concern does
24 not constitute reasonable contact and planning under
25 subdivision (n). In the absence of evidence to the
26 contrary, the ability to visit, communicate, maintain

1 contact, pay expenses and plan for the future shall be
2 presumed. The subjective intent of the parent, whether
3 expressed or otherwise, unsupported by evidence of the
4 foregoing parental acts manifesting that intent, shall not
5 preclude a determination that the parent has intended to
6 forgo his or her parental rights. In making this
7 determination, the court may consider but shall not require
8 a showing of diligent efforts by an authorized agency to
9 encourage the parent to perform the acts specified in
10 subdivision (n).

11 It shall be an affirmative defense to any allegation
12 under paragraph (2) of this subsection that the father's
13 failure was due to circumstances beyond his control or to
14 impediments created by the mother or any other person
15 having legal custody. Proof of that fact need only be by a
16 preponderance of the evidence.

17 (o) Repeated or continuous failure by the parents,
18 although physically and financially able, to provide the
19 child with adequate food, clothing, or shelter.

20 (p) Inability to discharge parental responsibilities
21 supported by competent evidence from a psychiatrist,
22 licensed clinical social worker, or clinical psychologist
23 of mental impairment, mental illness or an intellectual
24 disability as defined in Section 1-116 of the Mental Health
25 and Developmental Disabilities Code, or developmental
26 disability as defined in Section 1-106 of that Code, and

1 there is sufficient justification to believe that the
2 inability to discharge parental responsibilities shall
3 extend beyond a reasonable time period. However, this
4 subdivision (p) shall not be construed so as to permit a
5 licensed clinical social worker to conduct any medical
6 diagnosis to determine mental illness or mental
7 impairment.

8 (q) (Blank).

9 (r) The child is in the temporary custody or
10 guardianship of the Department of Children and Family
11 Services, the parent is incarcerated as a result of
12 criminal conviction at the time the petition or motion for
13 termination of parental rights is filed, prior to
14 incarceration the parent had little or no contact with the
15 child or provided little or no support for the child, and
16 the parent's incarceration will prevent the parent from
17 discharging his or her parental responsibilities for the
18 child for a period in excess of 2 years after the filing of
19 the petition or motion for termination of parental rights.

20 (s) The child is in the temporary custody or
21 guardianship of the Department of Children and Family
22 Services, the parent is incarcerated at the time the
23 petition or motion for termination of parental rights is
24 filed, the parent has been repeatedly incarcerated as a
25 result of criminal convictions, and the parent's repeated
26 incarceration has prevented the parent from discharging

1 his or her parental responsibilities for the child.

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

17 E. "Parent" means a person who is the legal mother or legal
18 father of the child as defined in subsection X or Y of this
19 Section. For the purpose of this Act, a parent who has executed
20 a consent to adoption, a surrender, or a waiver pursuant to
21 Section 10 of this Act, who has signed a Denial of Paternity
22 pursuant to Section 12 of the Vital Records Act or Section 12a
23 of this Act, or whose parental rights have been terminated by a
24 court, is not a parent of the child who was the subject of the
25 consent, surrender, waiver, or denial unless (1) the consent is
26 void pursuant to subsection O of Section 10 of this Act; or (2)

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

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

15 (a) a child who has been surrendered for adoption to an
16 agency and to whose adoption the agency has thereafter
17 consented;

18 (b) a child to whose adoption a person authorized by
19 law, other than his parents, has consented, or to whose
20 adoption no consent is required pursuant to Section 8 of
21 this Act;

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

24 (c-1) a child for whom a parent has signed a specific
25 consent pursuant to subsection O of Section 10;

26 (d) an adult who meets the conditions set forth in

1 Section 3 of this Act; or

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

4 A person who would otherwise be available for adoption
5 shall not be deemed unavailable for adoption solely by reason
6 of his or her death.

7 G. The singular includes the plural and the plural includes
8 the singular and the "male" includes the "female", as the
9 context of this Act may require.

10 H. "Adoption disruption" occurs when an adoptive placement
11 does not prove successful and it becomes necessary for the
12 child to be removed from placement before the adoption is
13 finalized.

14 I. "Habitual residence" has the meaning ascribed to it in
15 the federal Intercountry Adoption Act of 2000 and regulations
16 promulgated thereunder.

17 J. "Immediate relatives" means the biological parents, the
18 parents of the biological parents and siblings of the
19 biological parents.

20 K. "Intercountry adoption" is a process by which a child
21 from a country other than the United States is adopted by
22 persons who are habitual residents of the United States, or the
23 child is a habitual resident of the United States who is
24 adopted by persons who are habitual residents of a country
25 other than the United States.

26 L. "Intercountry Adoption Coordinator" means a staff

1 person of the Department of Children and Family Services
2 appointed by the Director to coordinate the provision of
3 services related to an intercountry adoption.

4 M. "Interstate Compact on the Placement of Children" is a
5 law enacted by all states and certain territories for the
6 purpose of establishing uniform procedures for handling the
7 interstate placement of children in foster homes, adoptive
8 homes, or other child care facilities.

9 N. (Blank).

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

14 P. "Abused child" means a child whose parent or immediate
15 family member, or any person responsible for the child's
16 welfare, or any individual residing in the same home as the
17 child, or a paramour of the child's parent:

18 (a) inflicts, causes to be inflicted, or allows to be
19 inflicted upon the child physical injury, by other than
20 accidental means, that causes death, disfigurement,
21 impairment of physical or emotional health, or loss or
22 impairment of any bodily function;

23 (b) creates a substantial risk of physical injury to
24 the child by other than accidental means which would be
25 likely to cause death, disfigurement, impairment of
26 physical or emotional health, or loss or impairment of any

1 bodily function;

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

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

8 (e) inflicts excessive corporal punishment.

9 Q. "Neglected child" means any child whose parent or other
10 person responsible for the child's welfare withholds or denies
11 nourishment or medically indicated treatment including food or
12 care denied solely on the basis of the present or anticipated
13 mental or physical impairment as determined by a physician
14 acting alone or in consultation with other physicians or
15 otherwise does not provide the proper or necessary support,
16 education as required by law, or medical or other remedial care
17 recognized under State law as necessary for a child's
18 well-being, or other care necessary for his or her well-being,
19 including adequate food, clothing and shelter; or who is
20 abandoned by his or her parents or other person responsible for
21 the child's welfare.

22 A child shall not be considered neglected or abused for the
23 sole reason that the child's parent or other person responsible
24 for his or her welfare depends upon spiritual means through
25 prayer alone for the treatment or cure of disease or remedial
26 care as provided under Section 4 of the Abused and Neglected

1 Child Reporting Act. A child shall not be considered neglected
2 or abused for the sole reason that the child's parent or other
3 person responsible for the child's welfare failed to vaccinate,
4 delayed vaccination, or refused vaccination for the child due
5 to a waiver on religious or medical grounds as permitted by
6 law.

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

16 S. "Standby adoption" means an adoption in which a parent
17 consents to custody and termination of parental rights to
18 become effective upon the occurrence of a future event, which
19 is either the death of the parent or the request of the parent
20 for the entry of a final judgment of adoption.

21 T. (Blank).

22 T-5. "Biological parent", "birth parent", or "natural
23 parent" of a child are interchangeable terms that mean a person
24 who is biologically or genetically related to that child as a
25 parent.

26 U. "Interstate adoption" means the placement of a minor

1 child with a prospective adoptive parent for the purpose of
2 pursuing an adoption for that child that is subject to the
3 provisions of the Interstate Compact on Placement of Children.

4 V. "Endorsement letter" means the letter issued by the
5 Department of Children and Family Services to document that a
6 prospective adoptive parent has met preadoption requirements
7 and has been deemed suitable by the Department to adopt a child
8 who is the subject of an intercountry adoption.

9 W. "Denial letter" means the letter issued by the
10 Department of Children and Family Services to document that a
11 prospective adoptive parent has not met preadoption
12 requirements and has not been deemed suitable by the Department
13 to adopt a child who is the subject of an intercountry
14 adoption.

15 X. "Legal father" of a child means a man who is recognized
16 as or presumed to be that child's father:

17 (1) because of his marriage to or civil union with the
18 child's parent at the time of the child's birth or within
19 300 days prior to that child's birth, unless he signed a
20 denial of paternity pursuant to Section 12 of the Vital
21 Records Act or a waiver pursuant to Section 10 of this Act;
22 or

23 (2) because his paternity of the child has been
24 established pursuant to the Illinois Parentage Act, the
25 Illinois Parentage Act of 1984, or the Gestational
26 Surrogacy Act; or

1 (3) because he is listed as the child's father or
2 parent on the child's birth certificate, unless he is
3 otherwise determined by an administrative or judicial
4 proceeding not to be the parent of the child or unless he
5 rescinds his acknowledgment of paternity pursuant to the
6 Illinois Parentage Act of 1984; or

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

9 The definition in this subsection X shall not be construed
10 to provide greater or lesser rights as to the number of parents
11 who can be named on a final judgment order of adoption or
12 Illinois birth certificate that otherwise exist under Illinois
13 law.

14 Y. "Legal mother" of a child means a woman who is
15 recognized as or presumed to be that child's mother:

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

18 (2) because her maternity of the child has been
19 established pursuant to the Illinois Parentage Act of 1984
20 or the Gestational Surrogacy Act; or

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

23 (4) because of her marriage to or civil union with the
24 child's other parent at the time of the child's birth or
25 within 300 days prior to the time of birth; or

26 (5) because she is listed as the child's mother or

1 parent on the child's birth certificate unless she is
2 otherwise determined by an administrative or judicial
3 proceeding not to be the parent of the child.

4 The definition in this subsection Y shall not be construed
5 to provide greater or lesser rights as to the number of parents
6 who can be named on a final judgment order of adoption or
7 Illinois birth certificate that otherwise exist under Illinois
8 law.

9 (Source: P.A. 97-227, eff. 1-1-12; 97-1109, eff. 1-1-13;
10 97-1150, eff. 1-25-13; 98-455, eff. 1-1-14; 98-532, eff.
11 1-1-14; revised 9-24-13.)

12 (750 ILCS 50/2) (from Ch. 40, par. 1502)

13 Sec. 2. Who may adopt a child.

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

21 (a) A reputable person of legal age and of either sex,
22 provided that if such person is married and has not been living
23 separate and apart from his or her spouse for 12 months or
24 longer, his or her spouse shall be a party to the adoption
25 proceeding, including a husband or wife desiring to adopt a

1 child of the other spouse, in all of which cases the adoption
2 shall be by both spouses jointly;

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

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

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

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

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

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

12 (750 ILCS 50/4) (from Ch. 40, par. 1505)

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

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

25 (Source: Laws 1965, p. 3308.)