

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 Adoption Act is amended by adding Section
5 14.5 as follows:

6 (750 ILCS 50/14.5 new)

7 Sec. 14.5. Petition to adopt by former parent.

8 (a) For purposes of this Section, the term "former parent"
9 means a person whose rights were terminated as described in
10 paragraph (1) or (2). A petition to adopt by a former parent
11 may be filed regarding any minor who was a ward of the court
12 under Article II of the Juvenile Court Act of 1987 when:

13 (1) while the minor was under the jurisdiction of the
14 court under Article II of the Juvenile Court Act of 1987,
15 the minor's former parent or former parents surrendered the
16 minor for adoption to an agency legally authorized to place
17 children for adoption, or the minor's former parent or
18 former parents consented to the minor's adoption, or the
19 former parent's or former parents' rights were terminated
20 pursuant to a finding of unfitness pursuant to Section 2-29
21 of the Juvenile Court Act of 1987 and a guardian was
22 appointed with the power to consent to adoption pursuant to
23 Section 2-29 of the Juvenile Court Act of 1987; or

1 (2) following the appointment of a guardian with the
2 right to consent to the adoption of the minor pursuant to
3 Section 2-29 of the Juvenile Court Act of 1987, the former
4 parent's or former parents' rights were terminated
5 pursuant to a finding of unfitness pursuant to Section 13.
6 A.(d); and

7 (3) (i) since the signing of the surrender or consent,
8 or the unfitness finding, the minor remained a ward of the
9 court and was subsequently adopted by an individual or
10 individuals who, at the time of the adoption, were
11 biologically related to the minor as defined in subsection
12 B of Section 50 and (ii) either the adoptive parent has
13 died (or both adoptive parents have died in the case of 2
14 adoptive parents) and no standby guardian or standby
15 adoptive parent has been appointed for the minor, and no
16 guardian has been appointed by the adoptive parent for the
17 minor through a will; or due to a mental or physical
18 impairment the adoptive parent is no longer able to provide
19 care for the minor and the adoptive parent has consented in
20 open court, or by such means as is approved by the court,
21 to the adoption of the minor by the petitioner; and

22 (4) the former parent named in the petition wishes to
23 adopt the minor and meets the criteria established in this
24 Section to adopt; and

25 (5) it is in the best interests of the minor to have
26 the petitioner adopt and have parental rights reinstated.

1 (b) The petition may be filed by any party or by the former
2 parent now seeking to adopt the minor.

3 (c) Where a former parent seeks to have a court order for
4 adoption, the following procedures shall apply:

5 (1) In addition to the requirements set out in this Act
6 in Section 5, a petition by a former parent to adopt filed
7 by a former parent shall include the following allegations:

8 (A) that his or her parental rights were previously
9 terminated pursuant to Section 2-29 of the Juvenile
10 Court Act of 1987;

11 (B) the basis upon which his or her parental rights
12 were terminated;

13 (C) that the petitioner is able and willing to
14 resume care, custody, and control of the minor;

15 (D) that the adoptive parent of the minor is
16 deceased and no standby guardian or standby adoptive
17 parent has been appointed for the minor, and no
18 guardian has been appointed by the adoptive parent for
19 the minor through a will; or, the adoptive parent is no
20 longer able to provide care for the minor due to a
21 mental or physical impairment and has consented to the
22 petitioner's adoption of the minor in open court or by
23 such means as is approved by the court; and

24 (E) that it is in the best interests of the minor
25 to be adopted by the petitioner and for the
26 petitioner's parental rights to be reinstated.

1 (2) A former parent shall not have standing to file a
2 petition for adoption, where the minor is the subject of a
3 pending petition filed under Article II of the Juvenile
4 Court Act of 1987. If the minor named in the petition for
5 adoption is not the subject of a pending petition filed
6 under Article II of the Juvenile Court Act of 1987, a
7 former parent shall have standing to file a petition for
8 adoption only if: the adoptive parent is deceased and no
9 standby guardian or standby adoptive parent has been
10 appointed for the minor, and no guardian has been appointed
11 by the adoptive parent for the minor through a will; or,
12 the adoptive parent is no longer able to provide care for
13 the minor due to a mental or physical impairment and has
14 consented to such adoption in open court or by such means
15 as is approved by the court.

16 (d) Interim order. Following presentment of a petition for
17 adoption by a former parent concerning a child who was
18 previously named in a petition filed under Article II of the
19 Juvenile Court Act of 1987 the following procedures and
20 safeguards shall be employed, in addition to the applicable
21 requirements set out in this Act, and shall be included in the
22 written interim order for the adoption by a former parent:

23 (1) In determining the minor's best interests pursuant
24 to Section 2-29 of the Juvenile Court Act of 1987 and this
25 Act, the Court shall consider, in addition to the factors
26 set forth in subsection 4.05 of Section 1-3 of the Juvenile

1 Court Act of 1987, the reasons why the case was initially
2 brought to the attention of the juvenile court and adoption
3 proceedings were instituted, the history of the case as it
4 relates to the former parent seeking adoption, and the
5 current circumstances of the former parent for whom
6 adoption is sought.

7 (2) In any case involving a child who meets these
8 criteria for adoption by a former parent, the Department of
9 Children and Family Services shall be appointed as the
10 investigator as outlined in Section 6 to conduct an
11 investigation and report to the court (i) the facts and
12 circumstances which raised concerns as to the petitioner's
13 ability and willingness to provide adequate care and
14 protection to children in his or her custody, (ii) an
15 assessment of the petitioner's current ability and
16 willingness to provide adequate care and protection for the
17 child named in the petition, and (iii) any information
18 which might reasonably raise a concern as to the child's
19 safety, well being, or best interests should the court
20 grant the petition to adopt by the former parent.

21 (3) In selecting the minor's guardian ad litem,
22 pursuant to subsection (B) of Section 13, whenever
23 practical, the court shall give preference to the guardian
24 ad litem who represented the minor in the juvenile court
25 proceeding. The guardian ad litem shall have the right to
26 review and copy all records, including juvenile court

1 records relating to the petitioner, the minor, and the
2 minor's siblings and half siblings.

3 (4) The report of the investigator and the guardian ad
4 litem shall be presented in writing to the court and shall
5 serve as a basis for the order of court upon the petition
6 for adoption by a former parent.

7 (e) Order of adoption.

8 (1) If it is proved to the satisfaction of the court,
9 after such investigation as the court deems necessary, an
10 order of adoption shall be entered.

11 (2) An order of adoption shall be final as to all
12 findings and shall be entered in writing.

13 (3) Upon the entry of an order granting a petition to
14 adopt by a former parent, all parental rights of the former
15 parent named in the order shall be reinstated and the
16 physical care, custody and control of the minor shall be
17 reinstated to the former parent.

18 (4) The order of adoption shall include an order to the
19 Illinois Department of Public Health to issue a new birth
20 certificate for the person who is the subject of the
21 petition for adoption by a former parent.

22 Section 99. Effective date. This Act takes effect July 1,
23 2009.