

1 AN ACT in relation to children.

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

4 Section 1. Short title. This Act be cited as the
5 Abandoned Newborn Infant Protection Act.

6 Section 5. Public policy. Illinois recognizes that
7 newborn infants have been abandoned to the environment or to
8 other circumstances that may be unsafe to the newborn infant.
9 These circumstances have caused injury and death to newborn
10 infants and give rise to potential criminal liability to
11 parents. This Act is intended to provide a mechanism for a
12 newborn infant to be relinquished to a safe environment and
13 for the parents of the infant to remain anonymous and to
14 avoid criminal liability for the act of relinquishing the
15 infant. It is recognized that established adoption procedures
16 are preferable to relinquishing a child, but to reduce the
17 chance of injury to a newborn infant, this Act provides a
18 safe alternative.

19 Section 10. Definitions. In this Act:

20 "Abandon" has the same meaning as in the Abused and
21 Neglected Child Reporting Act.

22 "Abused child" has the same meaning as in the Abused and
23 Neglected Child Reporting Act.

24 "Child-placing agency" means a licensed public or private
25 agency that receives a child for the purpose of placing or
26 arranging for the placement of the child in a foster family
27 home or other facility for child care, apart from the custody
28 of the child's parents or legal guardian.

29 "Department" or "DCFS" means the Illinois Department of
30 Children and Family Services.

1 "Emergency medical facility" means a freestanding
2 emergency center or trauma center, as defined in the
3 Emergency Medical Services (EMS) Systems Act.

4 "Emergency medical professional" includes licensed
5 physicians, and any emergency medical technician-basic,
6 emergency medical technician-intermediate, emergency medical
7 technician-paramedic, trauma nurse specialist, and
8 pre-hospital RN, as defined in the Emergency Medical Services
9 (EMS) Systems Act.

10 "Fire station" means a fire station within the State that
11 is staffed with at least one full-time emergency medical
12 professional.

13 "Hospital" has the same meaning as in the Hospital
14 Licensing Act.

15 "Legal custody" means the relationship created by a court
16 order in the best interest of a newborn infant that imposes
17 on the infant's custodian the responsibility of physical
18 possession of the infant, the duty to protect, train, and
19 discipline the infant, and the duty to provide the infant
20 with food, shelter, education, and medical care, except as
21 these are limited by parental rights and responsibilities.

22 "Neglected child" has the same meaning as in the Abused
23 and Neglected Child Reporting Act.

24 "Newborn infant" means a child who a licensed physician
25 reasonably believes is 30 days old or less at the time the
26 child is initially relinquished to a hospital, fire station,
27 or emergency medical facility, and who is not an abused or a
28 neglected child.

29 "Relinquish" means to bring a newborn infant, who a
30 licensed physician reasonably believes is 30 days old or
31 less, to a hospital, fire station, or emergency medical
32 facility and to leave the infant with personnel of the
33 facility, if the person leaving the infant does not express
34 an intent to return for the infant or states that he or she

1 will not return for the infant.

2 "Temporary protective custody" means the temporary
3 placement of a newborn infant within a hospital or other
4 medical facility out of the custody of the infant's parent or
5 legal guardian.

6 Section 15. Presumptions.

7 (a) There is a presumption that by relinquishing a
8 newborn infant in accordance with this Act, the infant's
9 parent or legal guardian consents to the termination of his
10 or her parental rights with respect to the infant.

11 (b) There is a presumption that a person relinquishing a
12 newborn infant in accordance with this Act:

13 (1) either (i) is the newborn infant's parent or
14 legal guardian or (ii) is not the newborn infant's parent
15 or legal guardian but relinquished the infant with the
16 knowledge and permission of a parent or legal guardian of
17 the infant; and

18 (2) either without expressing an intent to return
19 for the infant or expressing an intent not to return for
20 the infant, did intend to relinquish the infant to the
21 hospital, fire station, or emergency medical facility to
22 treat, care for, and provide for the infant in accordance
23 with this Act.

24 (c) A parent or legal guardian of a relinquished newborn
25 infant may rebut the presumption set forth in either
26 subsection (a) or subsection (b) pursuant to Section 55, at
27 any time before the termination of the parent's or legal
28 guardian's parental rights.

29 Section 20. Procedures with respect to relinquished
30 newborn infants.

31 (a) Hospitals. Every hospital must accept and provide
32 all necessary emergency services and care to a relinquished

1 newborn infant, in accordance with this Act.

2 The act of relinquishing a newborn infant serves as
3 implied consent for the hospital and its medical personnel
4 and physicians on staff to treat and provide care for the
5 infant.

6 The hospital shall be deemed to have temporary protective
7 custody of a relinquished newborn infant until the infant is
8 discharged to the legal custody of a child-placing agency or
9 the Department.

10 (b) Fire stations and emergency medical facilities.
11 Every fire station and emergency medical facility must accept
12 and provide all necessary emergency services and care to a
13 relinquished newborn infant, in accordance with this Act.

14 The act of relinquishing a newborn infant serves as
15 implied consent for the fire station or emergency medical
16 facility and its emergency medical professionals to treat and
17 provide care for the infant, to the extent that those
18 emergency medical professionals are trained to provide those
19 services.

20 After the relinquishment of a newborn infant to a fire
21 station or emergency medical facility, the fire station or
22 emergency medical facility's personnel must arrange for the
23 transportation of the infant to the nearest hospital as soon
24 as transportation can be arranged.

25 Section 25. Immunity for relinquishing person.

26 (a) The act of relinquishing a newborn infant to a
27 hospital, fire station, or emergency medical facility in
28 accordance with this Act does not, by itself, constitute a
29 basis for a finding of abuse, neglect, or abandonment of the
30 infant pursuant to the laws of this State.

31 (b) If there is suspected child abuse or neglect that is
32 not based solely on the newborn infant's relinquishment to a
33 hospital, fire station, or emergency medical facility, the

1 personnel of the hospital, fire station, or emergency medical
2 facility who are mandated reporters under the Abused and
3 Neglected Child Reporting Act must report the abuse or
4 neglect pursuant to that Act.

5 (c) Neither a child protective investigation nor a
6 criminal investigation must be initiated solely because a
7 newborn infant is relinquished pursuant to this Act.

8 Section 30. Anonymity of relinquishing person. If there
9 is no evidence of abuse or neglect of a relinquished newborn
10 infant, the relinquishing person has the right to remain
11 anonymous and to leave the hospital, fire station, or
12 emergency medical facility at any time and not be pursued or
13 followed.

14 Section 35. Information for relinquishing person. A
15 hospital, fire station, or emergency medical facility that
16 receives a newborn infant relinquished in accordance with
17 this Act must offer an information packet to the
18 relinquishing person and must clearly inform the
19 relinquishing person that his or her acceptance of the
20 information is completely voluntary and that completion of
21 the medical history form may be done anonymously. The
22 information packet must include all of the following:

23 (1) A medical history form designed to ascertain
24 the medical history of the newborn infant and the
25 infant's family.

26 (2) Written notice of the following:

27 (A) No sooner than 60 days following the date
28 of the initial relinquishment of the infant to a
29 hospital, fire station, or emergency medical
30 facility, the State will commence proceedings for
31 the involuntary termination of parental rights and
32 placement of the infant for adoption.

1 (B) Failure of a parent or legal guardian of
2 the infant to contact the Department and petition
3 for the return of custody of the infant before the
4 termination of parental rights bars any future
5 action asserting legal rights with respect to the
6 infant.

7 (3) A resource list of providers of counseling
8 services including grief counseling, pregnancy
9 counseling, and counseling regarding adoption and other
10 available options for placement of the infant.

11 Section 40. Reporting requirements.

12 (a) Within 12 hours after accepting a newborn infant
13 from a relinquishing person or from a fire station or
14 emergency medical facility in accordance with this Act, a
15 hospital must report to the Department's State Central
16 Registry for the purpose of transferring physical custody of
17 the infant from the hospital to either a child-placing agency
18 or the Department.

19 (b) Within 24 hours after receiving a report under
20 subsection (a), the Department must request assistance from
21 law enforcement officials to investigate the matter using the
22 National Crime Information Center to ensure that the
23 relinquished newborn infant is not a missing child.

24 (c) Once a hospital has made a report to the Department
25 under subsection (a), the Department must provide to the
26 hospital the name of a licensed child-placing agency. The
27 hospital must then arrange for the child-placing agency to
28 accept physical custody of the relinquished newborn infant.

29 (d) If a relinquished child is not a newborn infant as
30 defined in this Act, the hospital and the Department must
31 proceed as if the child is an abused or neglected child.

32 Section 45. Public aid. A newborn infant relinquished in

1 accordance with this Act is eligible for assistance under the
2 Illinois Public Aid Code as provided in that Code.

3 Section 50. Child-placing agency procedures.

4 (a) The Department's State Central Registry must
5 maintain a list of licensed child-placing agencies willing to
6 take legal custody of newborn infants relinquished in
7 accordance with this Act. The names and contact information
8 for the child-placing agencies on the list must be provided
9 by the Department on a rotating basis to every hospital
10 reporting to the Department's State Central Registry that a
11 newborn infant has been relinquished in accordance with this
12 Act.

13 (b) Upon notice from a hospital that a newborn infant
14 has been relinquished in accordance with this Act, a
15 child-placing agency must accept the newborn infant if the
16 agency has the accommodations to do so. The child-placing
17 agency must seek an order for legal custody of the infant
18 upon its acceptance of the infant.

19 (c) If no licensed child-placing agency is able to
20 accept the relinquished newborn infant, then the Department
21 must assume responsibility for the infant.

22 (d) A custody order issued under subsection (b) shall
23 remain in effect until a final adoption order based on the
24 relinquished newborn infant's best interests is issued in
25 accordance with this Act and the Adoption Act.

26 (e) When possible, the child-placing agency must place a
27 relinquished newborn infant in a prospective adoptive home.

28 (f) The child-placing agency must initiate proceedings
29 to (i) terminate the parental rights of the relinquished
30 newborn infant's known or unknown parents, (ii) appoint a
31 guardian for the infant, and (iii) obtain consent to the
32 infant's adoption in accordance with this Act no sooner than
33 60 days following the date of the initial relinquishment of

1 the infant to the hospital, fire station, or emergency
2 medical facility.

3 (g) Before filing a petition for termination of parental
4 rights, the Department must do the following:

5 (1) Search its Putative Father Registry for the
6 purpose of determining the identity and location of the
7 putative father of the relinquished newborn infant who
8 is, or is expected to be, the subject of an adoption
9 proceeding, in order to provide notice of the proceeding
10 to the putative father. At least one search of the
11 Registry must be conducted, at least 30 days after the
12 relinquished newborn infant's estimated date of birth;
13 earlier searches may be conducted, however. Notice to any
14 potential putative father discovered in a search of the
15 Registry according to the estimated age of the
16 relinquished newborn infant must be in accordance with
17 section 12a of the Adoption Act.

18 (2) Verify with law enforcement officials, using
19 the National Crime Information Center, that the
20 relinquished newborn infant is not a missing child.

21 Section 55. Petition for return of custody.

22 (a) A parent or legal guardian of a newborn infant
23 relinquished in accordance with this Act may petition for the
24 return of custody of the infant before the termination of
25 parental rights with respect to the infant.

26 (b) A parent or legal guardian of a newborn infant
27 relinquished in accordance with this Act may petition for the
28 return of custody of the infant by contacting the Department
29 and filing a petition for return of custody in the circuit
30 court in which the proceeding for the termination of parental
31 rights is pending.

32 (c) If a petition for the termination of parental rights
33 has not been filed by the State, the parent or legal guardian

1 of the relinquished newborn infant must contact the
2 Department, which must notify the parent or legal guardian of
3 the appropriate court in which the petition for return of
4 custody must be filed.

5 (d) The circuit court may hold the proceeding for the
6 termination of parental rights in abeyance for a period not
7 to exceed 60 days from the date that the petition for return
8 of custody was filed unless good cause exists to extend the
9 time period.

10 (e) Failure to file a petition for the return of custody
11 of a relinquished newborn infant before the termination of
12 parental rights bars any future action asserting legal rights
13 with respect to the infant unless the parent or legal
14 guardian's act of relinquishment that led to the termination
15 of parental rights involved fraud perpetrated against and not
16 stemming from or involving the parent or legal guardian. No
17 action to void or revoke the termination of parental rights
18 of a parent or legal guardian of a newborn infant
19 relinquished in accordance with this Act, including an action
20 based on fraud, may be commenced after 12 months after the
21 date that the newborn infant was initially relinquished to a
22 hospital, fire station, or emergency medical facility.

23 Section 60. Department's duties. The Department must
24 implement a media campaign to promote safe placement
25 alternatives for newborn infants. The media campaign must
26 inform the public of the following:

27 (1) The relinquishment alternative provided for in
28 this Act, which results in the adoption of a newborn
29 infant and which provides for the parent or legal
30 guardian's anonymity.

31 (2) The alternative of adoption through a public or
32 private agency, in which the parent's or legal guardian's
33 identity is known.

1 Section 65. Construction of Act. Nothing in this Act
2 shall be construed to preclude the courts of this State from
3 exercising their discretion to protect the health and safety
4 of children in individual cases. The best interests and
5 welfare of a child shall be a paramount consideration in the
6 construction and interpretation of this Act. It is in the
7 child's best interests that this Act be construed and
8 interpreted so as not to result in extending time limits
9 beyond those set forth in this Act.

10 Section 90. The Illinois Public Aid Code is amended by
11 changing Section 4-1.2 as follows:

12 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

13 Sec. 4-1.2. Living Arrangements - Parents - Relatives -
14 Foster Care.

15 (a) The child or children must (1) be living with his or
16 their father, mother, grandfather, grandmother, brother,
17 sister, stepfather, stepmother, stepbrother, stepsister,
18 uncle or aunt, or other relative approved by the Illinois
19 Department, in a place of residence maintained by one or more
20 of such relatives as his or their own home, or (2) have been
21 (a) removed from the home of the parents or other relatives
22 by judicial order under the Juvenile Court Act or the
23 Juvenile Court Act of 1987, as amended, (b) placed under the
24 guardianship of the Department of Children and Family
25 Services, and (c) under such guardianship, placed in a foster
26 family home, group home or child care institution licensed
27 pursuant to the "Child Care Act of 1969", approved May 15,
28 1969, as amended, or approved by that Department as meeting
29 standards established for licensing under that Act, or (3)
30 have been relinquished in accordance with the Abandoned
31 Newborn Infant Protection Act. A child so placed in foster
32 care who was not receiving aid under this Article in or for

1 the month in which the court proceedings leading to that
2 placement were initiated may qualify only if he lived in the
3 home of his parents or other relatives at the time the
4 proceedings were initiated, or within 6 months prior to the
5 month of initiation, and would have received aid in and for
6 that month if application had been made therefor.

7 (b) The Illinois Department may, by rule, establish
8 those persons who are living together who must be included in
9 the same assistance unit in order to receive cash assistance
10 under this Article and the income and assets of those persons
11 in an assistance unit which must be considered in determining
12 eligibility.

13 (c) The conditions of qualification herein specified
14 shall not prejudice aid granted under this Code for foster
15 care prior to the effective date of this 1969 Amendatory Act.
16 (Source: P.A. 90-17, eff. 7-1-97.)

17 Section 92. The Abused and Neglected Child Reporting Act
18 is amended by changing Section 3 as follows:

19 (325 ILCS 5/3) (from Ch. 23, par. 2053)

20 Sec. 3. As used in this Act unless the context otherwise
21 requires:

22 "Child" means any person under the age of 18 years,
23 unless legally emancipated by reason of marriage or entry
24 into a branch of the United States armed services.

25 "Department" means Department of Children and Family
26 Services.

27 "Local law enforcement agency" means the police of a
28 city, town, village or other incorporated area or the sheriff
29 of an unincorporated area or any sworn officer of the
30 Illinois Department of State Police.

31 "Abused child" means a child whose parent or immediate
32 family member, or any person responsible for the child's

1 welfare, or any individual residing in the same home as the
2 child, or a paramour of the child's parent:

3 a. inflicts, causes to be inflicted, or allows to
4 be inflicted upon such child physical injury, by other
5 than accidental means, which causes death, disfigurement,
6 impairment of physical or emotional health, or loss or
7 impairment of any bodily function;

8 b. creates a substantial risk of physical injury to
9 such child by other than accidental means which would be
10 likely to cause death, disfigurement, impairment of
11 physical or emotional health, or loss or impairment of
12 any bodily function;

13 c. commits or allows to be committed any sex
14 offense against such child, as such sex offenses are
15 defined in the Criminal Code of 1961, as amended, and
16 extending those definitions of sex offenses to include
17 children under 18 years of age;

18 d. commits or allows to be committed an act or acts
19 of torture upon such child;

20 e. inflicts excessive corporal punishment;

21 f. commits or allows to be committed the offense of
22 female genital mutilation, as defined in Section 12-34 of
23 the Criminal Code of 1961, against the child; or

24 g. causes to be sold, transferred, distributed, or
25 given to such child under 18 years of age, a controlled
26 substance as defined in Section 102 of the Illinois
27 Controlled Substances Act in violation of Article IV of
28 the Illinois Controlled Substances Act, except for
29 controlled substances that are prescribed in accordance
30 with Article III of the Illinois Controlled Substances
31 Act and are dispensed to such child in a manner that
32 substantially complies with the prescription.

33 A child shall not be considered abused for the sole
34 reason that the child has been relinquished in accordance

1 with the Abandoned Newborn Infant Protection Act.

2 "Neglected child" means any child who is not receiving
3 the proper or necessary nourishment or medically indicated
4 treatment including food or care not provided solely on the
5 basis of the present or anticipated mental or physical
6 impairment as determined by a physician acting alone or in
7 consultation with other physicians or otherwise is not
8 receiving the proper or necessary support or medical or other
9 remedial care recognized under State law as necessary for a
10 child's well-being, or other care necessary for his or her
11 well-being, including adequate food, clothing and shelter; or
12 who is abandoned by his or her parents or other person
13 responsible for the child's welfare without a proper plan of
14 care; or who is a newborn infant whose blood, urine, or
15 meconium contains any amount of a controlled substance as
16 defined in subsection (f) of Section 102 of the Illinois
17 Controlled Substances Act or a metabolite thereof, with the
18 exception of a controlled substance or metabolite thereof
19 whose presence in the newborn infant is the result of medical
20 treatment administered to the mother or the newborn infant. A
21 child shall not be considered neglected for the sole reason
22 that the child's parent or other person responsible for his
23 or her welfare has left the child in the care of an adult
24 relative for any period of time. A child shall not be
25 considered neglected for the sole reason that the child has
26 been relinquished in accordance with the Abandoned Newborn
27 Infant Protection Act. A child shall not be considered
28 neglected or abused for the sole reason that such child's
29 parent or other person responsible for his or her welfare
30 depends upon spiritual means through prayer alone for the
31 treatment or cure of disease or remedial care as provided
32 under Section 4 of this Act. A child shall not be considered
33 neglected or abused solely because the child is not attending
34 school in accordance with the requirements of Article 26 of

1 The School Code, as amended.

2 "Child Protective Service Unit" means certain specialized
3 State employees of the Department assigned by the Director to
4 perform the duties and responsibilities as provided under
5 Section 7.2 of this Act.

6 "Person responsible for the child's welfare" means the
7 child's parent; guardian; foster parent; relative caregiver;
8 any person responsible for the child's welfare in a public or
9 private residential agency or institution; any person
10 responsible for the child's welfare within a public or
11 private profit or not for profit child care facility; or any
12 other person responsible for the child's welfare at the time
13 of the alleged abuse or neglect, or any person who came to
14 know the child through an official capacity or position of
15 trust, including but not limited to health care
16 professionals, educational personnel, recreational
17 supervisors, and volunteers or support personnel in any
18 setting where children may be subject to abuse or neglect.

19 "Temporary protective custody" means custody within a
20 hospital or other medical facility or a place previously
21 designated for such custody by the Department, subject to
22 review by the Court, including a licensed foster home, group
23 home, or other institution; but such place shall not be a
24 jail or other place for the detention of criminal or juvenile
25 offenders.

26 "An unfounded report" means any report made under this
27 Act for which it is determined after an investigation that no
28 credible evidence of abuse or neglect exists.

29 "An indicated report" means a report made under this Act
30 if an investigation determines that credible evidence of the
31 alleged abuse or neglect exists.

32 "An undetermined report" means any report made under this
33 Act in which it was not possible to initiate or complete an
34 investigation on the basis of information provided to the

1 Department.

2 "Subject of report" means any child reported to the
3 central register of child abuse and neglect established under
4 Section 7.7 of this Act and his or her parent, guardian or
5 other person responsible who is also named in the report.

6 "Perpetrator" means a person who, as a result of
7 investigation, has been determined by the Department to have
8 caused child abuse or neglect.

9 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;
10 91-802, eff. 1-1-01.)

11 Section 95. The Juvenile Court Act of 1987 is amended by
12 changing Section 2-3 as follows:

13 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

14 Sec. 2-3. Neglected or abused minor.

15 (1) Those who are neglected include:

16 (a) any minor under 18 years of age who is not
17 receiving the proper or necessary support, education as
18 required by law, or medical or other remedial care
19 recognized under State law as necessary for a minor's
20 well-being, or other care necessary for his or her
21 well-being, including adequate food, clothing and
22 shelter, or who is abandoned by his or her parents or
23 other person responsible for the minor's welfare, except
24 that a minor shall not be considered neglected for the
25 sole reason that the minor's parent or other person
26 responsible for the minor's welfare has left the minor in
27 the care of an adult relative for any period of time; or

28 (b) any minor under 18 years of age whose
29 environment is injurious to his or her welfare; or

30 (c) any newborn infant whose blood, urine, or
31 meconium contains any amount of a controlled substance as
32 defined in subsection (f) of Section 102 of the Illinois

1 Controlled Substances Act, as now or hereafter amended,
2 or a metabolite of a controlled substance, with the
3 exception of controlled substances or metabolites of such
4 substances, the presence of which in the newborn infant
5 is the result of medical treatment administered to the
6 mother or the newborn infant; or

7 (d) any minor under the age of 14 years whose
8 parent or other person responsible for the minor's
9 welfare leaves the minor without supervision for an
10 unreasonable period of time without regard for the mental
11 or physical health, safety, or welfare of that minor.

12 Whether the minor was left without regard for the mental
13 or physical health, safety, or welfare of that minor or the
14 period of time was unreasonable shall be determined by
15 considering the following factors, including but not limited
16 to:

- 17 (1) the age of the minor;
- 18 (2) the number of minors left at the location;
- 19 (3) special needs of the minor, including whether
20 the minor is physically or mentally handicapped, or
21 otherwise in need of ongoing prescribed medical treatment
22 such as periodic doses of insulin or other medications;
- 23 (4) the duration of time in which the minor was
24 left without supervision;
- 25 (5) the condition and location of the place where
26 the minor was left without supervision;
- 27 (6) the time of day or night when the minor was
28 left without supervision;
- 29 (7) the weather conditions, including whether the
30 minor was left in a location with adequate protection
31 from the natural elements such as adequate heat or light;
- 32 (8) the location of the parent or guardian at the
33 time the minor was left without supervision, the physical
34 distance the minor was from the parent or guardian at the

1 time the minor was without supervision;

2 (9) whether the minor's movement was restricted, or
3 the minor was otherwise locked within a room or other
4 structure;

5 (10) whether the minor was given a phone number of
6 a person or location to call in the event of an emergency
7 and whether the minor was capable of making an emergency
8 call;

9 (11) whether there was food and other provision
10 left for the minor;

11 (12) whether any of the conduct is attributable to
12 economic hardship or illness and the parent, guardian or
13 other person having physical custody or control of the
14 child made a good faith effort to provide for the health
15 and safety of the minor;

16 (13) the age and physical and mental capabilities
17 of the person or persons who provided supervision for the
18 minor;

19 (14) whether the minor was left under the
20 supervision of another person;

21 (15) any other factor that would endanger the
22 health and safety of that particular minor.

23 A minor shall not be considered neglected for the sole
24 reason that the minor has been relinquished in accordance
25 with the Abandoned Newborn Infant Protection Act.

26 (2) Those who are abused include any minor under 18
27 years of age whose parent or immediate family member, or any
28 person responsible for the minor's welfare, or any person who
29 is in the same family or household as the minor, or any
30 individual residing in the same home as the minor, or a
31 paramour of the minor's parent:

32 (i) inflicts, causes to be inflicted, or allows to
33 be inflicted upon such minor physical injury, by other
34 than accidental means, which causes death, disfigurement,

1 impairment of physical or emotional health, or loss or
2 impairment of any bodily function;

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

8 (iii) commits or allows to be committed any sex
9 offense against such minor, as such sex offenses are
10 defined in the Criminal Code of 1961, as amended, and
11 extending those definitions of sex offenses to include
12 minors under 18 years of age;

13 (iv) commits or allows to be committed an act or
14 acts of torture upon such minor; or

15 (v) inflicts excessive corporal punishment.

16 A minor shall not be considered abused for the sole
17 reason that the minor has been relinquished in accordance
18 with the Abandoned Newborn Infant Protection Act.

19 (3) This Section does not apply to a minor who would be
20 included herein solely for the purpose of qualifying for
21 financial assistance for himself, his parents, guardian or
22 custodian.

23 (Source: P.A. 89-21, eff. 7-1-95; 90-239, eff. 7-28-97.)

24 Section 97. The Adoption Act is amended by changing
25 Section 1 as follows:

26 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

29 A. "Child" means a person under legal age subject to
30 adoption under this Act.

31 B. "Related child" means a child subject to adoption
32 where either or both of the adopting parents stands in any of

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

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

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

21 (a) Abandonment of the child.

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

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

27 (b) Failure to maintain a reasonable degree of
28 interest, concern or responsibility as to the child's
29 welfare.

30 (c) Desertion of the child for more than 3 months
31 next preceding the commencement of the Adoption
32 proceeding.

33 (d) Substantial neglect of the child if continuous
34 or repeated.

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

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

5 (f) Two or more findings of physical abuse to any
6 children under Section 4-8 of the Juvenile Court Act or
7 Section 2-21 of the Juvenile Court Act of 1987, the most
8 recent of which was determined by the juvenile court
9 hearing the matter to be supported by clear and
10 convincing evidence; a criminal conviction or a finding
11 of not guilty by reason of insanity resulting from the
12 death of any child by physical child abuse; or a finding
13 of physical child abuse resulting from the death of any
14 child under Section 4-8 of the Juvenile Court Act or
15 Section 2-21 of the Juvenile Court Act of 1987.

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

18 (h) Other neglect of, or misconduct toward the
19 child; provided that in making a finding of unfitness the
20 court hearing the adoption proceeding shall not be bound
21 by any previous finding, order or judgment affecting or
22 determining the rights of the parents toward the child
23 sought to be adopted in any other proceeding except such
24 proceedings terminating parental rights as shall be had
25 under either this Act, the Juvenile Court Act or the
26 Juvenile Court Act of 1987.

27 (i) Depravity. Conviction of any one of the
28 following crimes shall create a presumption that a parent
29 is depraved which can be overcome only by clear and
30 convincing evidence: (1) first degree murder in violation
31 of paragraph 1 or 2 of subsection (a) of Section 9-1 of
32 the Criminal Code of 1961 or conviction of second degree
33 murder in violation of subsection (a) of Section 9-2 of
34 the Criminal Code of 1961 of a parent of the child to be

1 adopted; (2) first degree murder or second degree murder
2 of any child in violation of the Criminal Code of 1961;
3 (3) attempt or conspiracy to commit first degree murder
4 or second degree murder of any child in violation of the
5 Criminal Code of 1961; (4) solicitation to commit murder
6 of any child, solicitation to commit murder of any child
7 for hire, or solicitation to commit second degree murder
8 of any child in violation of the Criminal Code of 1961;
9 or (5) aggravated criminal sexual assault in violation of
10 Section 12-14(b)(1) of the Criminal Code of 1961.

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

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

25 (j) Open and notorious adultery or fornication.

26 (j-1) (Blank).

27 (k) Habitual drunkenness or addiction to drugs,
28 other than those prescribed by a physician, for at least
29 one year immediately prior to the commencement of the
30 unfitness proceeding.

31 There is a rebuttable presumption that a parent is
32 unfit under this subsection with respect to any child to
33 which that parent gives birth where there is a confirmed
34 test result that at birth the child's blood, urine, or

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

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

15 (m) Failure by a parent (i) to make reasonable
16 efforts to correct the conditions that were the basis for
17 the removal of the child from the parent, or (ii) to make
18 reasonable progress toward the return of the child to the
19 parent within 9 months after an adjudication of neglected
20 or abused minor under Section 2-3 of the Juvenile Court
21 Act of 1987 or dependent minor under Section 2-4 of that
22 Act, or (iii) to make reasonable progress toward the
23 return of the child to the parent during any 9-month
24 period after the end of the initial 9-month period
25 following the adjudication of neglected or abused minor
26 under Section 2-3 of the Juvenile Court Act of 1987 or
27 dependent minor under Section 2-4 of that Act. If a
28 service plan has been established as required under
29 Section 8.2 of the Abused and Neglected Child Reporting
30 Act to correct the conditions that were the basis for the
31 removal of the child from the parent and if those
32 services were available, then, for purposes of this Act,
33 "failure to make reasonable progress toward the return of
34 the child to the parent" includes (I) the parent's

1 failure to substantially fulfill his or her obligations
2 under the service plan and correct the conditions that
3 brought the child into care within 9 months after the
4 adjudication under Section 2-3 or 2-4 of the Juvenile
5 Court Act of 1987 and (II) the parent's failure to
6 substantially fulfill his or her obligations under the
7 service plan and correct the conditions that brought the
8 child into care during any 9-month period after the end
9 of the initial 9-month period following the adjudication
10 under Section 2-3 or 2-4 of the Juvenile Court Act of
11 1987.

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

1 the child is removed from his or her parent, guardian, or
2 legal custodian.

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

30 Contact or communication by a parent with his or her
31 child that does not demonstrate affection and concern
32 does not constitute reasonable contact and planning under
33 subdivision (n). In the absence of evidence to the
34 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
5 not preclude a determination that the parent has intended
6 to forgo his or her parental rights. In making this
7 determination, the court may consider but shall not
8 require a showing of diligent efforts by an authorized
9 agency to encourage the parent to perform the acts
10 specified in 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
16 a 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
21 responsibilities supported by competent evidence from a
22 psychiatrist, licensed clinical social worker, or
23 clinical psychologist of mental impairment, mental
24 illness or mental retardation as defined in Section 1-116
25 of the Mental Health and Developmental Disabilities Code,
26 or developmental disability as defined in Section 1-106
27 of that Code, and there is sufficient justification to
28 believe that the inability to discharge parental
29 responsibilities shall extend beyond a reasonable time
30 period. However, this subdivision (p) shall not be
31 construed so as to permit a licensed clinical social
32 worker to conduct any medical diagnosis to determine
33 mental illness or mental impairment.

34 (q) The parent has been criminally convicted of

1 aggravated battery, heinous battery, or attempted murder
2 of any child.

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

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

23 (t) A finding that at birth the child's blood,
24 urine, or meconium contained any amount of a controlled
25 substance as defined in subsection (f) of Section 102 of
26 the Illinois Controlled Substances Act, or a metabolite
27 of a controlled substance, with the exception of
28 controlled substances or metabolites of such substances,
29 the presence of which in the newborn infant was the
30 result of medical treatment administered to the mother or
31 the newborn infant, and that the biological mother of
32 this child is the biological mother of at least one other
33 child who was adjudicated a neglected minor under
34 subsection (c) of Section 2-3 of the Juvenile Court Act

1 of 1987, after which the biological mother had the
2 opportunity to enroll in and participate in a clinically
3 appropriate substance abuse counseling, treatment, and
4 rehabilitation program.

5 E. "Parent" means the father or mother of a legitimate
6 or illegitimate child. For the purpose of this Act, a person
7 who has executed a final and irrevocable consent to adoption
8 or a final and irrevocable surrender for purposes of
9 adoption, or whose parental rights have been terminated by a
10 court, is not a parent of the child who was the subject of
11 the consent or surrender, unless the consent is void pursuant
12 to subsection O of Section 10.

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

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

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

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

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

28 (d) an adult who meets the conditions set forth in
29 Section 3 of this Act.

30 A person who would otherwise be available for adoption
31 shall not be deemed unavailable for adoption solely by reason
32 of his or her death.

33 G. The singular includes the plural and the plural
34 includes the singular and the "male" includes the "female",

1 as the context of this Act may require.

2 H. "Adoption disruption" occurs when an adoptive
3 placement does not prove successful and it becomes necessary
4 for the child to be removed from placement before the
5 adoption is finalized.

6 I. "Foreign placing agency" is an agency or individual
7 operating in a country or territory outside the United States
8 that is authorized by its country to place children for
9 adoption either directly with families in the United States
10 or through United States based international agencies.

11 J. "Immediate relatives" means the biological parents,
12 the parents of the biological parents and siblings of the
13 biological parents.

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

16 L. "Intercountry Adoption Coordinator" is a staff person
17 of the Department of Children and Family Services appointed
18 by the Director to coordinate the provision of services by
19 the public and private sector to prospective parents of
20 foreign-born children.

21 M. "Interstate Compact on the Placement of Children" is
22 a law enacted by most states for the purpose of establishing
23 uniform procedures for handling the interstate placement of
24 children in foster homes, adoptive homes, or other child care
25 facilities.

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

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

32 P. "Abused child" means a child whose parent or
33 immediate family member, or any person responsible for the
34 child's welfare, or any individual residing in the same home

1 as the child, or a paramour of the child's parent:

2 (a) inflicts, causes to be inflicted, or allows to
3 be inflicted upon the child physical injury, by other
4 than accidental means, that causes death, disfigurement,
5 impairment of physical or emotional health, or loss or
6 impairment of any bodily function;

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

12 (c) commits or allows to be committed any sex
13 offense against the child, as sex offenses are defined in
14 the Criminal Code of 1961 and extending those definitions
15 of sex offenses to include children under 18 years of
16 age;

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

19 (e) inflicts excessive corporal punishment.

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

33 A child shall not be considered neglected or abused for
34 the sole reason that the child's parent or other person

1 responsible for his or her welfare depends upon spiritual
2 means through prayer alone for the treatment or cure of
3 disease or remedial care as provided under Section 4 of the
4 Abused and Neglected Child Reporting Act.

5 R. "Putative father" means a man who may be a child's
6 father, but who (1) is not married to the child's mother on
7 or before the date that the child was or is to be born and
8 (2) has not established paternity of the child in a court
9 proceeding before the filing of a petition for the adoption
10 of the child. The term includes a male who is less than 18
11 years of age. "Putative father" does not mean a man who is
12 the child's father as a result of criminal sexual abuse or
13 assault as defined under Article 12 of the Criminal Code of
14 1961.

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

21 T. "Terminally ill parent" means a person who has a
22 medical prognosis by a physician licensed to practice
23 medicine in all of its branches that the person has an
24 incurable and irreversible condition which will lead to
25 death.

26 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;
27 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,
28 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.
29 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,
30 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;
31 revised 8-31-99.)

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.