



Rep. Sara Feigenholtz

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LRB098 10935 HEP 44367 a

1 AMENDMENT TO HOUSE BILL 2809

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2809, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Adoption Act is amended by changing  
6 Sections 1, 2.1, 4.1, and 6 as follows:

7 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

10 A. "Child" means a person under legal age subject to  
11 adoption under this Act.

12 B. "Related child" means a child subject to adoption where  
13 either or both of the adopting parents stands in any of the  
14 following relationships to the child by blood or marriage:  
15 parent, grand-parent, brother, sister, step-parent,  
16 step-grandparent, step-brother, step-sister, uncle, aunt,

1 great-uncle, great-aunt, or cousin of first degree. A child  
2 whose parent has executed a final irrevocable consent to  
3 adoption or a final irrevocable surrender for purposes of  
4 adoption, or whose parent has had his or her parental rights  
5 terminated, is not a related child to that person, unless the  
6 consent is determined to be void or is void pursuant to  
7 subsection O of Section 10.

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 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 (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, or (ii) to make

1 reasonable progress toward the return of the child to the  
2 parent within 9 months after an adjudication of neglected  
3 or abused minor under Section 2-3 of the Juvenile Court Act  
4 of 1987 or dependent minor under Section 2-4 of that Act,  
5 or (iii) to make reasonable progress toward the return of  
6 the child to the parent during any 9-month period after the  
7 end of the initial 9-month period following the  
8 adjudication of neglected or abused minor under Section 2-3  
9 of the Juvenile Court Act of 1987 or dependent minor under  
10 Section 2-4 of that Act. If a service plan has been  
11 established as required under Section 8.2 of the Abused and  
12 Neglected Child Reporting Act to correct the conditions  
13 that were the basis for the removal of the child from the  
14 parent and if those services were available, then, for  
15 purposes of this Act, "failure to make reasonable progress  
16 toward the return of the child to the parent" includes (I)  
17 the parent's failure to substantially fulfill his or her  
18 obligations under the service plan and correct the  
19 conditions that brought the child into care within 9 months  
20 after the adjudication under Section 2-3 or 2-4 of the  
21 Juvenile Court Act of 1987 and (II) the parent's failure to  
22 substantially fulfill his or her obligations under the  
23 service plan and correct the conditions that brought the  
24 child into care during any 9-month period after the end of  
25 the initial 9-month period following the adjudication  
26 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.

1           Notwithstanding any other provision, when a petition or  
2           motion seeks to terminate parental rights on the basis of  
3           item (iii) of this subsection (m), the petitioner shall  
4           file with the court and serve on the parties a pleading  
5           that specifies the 9-month period or periods relied on. The  
6           pleading shall be filed and served on the parties no later  
7           than 3 weeks before the date set by the court for closure  
8           of discovery, and the allegations in the pleading shall be  
9           treated as incorporated into the petition or motion.  
10          Failure of a respondent to file a written denial of the  
11          allegations in the pleading shall not be treated as an  
12          admission that the allegations are true.

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



1 period when reasonable efforts were not made or (ii) the  
2 parent filed a motion requesting a finding of no reasonable  
3 efforts within 60 days of the period when reasonable  
4 efforts were not made. For purposes of this subdivision  
5 (m-1), the date of entering foster care is the earlier of:  
6 (i) the date of a judicial finding at an adjudicatory  
7 hearing that the child is an abused, neglected, or  
8 dependent minor; or (ii) 60 days after the date on which  
9 the child is removed from his or her parent, guardian, or  
10 legal custodian.

11 (n) Evidence of intent to forgo his or her parental  
12 rights, whether or not the child is a ward of the court,  
13 (1) as manifested by his or her failure for a period of 12  
14 months: (i) to visit the child, (ii) to communicate with  
15 the child or agency, although able to do so and not  
16 prevented from doing so by an agency or by court order, or  
17 (iii) to maintain contact with or plan for the future of  
18 the child, although physically able to do so, or (2) as  
19 manifested by the father's failure, where he and the mother  
20 of the child were unmarried to each other at the time of  
21 the child's birth, (i) to commence legal proceedings to  
22 establish his paternity under the Illinois Parentage Act of  
23 1984 or the law of the jurisdiction of the child's birth  
24 within 30 days of being informed, pursuant to Section 12a  
25 of this Act, that he is the father or the likely father of  
26 the child or, after being so informed where the child is

1 not yet born, within 30 days of the child's birth, or (ii)  
2 to make a good faith effort to pay a reasonable amount of  
3 the expenses related to the birth of the child and to  
4 provide a reasonable amount for the financial support of  
5 the child, the court to consider in its determination all  
6 relevant circumstances, including the financial condition  
7 of both parents; provided that the ground for termination  
8 provided in this subparagraph (n)(2)(ii) shall only be  
9 available where the petition is brought by the mother or  
10 the husband of the mother.

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

26 It shall be an affirmative defense to any allegation

1 under paragraph (2) of this subsection that the father's  
2 failure was due to circumstances beyond his control or to  
3 impediments created by the mother or any other person  
4 having legal custody. Proof of that fact need only be by a  
5 preponderance of the evidence.

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

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

23 (q) (Blank).

24 (r) The child is in the temporary custody or  
25 guardianship of the Department of Children and Family  
26 Services, the parent is incarcerated as a result of

1 criminal conviction at the time the petition or motion for  
2 termination of parental rights is filed, prior to  
3 incarceration the parent had little or no contact with the  
4 child or provided little or no support for the child, and  
5 the parent's incarceration will prevent the parent from  
6 discharging his or her parental responsibilities for the  
7 child for a period in excess of 2 years after the filing of  
8 the petition or motion for termination of parental rights.

9 (s) The child is in the temporary custody or  
10 guardianship of the Department of Children and Family  
11 Services, the parent is incarcerated at the time the  
12 petition or motion for termination of parental rights is  
13 filed, the parent has been repeatedly incarcerated as a  
14 result of criminal convictions, and the parent's repeated  
15 incarceration has prevented the parent from discharging  
16 his or her parental responsibilities for the child.

17 (t) A finding that at birth the child's blood, urine,  
18 or meconium contained any amount of a controlled substance  
19 as defined in subsection (f) of Section 102 of the Illinois  
20 Controlled Substances Act, or a metabolite of a controlled  
21 substance, with the exception of controlled substances or  
22 metabolites of such substances, the presence of which in  
23 the newborn infant was the result of medical treatment  
24 administered to the mother or the newborn infant, and that  
25 the biological mother of this child is the biological  
26 mother of at least one other child who was adjudicated a

1 neglected minor under subsection (c) of Section 2-3 of the  
2 Juvenile Court Act of 1987, after which the biological  
3 mother had the opportunity to enroll in and participate in  
4 a clinically appropriate substance abuse counseling,  
5 treatment, and rehabilitation program.

6 E. "Parent" means the father or mother of a lawful child of  
7 the parties or child born out of wedlock. For the purpose of  
8 this Act, a person who has executed a final and irrevocable  
9 consent to adoption or a final and irrevocable surrender for  
10 purposes of adoption, or whose parental rights have been  
11 terminated by a court, is not a parent of the child who was the  
12 subject of the consent or surrender, unless the consent is void  
13 pursuant to subsection O 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. ~~"Foreign placing agency" is an agency~~  
17 ~~or individual operating in a country or territory outside the~~  
18 ~~United States that is authorized by its country to place~~  
19 ~~children for adoption either directly with families in the~~  
20 ~~United States or through United States based international~~  
21 ~~agencies.~~

22 J. "Immediate relatives" means the biological parents, the  
23 parents of the biological parents and siblings of the  
24 biological parents.

25 K. "Intercountry adoption" is a process by which a child  
26 from a country other than the United States is adopted by

1 persons who are habitual residents of the United States, or the  
2 child is a habitual resident of the United States who is  
3 adopted by persons who are habitual residents of a country  
4 other than the United States.

5 L. "Intercountry Adoption Coordinator" is a staff person of  
6 the Department of Children and Family Services appointed by the  
7 Director to coordinate the provision of services by the public  
8 and private sector to prospective parents of foreign-born  
9 children.

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

15 N. "Non-Compact state" means a state that has not enacted  
16 the Interstate Compact on the Placement of Children.

17 O. "Preadoption requirements" are any conditions  
18 established by the laws or regulations of the Federal  
19 Government or of each state that must be met prior to the  
20 placement of a child in an adoptive home.

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

25 (a) inflicts, causes to be inflicted, or allows to be  
26 inflicted upon the child physical injury, by other than

1 accidental means, that causes death, disfigurement,  
2 impairment of physical or emotional health, or loss or  
3 impairment of any bodily function;

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

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

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

15 (e) inflicts excessive corporal punishment.

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



1 abandoned by his or her parents or other person responsible for  
2 the child's welfare.

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

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

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

1 for the entry of a final judgment of adoption.

2 T. (Blank).

3 U. "Interstate adoption" means the placement of a minor  
4 child with a prospective adoptive parent for the purpose of  
5 pursuing an adoption for that child that is subject to the  
6 provisions of the Interstate Compact on Placement of Children  
7 Act.

8 V. "Endorsement Letter" means the official notification  
9 from the Department of Children and Family Services to the  
10 prospective adoptive parent that all State preadoption  
11 requirements have been met.

12 W. "Denial Letter" means the official notification from the  
13 Department of Children and Family Services to the prospective  
14 parent that all State preadoption requirements have not been  
15 met and which contains the particular reason the prospective  
16 adoptive parent has not been approved to adopt.

17 (Source: P.A. 96-1551, eff. 7-1-11; 97-227, eff. 1-1-12;  
18 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

19 (750 ILCS 50/2.1) (from Ch. 40, par. 1503)

20 Sec. 2.1. This Act shall be construed in concert with the  
21 Juvenile Court Act of 1987, the Child Care Act of 1969, ~~and~~ the  
22 Interstate Compact on the Placement of Children, and the  
23 Intercountry Adoption Act of 2000.

24 (Source: P.A. 85-1209.)

1 (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

2 Sec. 4.1. Adoption between multiple jurisdictions.

3 (a) The Department of Children and Family Services shall  
4 promulgate rules regarding the approval and regulation of  
5 agencies providing adoption services in this State, as defined  
6 in Section 2.24 of the Child Care Act of 1969, which shall  
7 include but not be limited to a requirement that any such  
8 agency shall be licensed in this State as a child welfare  
9 agency as defined in Section 2.08 of the Child Care Act of 1969  
10 or, if not licensed in this State as a child welfare agency,  
11 shall be approved by the Department to place children into  
12 Illinois for the purpose of adoption and shall provide all of  
13 the following to the Department:

14 (1) A copy of the agency's current license or other  
15 form of authorization from the approving authority in the  
16 agency's state. If no such license or authorization is  
17 issued, the agency must provide a reference statement from  
18 the approving authority stating the agency is authorized to  
19 place children in foster care or adoption or both in its  
20 jurisdiction.

21 (2) A description of the program, including home  
22 studies, placements, and supervisions that the child  
23 placing agency conducts within its geographical area, and,  
24 if applicable, adoptive placements and the finalization of  
25 adoptions. The child placing agency must accept continued  
26 responsibility for placement planning and replacement if

1        the placement fails.

2            (3) Notification to the Department of any significant  
3            child placing agency changes after approval.

4            (4) Any other information the Department may require.

5        ~~Except for children placed with relatives by the Department of~~  
6        ~~Children and Family Services pursuant to subsection (b) of~~  
7        ~~Section 7 of the Children and Family Services Act, placements~~  
8        ~~under this Act shall comply with the Child Care Act of 1969 and~~  
9        ~~the Interstate Compact on the Placement of Children. Placements~~  
10       ~~of children born outside the United States or a territory~~  
11       ~~thereof shall comply with rules promulgated by the United~~  
12       ~~States Department of Immigration and Naturalization.~~

13        ~~Rules promulgated by the Department of Children and Family~~  
14        ~~Services shall include but not be limited to the following:~~

15            ~~(a) Any agency providing adoption services as defined in~~  
16            ~~Section 2.24 of the Child Care Act of 1969 in this State:~~

17            ~~(i) Shall be licensed in this State as a child welfare~~  
18            ~~agency as defined in Section 2.08 of the Child Care Act of~~  
19            ~~1969; or~~

20            ~~(ii) Shall be licensed as a child placement agency in a~~  
21            ~~state which is a party to the Interstate Compact on the~~  
22            ~~Placement of Children and shall be approved by the~~  
23            ~~Department to place children into Illinois in accordance~~  
24            ~~with subsection (a-5) of this Section; or~~

25            ~~(iii) Shall be licensed as a child placement agency in~~  
26            ~~a country other than the United States or, if located in~~

1 ~~such a country but not so licensed, shall provide~~  
2 ~~information such as a license or court document which~~  
3 ~~authorizes that agency to place children for adoption and~~  
4 ~~to establish that such agency has legal authority to place~~  
5 ~~children for adoption; or~~

6 ~~(iv) Shall be a child placement agency which is so~~  
7 ~~licensed in a non compact state and shall be approved by~~  
8 ~~the Department to place children into Illinois in~~  
9 ~~accordance with subsection (a-5) of this Section, if such~~  
10 ~~agency first files with the Department of Children and~~  
11 ~~Family Services a bond with surety in the amount of \$5,000~~  
12 ~~for each such child to ensure that such child shall not~~  
13 ~~become a public charge upon this State. Such bond shall~~  
14 ~~remain in effect until a judgment for adoption is entered~~  
15 ~~with respect to such child pursuant to this Act. The~~  
16 ~~Department of Children and Family Services may accept, in~~  
17 ~~lieu of such bond, a written agreement with such agency~~  
18 ~~which provides that such agency shall be liable for all~~  
19 ~~costs associated with the placement of such child in the~~  
20 ~~event a judgment of adoption is not entered, upon such~~  
21 ~~terms and conditions as the Department deems appropriate.~~

22 The rules shall also provide that any agency that places  
23 children for adoption in this State may not, in any policy or  
24 practice relating to the placement of children for adoption,  
25 discriminate against any child or prospective adoptive parent  
26 on the basis of race.

1           (a-5) (Blank). ~~Out of state private placing agencies that~~  
2 ~~seek to place children into Illinois for the purpose of foster~~  
3 ~~care or adoption shall provide all of the following to the~~  
4 ~~Department:~~

5           ~~(i) A copy of the agency's current license or other~~  
6 ~~form of authorization from the approving authority in the~~  
7 ~~agency's state. If no such license or authorization is~~  
8 ~~issued, the agency must provide a reference statement from~~  
9 ~~the approving authority stating the agency is authorized to~~  
10 ~~place children in foster care or adoption or both in its~~  
11 ~~jurisdiction.~~

12           ~~(ii) A description of the program, including home~~  
13 ~~studies, placements, and supervisions that the child~~  
14 ~~placing agency conducts within its geographical area, and,~~  
15 ~~if applicable, adoptive placements and the finalization of~~  
16 ~~adoptions. The child placing agency must accept continued~~  
17 ~~responsibility for placement planning and replacement if~~  
18 ~~the placement fails.~~

19           ~~(iii) Notification to the Department of any~~  
20 ~~significant child placing agency changes after approval.~~

21           ~~(iv) Any other information the Department may require.~~

22           ~~If the adoption is finalized prior to bringing or sending~~  
23 ~~the child to Illinois, Department approval of the out of state~~  
24 ~~child placing agency involved is not required under this~~  
25 ~~Section, nor is compliance with the Interstate Compact on the~~  
26 ~~Placement of Children.~~

1           (b) Interstate Adoptions.

2           (1) Except for children placed with relatives by the  
3           Department of Children and Family Services pursuant to  
4           subsection (b) of Section 7 of the Children and Family  
5           Services Act, placements under this Act shall comply with  
6           the Child Care Act of 1969 and the Interstate Compact on  
7           the Placement of Children.

8           (2) If an adoption is finalized prior to bringing or  
9           sending a child to Illinois, compliance with the Interstate  
10          Compact on the Placement of Children is not required.

11 ~~As an alternative to requiring the bond provided for in~~  
12 ~~paragraph (a)(iv) of this Section, the Department of Children~~  
13 ~~and Family Services may require the filing of such a bond by~~  
14 ~~the individual or individuals seeking to adopt such a child~~  
15 ~~through placement of such child by a child placement agency~~  
16 ~~located in a state which is not a party to the Interstate~~  
17 ~~Compact on the Placement of Children.~~

18          (c) Intercountry Adoptions.

19          (1) The adoption of a child, if the child is a habitual  
20          resident of a country other than the United States and the  
21          petitioner is a habitual resident of the United States, or,  
22          if the child is a habitual resident of the United States  
23          and the petitioner is a habitual resident of a country  
24          other than the United States, shall comply with the  
25          Intercountry Adoption Act of 2000, as amended, and the  
26          Immigration and Nationality Act, as amended.

1           (2) The Department of Children and Family Services  
2           shall maintain the office of Intercountry Adoption  
3           Coordinator in order to maintain and protect the rights of  
4           families and children participating in an intercountry  
5           adoption and shall develop ongoing programs of support and  
6           services to such families and children.

7           (3) In the case of an intercountry adoption of a child  
8           by an Illinois resident, the Department shall promulgate  
9           rules concerning preadoption requirements, which shall  
10          include but not be limited to the following:

11           (i) A home study conducted by a licensed child  
12          welfare agency that meets the requirements of the  
13          Intercountry Adoption Act of 2000.

14           (ii) If the prospective adoptive parents seek to  
15          adopt a particular child, documentation which shows  
16          that the child is legally free for adoption, and a  
17          medical report on the child by a licensed or certified  
18          medical provider from the country of the child's  
19          origin.

20           (iii) Documentation providing information  
21          regarding the prospective parent's ability to provide  
22          necessary financial support for the child.

23          (4) The Intercountry Adoption Coordinator shall  
24          determine whether all preadoption requirements have been  
25          met by a prospective adoptive parent and provide such  
26          information to United States Citizenship and Immigration



1 Services. The Intercountry Adoption Coordinator shall also  
2 determine whether the prospective adoptive parent is  
3 suitable as the adoptive parent. In determining  
4 suitability to adopt, the Intercountry Adoption  
5 coordinator shall give considerable weight to the home  
6 study, but is not bound by it. Even if the home study is  
7 favorable, the Intercountry Adoption Coordinator must  
8 issue a denial letter if, on the basis of all the  
9 information provided, the Intercountry Adoption  
10 Coordinator finds, for a specific and articulable reason,  
11 that the prospective adoptive parent has failed to  
12 establish the he or she is suitable as the adoptive parent.

13 (5) The Intercountry Adoption Coordinator shall issue  
14 an Endorsement Letter, indicating that all pre-adoption  
15 requirements have been met, or a Denial Letter, indicating  
16 the specific pre-adoption requirements that have not been  
17 met, no later than 21 days from receipt of the home study  
18 from the child welfare agency. If, upon receipt of the home  
19 study, the Intercountry Adoption Coordinator determines  
20 that more information is required before any determination  
21 can be made with respect to compliance with the  
22 pre-adoption requirements, the Intercountry Adoption  
23 Coordinator shall, within 7 days of receipt of the home  
24 study, provide notice describing such additional  
25 information, via facsimile or through electronic  
26 communication, to the licensed child welfare agency and the

1 adoptive parent. Within 21 days of receipt of such  
2 additional information, the Intercountry Adoption  
3 Coordinator shall provide the child welfare agency with an  
4 Endorsement Letter or a Denial Letter. The Intercountry  
5 Adoption Coordinator shall mail a copy of the Endorsement  
6 Letter or Denial Letter to the prospective adoptive parent  
7 at the same time that the Intercountry Adoption Coordinator  
8 provides such letter to the child welfare agency.

9 (6) If the Intercountry Adoption Coordinator issues a  
10 Denial Letter, a prospective adoptive parent shall have the  
11 right to an administrative review. The Intercountry  
12 Adoption Coordinator shall include in its Denial Letter  
13 notification advising the prospective adoptive parent of  
14 the right to seek an administrative review of the  
15 determination by the Director of the Department, if  
16 requested in writing within 30 days of receipt of the  
17 Denial Letter. Failure to submit such a request within 30  
18 days waives the prospective parent's right to a review.

19 (i) The review by the Director shall include, but  
20 is not limited to, a review of documentation submitted  
21 by the prospective adoptive parent and, if requested by  
22 the prospective adoptive parent, a telephone  
23 conference or a mutually convenient in-person meeting  
24 with the Director, or the Director's designated  
25 representative, to allow the prospective adoptive  
26 parent to present the facts and circumstances

1 supporting the request for the Endorsement Letter.

2 (ii) The Director shall issue a decision within 30  
3 days of receipt of the request for review.

4 (iii) If the Director concurs with the original  
5 Denial of the Intercountry Adoption Coordinator, the  
6 Director's decision shall be considered a final  
7 administrative decision and the prospective adoptive  
8 parent shall have all rights and remedies to a review  
9 to which he or she is entitled under applicable law.

10 (7) In the case of an intercountry adoption finalized  
11 in another country, where a complete and valid Order of  
12 Adoption is issued from that country to an Illinois  
13 resident, as determined by the United States Department of  
14 State, this State shall not impose any additional  
15 preadoption requirements.

16 (8) The Department shall provide a report to the  
17 General Assembly on an annual basis beginning on January 15  
18 of each year after the effective date of this amendatory  
19 Act of the 98th General Assembly. The report shall provide  
20 statistical data on the Endorsement and Denial Letters and  
21 the Requests for Review of the Denial letter including, and  
22 shall contain but not limited to, the following:

23 (i) The number of Endorsement Letters issued by the  
24 Intercountry Adoption Coordinator in the preceding  
25 year;

26 (ii) The number of Denial Letters issued by the

1           Intercountry Adoption Coordinator in the preceding  
2           year;

3           (iii) The number of Requests for Review of Denial  
4           Letter in the preceding year;

5           (iv) The number of Denial Letter Reviews which  
6           resulted in a reversal and an Endorsement Letter being  
7           issued in the preceding year; and

8           (v) The basis of each Denial Letter and the basis  
9           of each reversal of the Denial Letter in a particular  
10          case in the preceding year.

11       ~~In the case of any foreign born child brought to the United~~  
12       ~~States for adoption in this State, the following preadoption~~  
13       ~~requirements shall be met:~~

14           ~~(1) Documentation that the child is legally free for~~  
15       ~~adoption prior to entry into the United States shall be~~  
16       ~~submitted.~~

17           ~~(2) A medical report on the child, by authorized~~  
18       ~~medical personnel in the country of the child's origin,~~  
19       ~~shall be provided when such personnel are available.~~

20           ~~(3) Verification that the adoptive family has been~~  
21       ~~licensed as a foster family home pursuant to the Child Care~~  
22       ~~Act of 1969, as now or hereafter amended, shall be~~  
23       ~~provided.~~

24           ~~(4) A valid home study conducted by a licensed child~~  
25       ~~welfare agency that complies with guidelines established~~  
26       ~~by the United States Immigration and Naturalization~~

1 ~~Service at 8 CFR 204.4(d)(2)(i), as now or hereafter~~  
2 ~~amended, shall be submitted. A home study is considered~~  
3 ~~valid if it contains:~~

4 ~~(i) A factual evaluation of the financial,~~  
5 ~~physical, mental and moral capabilities of the~~  
6 ~~prospective parent or parents to rear and educate the~~  
7 ~~child properly.~~

8 ~~(ii) A detailed description of the living~~  
9 ~~accommodations where the prospective parent or parents~~  
10 ~~currently reside.~~

11 ~~(iii) A detailed description of the living~~  
12 ~~accommodations in the United States where the child~~  
13 ~~will reside, if known.~~

14 ~~(iv) A statement or attachment recommending the~~  
15 ~~proposed adoption signed by an official of the child~~  
16 ~~welfare agency which has conducted the home study.~~

17 ~~(5) The placing agency located in a non compact state~~  
18 ~~or a family desiring to adopt through an authorized~~  
19 ~~placement party in a non compact state or a foreign country~~  
20 ~~shall file with the Department of Children and Family~~  
21 ~~Services a bond with surety in the amount of \$5,000 as~~  
22 ~~protection that a foreign born child accepted for care or~~  
23 ~~supervision not become a public charge upon the State of~~  
24 ~~Illinois.~~

25 ~~(6) In lieu of the \$5,000 bond, the placement agency~~  
26 ~~may sign a binding agreement with the Department of~~

1 ~~Children and Family Services to assume full liability for~~  
2 ~~all placements should, for any reason, the adoption be~~  
3 ~~disrupted or not be completed, including financial and~~  
4 ~~planning responsibility until the child is either returned~~  
5 ~~to the country of its origin or placed with a new adoptive~~  
6 ~~family in the United States and that adoption is finalized.~~

7 ~~(7) Compliance with the requirements of the Interstate~~  
8 ~~Compact on the Placement of Children, when applicable,~~  
9 ~~shall be demonstrated.~~

10 ~~(8) When a child is adopted in a foreign country and a~~  
11 ~~final, complete and valid Order of Adoption is issued in~~  
12 ~~that country, as determined by both the United States~~  
13 ~~Department of State and the United States Department of~~  
14 ~~Justice, this State shall not impose any additional~~  
15 ~~preadoption requirements. The adoptive family, however,~~  
16 ~~must comply with applicable requirements of the United~~  
17 ~~States Department of Immigration and Naturalization as~~  
18 ~~provided in 8 CFR 204.4 (d) (2) (ii), as now or hereafter~~  
19 ~~amended.~~

20 (d) (Blank). ~~The Department of Children and Family Services~~  
21 ~~shall maintain the office of Intercountry Adoption~~  
22 ~~Coordinator, shall maintain and protect the rights of families~~  
23 ~~and children participating in adoption of foreign born~~  
24 ~~children, and shall develop ongoing programs of support and~~  
25 ~~services to such families and children. The Intercountry~~  
26 ~~Adoption Coordinator shall determine that all preadoption~~

1 ~~requirements have been met and report such information to the~~  
2 ~~Department of Immigration and Naturalization.~~

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

4 (750 ILCS 50/6) (from Ch. 40, par. 1508)

5 Sec. 6. A. Investigation; all cases. Within 10 days after  
6 the filing of a petition for the adoption or standby adoption  
7 of a child other than a related child, the court shall appoint  
8 a child welfare agency approved by the Department of Children  
9 and Family Services, or a person deemed competent by the court,  
10 or in Cook County the Court Services Division of the Cook  
11 County Department of Public Aid, or the Department of Children  
12 and Family Services if the court determines that no child  
13 welfare agency is available or that the petitioner is  
14 financially unable to pay for the investigation, to investigate  
15 accurately, fully and promptly, the allegations contained in  
16 the petition; the character, reputation, health and general  
17 standing in the community of the petitioners; the religious  
18 faith of the petitioners and, if ascertainable, of the child  
19 sought to be adopted; and whether the petitioners are proper  
20 persons to adopt the child and whether the child is a proper  
21 subject of adoption. The investigation required under this  
22 Section shall include a fingerprint based criminal background  
23 check with a review of fingerprints by the Illinois State  
24 Police and Federal Bureau of Investigation. Each petitioner  
25 subject to this investigation, shall submit his or her

1 fingerprints to the Department of State Police in the form and  
2 manner prescribed by the Department of State Police. These  
3 fingerprints shall be checked against the fingerprint records  
4 now and hereafter filed in the Department of State Police and  
5 Federal Bureau of Investigation criminal history records  
6 databases. The Department of State Police shall charge a fee  
7 for conducting the criminal history records check, which shall  
8 be deposited in the State Police Services Fund and shall not  
9 exceed the actual cost of the records check. The criminal  
10 background check required by this Section shall include a  
11 listing of when, where and by whom the criminal background  
12 check was prepared. The criminal background check required by  
13 this Section shall not be more than two years old.

14 Neither a clerk of the circuit court nor a judge may  
15 require that a criminal background check or fingerprint review  
16 be filed with, or at the same time as, an initial petition for  
17 adoption.

18 B. Investigation; foreign-born child. In the case of a  
19 child born outside the United States or a territory thereof, in  
20 addition to the investigation required under subsection (A) of  
21 this Section, a post-placement investigation shall be  
22 conducted in accordance with the requirements of the Child Care  
23 Act of 1969, the Interstate Compact on the Placement of  
24 Children, and the Intercountry Adoption Act of 2000 ~~regulations~~  
25 ~~of the foreign placing agency and the supervising agency.~~

26 The requirements of a post-placement investigation shall



1 be deemed to have been satisfied if a valid final order or  
2 judgment of adoption has been entered by a court of competent  
3 jurisdiction in a country other than the United States or a  
4 territory thereof with respect to such child and the  
5 petitioners.

6 C. Report of investigation. The court shall determine  
7 whether the costs of the investigation shall be charged to the  
8 petitioners. The information obtained as a result of such  
9 investigation shall be presented to the court in a written  
10 report. The results of the criminal background check required  
11 under subsection (A) shall be provided to the court for its  
12 review. The court may, in its discretion, weigh the  
13 significance of the results of the criminal background check  
14 against the entirety of the background of the petitioners. The  
15 Court, in its discretion, may accept the report of the  
16 investigation previously made by a licensed child welfare  
17 agency, if made within one year prior to the entry of the  
18 judgment. Such report shall be treated as confidential and  
19 withheld from inspection unless findings adverse to the  
20 petitioners or to the child sought to be adopted are contained  
21 therein, and in that event the court shall inform the  
22 petitioners of the relevant portions pertaining to the adverse  
23 findings. In no event shall any facts set forth in the report  
24 be considered at the hearing of the proceeding, unless  
25 established by competent evidence. The report shall be filed  
26 with the record of the proceeding. If the file relating to the

1 proceeding is not impounded, the report shall be impounded by  
2 the clerk of the court and shall be made available for  
3 inspection only upon order of the court.

4 D. Related adoption. Such investigation shall not be made  
5 when the petition seeks to adopt a related child or an adult  
6 unless the court, in its discretion, shall so order. In such an  
7 event the court may appoint a person deemed competent by the  
8 court.

9 (Source: P.A. 93-418, eff. 1-1-04.)".