

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 5. The Children and Family Services Act is
5 amended by adding Section 35.7 as follows:

6 (20 ILCS 505/35.7 new)

7 Sec. 35.7. Citizen Review Panel. The Department of
8 Children and Family Services shall establish a pilot Citizen
9 Review Panel in Cook County following the National
10 Association of Foster Care Reviewers' guidelines for
11 independent review. The Citizen Review Panel shall include
12 volunteer citizens who shall be selected using the
13 qualifications developed by the Department.

14 An Administrator who is a paid child welfare professional
15 with experience in foster care review shall manage the
16 Citizen Review Panel. The University of Illinois Research
17 Center shall develop outcomes for the review process
18 consistent with the outcomes of the administrative case
19 review process and provide a written report for community
20 review.

21 The Citizen Review Panel shall have at least 3 but not
22 more than 5 members who are parents, foster parents, former
23 wards, or adoptive parents. At least one member shall be a
24 child welfare professional.

25 Volunteer members of the Citizen Review Panel shall be
26 reimbursed for travel expenses and provided continuous
27 training arranged by the Foster Care Review Administrator.

28 Any parent within the pilot area who has participated in
29 and has raised concerns at the administrative case review
30 process which resulted in a goal change from return home to
31 substitute care pending a legal decision may request a review

1 by the Citizen Review Panel. The safety and permanency of the
2 child shall be of paramount concern in the review. A review
3 shall be scheduled within 14 days of the administrative case
4 review. All participants in the administrative case review
5 shall be invited to the Citizen Review and shall be notified
6 by registered mail, return receipt requested. The parents and
7 the caseworker and supervisor must participate in the Citizen
8 Review Panel process. The Citizen Review Panel shall provide
9 a written summary to the participants at the conclusion of
10 the review. If the recommendations are different from those
11 of the administrative case review, the caseworker, supervisor
12 and family shall have a family meeting within 5 working days
13 to revise the service plan and goal, using the
14 recommendations from the Citizen Review Panel. The
15 recommendations of the Citizen Review Panel shall be
16 consistent with law and with rules and procedures of the
17 Department. The case shall be rescheduled within 60 days for
18 an administrative case review to ensure that the revised plan
19 adheres to rules, procedures, and laws. The Citizen Review
20 Panel may give the Director of Children and Family Services
21 recommendations for changes to rules, procedures, and laws.

22 Section 10. The Juvenile Court Act of 1987 is amended by
23 changing Section 2-28 as follows:

24 (705 ILCS 405/2-28) (from Ch. 37, par. 802-28)

25 Sec. 2-28. Court review.

26 (1) The court may require any legal custodian or
27 guardian of the person appointed under this Act to report
28 periodically to the court or may cite him into court and
29 require him or his agency, to make a full and accurate report
30 of his or its doings in behalf of the minor. The custodian
31 or guardian, within 10 days after such citation, shall make
32 the report, either in writing verified by affidavit or orally

1 under oath in open court, or otherwise as the court directs.
2 Upon the hearing of the report the court may remove the
3 custodian or guardian and appoint another in his stead or
4 restore the minor to the custody of his parents or former
5 guardian or custodian. However, custody of the minor shall
6 not be restored to any parent, guardian or legal custodian in
7 any case in which the minor is found to be neglected or
8 abused under Section 2-3 or dependent under Section 2-4 of
9 this Act, unless the minor can be cared for at home without
10 endangering the minor's health or safety and it is in the
11 best interests of the minor, and if such neglect, abuse, or
12 dependency is found by the court under paragraph (1) of
13 Section 2-21 of this Act to have come about due to the acts
14 or omissions or both of such parent, guardian or legal
15 custodian, until such time as an investigation is made as
16 provided in paragraph (5) and a hearing is held on the issue
17 of the fitness of such parent, guardian or legal custodian to
18 care for the minor and the court enters an order that such
19 parent, guardian or legal custodian is fit to care for the
20 minor.

21 (2) The first permanency hearing shall be conducted by
22 the judge. Subsequent permanency hearings may be heard by a
23 judge or by hearing officers appointed or approved by the
24 court in the manner set forth in Section 2-28.1 of this Act.
25 The initial hearing shall be held (a) within 12 months from
26 the date temporary custody was taken, (b) if the parental
27 rights of both parents have been terminated in accordance
28 with the procedure described in subsection (5) of Section
29 2-21, within 30 days of the order for termination of parental
30 rights and appointment of a guardian with power to consent to
31 adoption, or (c) in accordance with subsection (2) of Section
32 2-13.1. Subsequent permanency hearings shall be held every 6
33 months or more frequently if necessary in the court's
34 determination following the initial permanency hearing, in

1 accordance with the standards set forth in this Section,
2 until the court determines that the plan and goal have been
3 achieved. Once the plan and goal have been achieved, if the
4 minor remains in substitute care, the case shall be reviewed
5 at least every 6 months thereafter, subject to the provisions
6 of this Section, unless the minor is placed in the
7 guardianship of a suitable relative or other person and the
8 court determines that further monitoring by the court does
9 not further the health, safety or best interest of the child
10 and that this is a stable permanent placement. The
11 permanency hearings must occur within the time frames set
12 forth in this subsection and may not be delayed in
13 anticipation of a report from any source or due to the
14 agency's failure to timely file its written report (this
15 written report means the one required under the next
16 paragraph and does not mean the service plan also referred to
17 in that paragraph).

18 The public agency that is the custodian or guardian of
19 the minor, or another agency responsible for the minor's
20 care, shall ensure that all parties to the permanency
21 hearings are provided a copy of the most recent service plan
22 prepared within the prior 6 months at least 14 days in
23 advance of the hearing. If not contained in the plan, the
24 agency shall also include a report setting forth (i) any
25 special physical, psychological, educational, medical,
26 emotional, or other needs of the minor or his or her family
27 that are relevant to a permanency or placement determination
28 and (ii) for any minor age 16 or over, a written description
29 of the programs and services that will enable the minor to
30 prepare for independent living. The agency's written report
31 must detail what progress or lack of progress the parent has
32 made in correcting the conditions requiring the child to be
33 in care; whether the child can be returned home without
34 jeopardizing the child's health, safety, and welfare, and if

1 not, what permanency goal is recommended to be in the best
2 interests of the child, and why the other permanency goals
3 are not appropriate. The caseworker must appear and testify
4 at the permanency hearing. If a permanency hearing has not
5 previously been scheduled by the court, the moving party
6 shall move for the setting of a permanency hearing and the
7 entry of an order within the time frames set forth in this
8 subsection.

9 At the permanency hearing, the court shall determine the
10 future status of the child. The court shall set one of the
11 following permanency goals:

12 (A) The minor will be returned home by a specific
13 date within 5 months.

14 (B) The minor will be in short-term care with a
15 continued goal to return home within a period not to
16 exceed one year, where the progress of the parent or
17 parents is substantial giving particular consideration to
18 the age and individual needs of the minor.

19 (B-1) The minor will be in short-term care with a
20 continued goal to return home pending a status hearing.
21 When the court finds that a parent has not made
22 reasonable efforts or reasonable progress to date, the
23 court shall identify what actions the parent and the
24 Department must take in order to justify a finding of
25 reasonable efforts or reasonable progress and shall set a
26 status hearing to be held not earlier than 9 months from
27 the date of adjudication nor later than 11 months from
28 the date of adjudication during which the parent's
29 progress will again be reviewed.

30 (C) The minor will be in substitute care pending
31 court determination on termination of parental rights.

32 (D) Adoption, provided that parental rights have
33 been terminated or relinquished.

34 (E) The guardianship of the minor will be

1 transferred to an individual or couple on a permanent
2 basis provided that goals (A) through (D) have been ruled
3 out.

4 (F) The minor over age 12 will be in substitute
5 care pending independence.

6 (G) The minor will be in substitute care because he
7 or she cannot be provided for in a home environment due
8 to developmental disabilities or mental illness or
9 because he or she is a danger to self or others, provided
10 that goals (A) through (D) have been ruled out.

11 In selecting any permanency goal, the court shall
12 indicate in writing the reasons the goal was selected and why
13 the preceding goals were ruled out. Where the court has
14 selected a permanency goal other than (A), (B), or (B-1), the
15 Department of Children and Family Services shall not provide
16 further reunification services, but shall provide services
17 consistent with the goal selected.

18 The court shall set a permanency goal that is in the best
19 interest of the child. The court's determination shall
20 include the following factors:

21 (1) Age of the child.

22 (2) Options available for permanence.

23 (3) Current placement of the child and the intent
24 of the family regarding adoption.

25 (4) Emotional, physical, and mental status or
26 condition of the child.

27 (5) Types of services previously offered and
28 whether or not the services were successful and, if not
29 successful, the reasons the services failed.

30 (6) Availability of services currently needed and
31 whether the services exist.

32 (7) Status of siblings of the minor.

33 The court shall consider (i) the permanency goal
34 contained in the service plan, (ii) the appropriateness of

1 the services contained in the plan and whether those services
2 have been provided, (iii) whether reasonable efforts have
3 been made by all the parties to the service plan to achieve
4 the goal, and (iv) whether the plan and goal have been
5 achieved. All evidence relevant to determining these
6 questions, including oral and written reports, may be
7 admitted and may be relied on to the extent of their
8 probative value.

9 If the goal has been achieved, the court shall enter
10 orders that are necessary to conform the minor's legal
11 custody and status to those findings.

12 If, after receiving evidence, the court determines that
13 the services contained in the plan are not reasonably
14 calculated to facilitate achievement of the permanency goal,
15 the court shall put in writing the factual basis supporting
16 the determination and enter specific findings based on the
17 evidence. The court also shall enter an order for the
18 Department to develop and implement a new service plan or to
19 implement changes to the current service plan consistent with
20 the court's findings. The new service plan shall be filed
21 with the court and served on all parties within 45 days of
22 the date of the order. The court shall continue the matter
23 until the new service plan is filed. ~~Unless--otherwise~~
24 ~~specifically-authorized-by-law,~~ The court is not empowered
25 ~~under--this--subsection--(2)--or--under--subsection--(3)~~ to order
26 specific placements, or specific services, or both, ~~specific~~
27 ~~service-providers~~ to be included in the plan.

28 A guardian or custodian appointed by the court pursuant
29 to this Act shall file updated case plans with the court
30 every 6 months.

31 Rights of wards of the court under this Act are
32 enforceable against any public agency by complaints for
33 relief by mandamus filed in any proceedings brought under
34 this Act.

1 (3) Following the permanency hearing, the court shall
2 enter a written order that includes the determinations
3 required under subsection (2) of this Section and sets forth
4 the following:

5 (a) The future status of the minor, including the
6 permanency goal, and any order necessary to conform the
7 minor's legal custody and status to such determination;
8 or

9 (b) If the permanency goal of the minor cannot be
10 achieved immediately, the specific reasons for continuing
11 the minor in the care of the Department of Children and
12 Family Services or other agency for short term placement,
13 and the following determinations:

14 (i) (Blank).

15 (ii) Whether the services required by the
16 court and by any service plan prepared within the
17 prior 6 months have been provided and (A) if so,
18 whether the services were reasonably calculated to
19 facilitate the achievement of the permanency goal or
20 (B) if not provided, why the services were not
21 provided.

22 (iii) Whether the minor's placement is
23 necessary, and appropriate to the plan and goal,
24 recognizing the right of minors to the least
25 restrictive (most family-like) setting available and
26 in close proximity to the parents' home consistent
27 with the health, safety, best interest and special
28 needs of the minor and, if the minor is placed
29 out-of-State, whether the out-of-State placement
30 continues to be appropriate and consistent with the
31 health, safety, and best interest of the minor.

32 (iv) (Blank).

33 (v) (Blank).

34 Any order entered pursuant to this subsection (3) shall

1 be immediately appealable as a matter of right under Supreme
2 Court Rule 304(b)(1).

3 (4) The minor or any person interested in the minor may
4 apply to the court for a change in custody of the minor and
5 the appointment of a new custodian or guardian of the person
6 or for the restoration of the minor to the custody of his
7 parents or former guardian or custodian.

8 When return home is not selected as the permanency goal:

9 (a) The Department, the minor, or the current
10 foster parent or relative caregiver seeking private
11 guardianship may file a motion for private guardianship
12 of the minor. Appointment of a guardian under this
13 Section requires approval of the court.

14 (b) The State's Attorney may file a motion to
15 terminate parental rights of any parent who has failed to
16 make reasonable efforts to correct the conditions which
17 led to the removal of the child or reasonable progress
18 toward the return of the child, as defined in subdivision
19 (D)(m) of Section 1 of the Adoption Act or for whom any
20 other unfitness ground for terminating parental rights as
21 defined in subdivision (D) of Section 1 of the Adoption
22 Act exists.

23 Custody of the minor shall not be restored to any parent,
24 guardian or legal custodian in any case in which the minor is
25 found to be neglected or abused under Section 2-3 or
26 dependent under Section 2-4 of this Act, unless the minor can
27 be cared for at home without endangering his or her health or
28 safety and it is in the best interest of the minor, and if
29 such neglect, abuse, or dependency is found by the court
30 under paragraph (1) of Section 2-21 of this Act to have come
31 about due to the acts or omissions or both of such parent,
32 guardian or legal custodian, until such time as an
33 investigation is made as provided in paragraph (5) and a
34 hearing is held on the issue of the health, safety and best

1 interest of the minor and the fitness of such parent,
2 guardian or legal custodian to care for the minor and the
3 court enters an order that such parent, guardian or legal
4 custodian is fit to care for the minor. In the event that
5 the minor has attained 18 years of age and the guardian or
6 custodian petitions the court for an order terminating his
7 guardianship or custody, guardianship or custody shall
8 terminate automatically 30 days after the receipt of the
9 petition unless the court orders otherwise. No legal
10 custodian or guardian of the person may be removed without
11 his consent until given notice and an opportunity to be heard
12 by the court.

13 When the court orders a child restored to the custody of
14 the parent or parents, the court shall order the parent or
15 parents to cooperate with the Department of Children and
16 Family Services and comply with the terms of an after-care
17 plan, or risk the loss of custody of the child and possible
18 termination of their parental rights. The court may also
19 enter an order of protective supervision in accordance with
20 Section 2-24.

21 (5) Whenever a parent, guardian, or legal custodian
22 files a motion for restoration of custody of the minor, and
23 the minor was adjudicated neglected, abused, or dependent as
24 a result of physical abuse, the court shall cause to be made
25 an investigation as to whether the movant has ever been
26 charged with or convicted of any criminal offense which would
27 indicate the likelihood of any further physical abuse to the
28 minor. Evidence of such criminal convictions shall be taken
29 into account in determining whether the minor can be cared
30 for at home without endangering his or her health or safety
31 and fitness of the parent, guardian, or legal custodian.

32 (a) Any agency of this State or any subdivision
33 thereof shall co-operate with the agent of the court in
34 providing any information sought in the investigation.

1 (b) The information derived from the investigation
2 and any conclusions or recommendations derived from the
3 information shall be provided to the parent, guardian, or
4 legal custodian seeking restoration of custody prior to
5 the hearing on fitness and the movant shall have an
6 opportunity at the hearing to refute the information or
7 contest its significance.

8 (c) All information obtained from any investigation
9 shall be confidential as provided in Section 5-150 of
10 this Act.

11 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-87,
12 eff. 9-1-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
13 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

14 Section 15. The Adoption Act is amended by changing
15 Section 1 as follows:

16 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

19 A. "Child" means a person under legal age subject to
20 adoption under this Act.

21 B. "Related child" means a child subject to adoption
22 where either or both of the adopting parents stands in any of
23 the following relationships to the child by blood or
24 marriage: parent, grand-parent, brother, sister, step-parent,
25 step-grandparent, step-brother, step-sister, uncle, aunt,
26 great-uncle, great-aunt, or cousin of first degree. A child
27 whose parent has executed a final irrevocable consent to
28 adoption or a final irrevocable surrender for purposes of
29 adoption, or whose parent has had his or her parental rights
30 terminated, is not a related child to that person, unless the
31 consent is determined to be void or is void pursuant to
32 subsection O of Section 10.

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

3 D. "Unfit person" means any person whom the court shall
4 find to be unfit to have a child, without regard to the
5 likelihood that the child will be placed for adoption. The
6 grounds of unfitness are any one or more of the following:

7 (a) Abandonment of the child.

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

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

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

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

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

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

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

25 (f) Two or more findings of physical abuse to any
26 children under Section 4-8 of the Juvenile Court Act or
27 Section 2-21 of the Juvenile Court Act of 1987, the most
28 recent of which was determined by the juvenile court
29 hearing the matter to be supported by clear and
30 convincing evidence; a criminal conviction or a finding
31 of not guilty by reason of insanity resulting from the
32 death of any child by physical child abuse; or a finding
33 of physical child abuse resulting from the death of any
34 child under Section 4-8 of the Juvenile Court Act or

1 Section 2-21 of the Juvenile Court Act of 1987.

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

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

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

31 There is a rebuttable presumption that a parent is
32 depraved if the parent has been criminally convicted of
33 at least 3 felonies under the laws of this State or any
34 other state, or under federal law, or the criminal laws

1 of any United States territory; and at least one of these
2 convictions took place within 5 years of the filing of
3 the petition or motion seeking termination of parental
4 rights.

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

11 (j) Open and notorious adultery or fornication.

12 (j-1) (Blank).

13 (k) Habitual drunkenness or addiction to drugs,
14 other than those prescribed by a physician, for at least
15 one year immediately prior to the commencement of the
16 unfitness proceeding.

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

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

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

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

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

23 Notwithstanding any other provision of law, the
24 ground set forth in this subdivision (m-1) may not be
25 used as the sole ground of unfitness. It may be used
26 only in conjunction with another ground of unfitness and
27 the other ground of unfitness must be proven.

28 (n) Evidence of intent to forgo his or her parental
29 rights, whether or not the child is a ward of the court,
30 (1) as manifested by his or her failure for a period of
31 12 months: (i) to visit the child, (ii) to communicate
32 with the child or agency, although able to do so and not
33 prevented from doing so by an agency or by court order,
34 or (iii) to maintain contact with or plan for the future

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

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

1 specified in subdivision (n).

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

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

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

25 (q) The parent has been criminally convicted of
26 aggravated battery, heinous battery, or attempted murder
27 of any child.

28 (r) The child is in the temporary custody or
29 guardianship of the Department of Children and Family
30 Services, the parent is incarcerated as a result of
31 criminal conviction at the time the petition or motion
32 for termination of parental rights is filed, prior to
33 incarceration the parent had little or no contact with
34 the child or provided little or no support for the child,

1 and the parent's incarceration will prevent the parent
2 from discharging his or her parental responsibilities for
3 the child for a period in excess of 2 years after the
4 filing of the petition or motion for termination of
5 parental rights.

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

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

30 E. "Parent" means the father or mother of a legitimate
31 or illegitimate child. For the purpose of this Act, a person
32 who has executed a final and irrevocable consent to adoption
33 or a final and irrevocable surrender for purposes of
34 adoption, or whose parental rights have been terminated by a

1 court, is not a parent of the child who was the subject of
2 the consent or surrender, unless the consent is void pursuant
3 to subsection O of Section 10.

4 F. A person is available for adoption when the person
5 is:

6 (a) a child who has been surrendered for adoption
7 to an agency and to whose adoption the agency has
8 thereafter consented;

9 (b) a child to whose adoption a person authorized
10 by law, other than his parents, has consented, or to
11 whose adoption no consent is required pursuant to Section
12 8 of this Act;

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

16 (c-1) a child for whom a parent has signed a
17 specific consent pursuant to subsection O of Section 10;
18 or

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

21 A person who would otherwise be available for adoption
22 shall not be deemed unavailable for adoption solely by reason
23 of his or her death.

24 G. The singular includes the plural and the plural
25 includes the singular and the "male" includes the "female",
26 as the context of this Act may require.

27 H. "Adoption disruption" occurs when an adoptive
28 placement does not prove successful and it becomes necessary
29 for the child to be removed from placement before the
30 adoption is finalized.

31 I. "Foreign placing agency" is an agency or individual
32 operating in a country or territory outside the United States
33 that is authorized by its country to place children for
34 adoption either directly with families in the United States

1 or through United States based international agencies.

2 J. "Immediate relatives" means the biological parents,
3 the parents of the biological parents and siblings of the
4 biological parents.

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

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

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

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

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

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

27 (a) inflicts, causes to be inflicted, or allows to
28 be inflicted upon the child physical injury, by other
29 than accidental means, that causes death, disfigurement,
30 impairment of physical or emotional health, or loss or
31 impairment of any bodily function;

32 (b) creates a substantial risk of physical injury
33 to the child by other than accidental means which would
34 be likely to cause death, disfigurement, impairment of

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

3 (c) commits or allows to be committed any sex
4 offense against the child, as sex offenses are defined in
5 the Criminal Code of 1961 and extending those definitions
6 of sex offenses to include children under 18 years of
7 age;

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

10 (e) inflicts excessive corporal punishment.

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

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

30 R. "Putative father" means a man who may be a child's
31 father, but who (1) is not married to the child's mother on
32 or before the date that the child was or is to be born and
33 (2) has not established paternity of the child in a court
34 proceeding before the filing of a petition for the adoption

1 of the child. The term includes a male who is less than 18
2 years of age. "Putative father" does not mean a man who is
3 the child's father as a result of criminal sexual abuse or
4 assault as defined under Article 12 of the Criminal Code of
5 1961.

6 S. "Standby adoption" means an adoption in which a
7 terminally ill parent consents to custody and termination of
8 parental rights to become effective upon the occurrence of a
9 future event, which is either the death of the terminally ill
10 parent or the request of the parent for the entry of a final
11 judgment of adoption.

12 T. "Terminally ill parent" means a person who has a
13 medical prognosis by a physician licensed to practice
14 medicine in all of its branches that the person has an
15 incurable and irreversible condition which will lead to
16 death.

17 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;
18 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,
19 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.
20 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,
21 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;
22 revised 8-31-99.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.