

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 may 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 civil or criminal
11 liability to parents who may be under severe emotional
12 distress. This Act is intended to provide a mechanism for a
13 newborn infant to be relinquished to a safe environment and
14 for the parents of the infant to remain anonymous if they
15 choose and to avoid civil or criminal liability for the act
16 of relinquishing the infant. It is recognized that
17 establishing an adoption plan is preferable to relinquishing
18 a child using the procedures outlined in this Act, but to
19 reduce the chance of injury to a newborn infant, this Act
20 provides a safer alternative.

21 A public information campaign on this delicate issue
22 shall be implemented to encourage parents considering
23 abandonment of their newborn child to relinquish the child
24 under the procedures outlined in this Act, to choose a
25 traditional adoption plan, or to parent a child themselves
26 rather than place the newborn infant in harm's way.

27 Section 10. Definitions. In this Act:

28 "Abandon" has the same meaning as in the Abused and
29 Neglected Child Reporting Act.

30 "Abused child" has the same meaning as in the Abused and

1 Neglected Child Reporting Act.

2 "Child-placing agency" means a licensed public or private
3 agency that receives a child for the purpose of placing or
4 arranging for the placement of the child in a foster family
5 home or other facility for child care, apart from the custody
6 of the child's parents.

7 "Department" or "DCFS" means the Illinois Department of
8 Children and Family Services.

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

12 "Emergency medical professional" includes licensed
13 physicians, and any emergency medical technician-basic,
14 emergency medical technician-intermediate, emergency medical
15 technician-paramedic, trauma nurse specialist, and
16 pre-hospital RN, as defined in the Emergency Medical Services
17 (EMS) Systems Act.

18 "Fire station" means a fire station within the State that
19 is staffed with at least one full-time emergency medical
20 professional.

21 "Hospital" has the same meaning as in the Hospital
22 Licensing Act.

23 "Legal custody" means the relationship created by a court
24 order in the best interest of a newborn infant that imposes
25 on the infant's custodian the responsibility of physical
26 possession of the infant, the duty to protect, train, and
27 discipline the infant, and the duty to provide the infant
28 with food, shelter, education, and medical care, except as
29 these are limited by parental rights and responsibilities.

30 "Neglected child" has the same meaning as in the Abused
31 and Neglected Child Reporting Act.

32 "Newborn infant" means a child who a licensed physician
33 reasonably believes is 72 hours old or less at the time the
34 child is initially relinquished to a hospital, fire station,

1 or emergency medical facility, and who is not an abused or a
2 neglected child.

3 "Relinquish" means to bring a newborn infant, who a
4 licensed physician reasonably believes is 72 hours old or
5 less, to a hospital, fire station, or emergency medical
6 facility and to leave the infant with personnel of the
7 facility, if the person leaving the infant does not express
8 an intent to return for the infant or states that he or she
9 will not return for the infant. In the case of a mother who
10 gives birth to an infant in a hospital, the mother's act of
11 leaving that newborn infant at the hospital (i) without
12 expressing an intent to return for the infant or (ii) stating
13 that she will not return for the infant is not a
14 "relinquishment" under this Act.

15 "Temporary protective custody" means the temporary
16 placement of a newborn infant within a hospital or other
17 medical facility out of the custody of the infant's parent.

18 Section 15. Presumptions.

19 (a) There is a presumption that by relinquishing a
20 newborn infant in accordance with this Act, the infant's
21 parent consents to the termination of his or her parental
22 rights with respect to the infant.

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

25 (1) is the newborn infant's biological parent; and
26 (2) either without expressing an intent to return
27 for the infant or expressing an intent not to return for
28 the infant, did intend to relinquish the infant to the
29 hospital, fire station, or emergency medical facility to
30 treat, care for, and provide for the infant in accordance
31 with this Act.

32 (c) A parent of a relinquished newborn infant may rebut
33 the presumption set forth in either subsection (a) or

1 subsection (b) pursuant to Section 55, at any time before the
2 termination of the parent's parental rights.

3 Section 20. Procedures with respect to relinquished
4 newborn infants.

5 (a) Hospitals. Every hospital must accept and provide
6 all necessary emergency services and care to a relinquished
7 newborn infant, in accordance with this Act.

8 The act of relinquishing a newborn infant serves as
9 implied consent for the hospital and its medical personnel
10 and physicians on staff to treat and provide care for the
11 infant.

12 The hospital shall be deemed to have temporary protective
13 custody of a relinquished newborn infant until the infant is
14 discharged to the custody of a child-placing agency or the
15 Department.

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

20 The act of relinquishing a newborn infant serves as
21 implied consent for the fire station or emergency medical
22 facility and its emergency medical professionals to treat and
23 provide care for the infant, to the extent that those
24 emergency medical professionals are trained to provide those
25 services.

26 After the relinquishment of a newborn infant to a fire
27 station or emergency medical facility, the fire station or
28 emergency medical facility's personnel must arrange for the
29 transportation of the infant to the nearest hospital as soon
30 as transportation can be arranged.

31 If the parent of a new born infant returns to reclaim the
32 child within 72 hours after relinquishing the child to a fire
33 station or emergency medical facility, the fire station or

1 emergency medical facility must inform the parent of the name
2 and location of the hospital to which the infant was
3 transported.

4 Section 25. Immunity for relinquishing person.

5 (a) The act of relinquishing a newborn infant to a
6 hospital, fire station, or emergency medical facility in
7 accordance with this Act does not, by itself, constitute a
8 basis for a finding of abuse, neglect, or abandonment of the
9 infant pursuant to the laws of this State nor does it, by
10 itself, constitute a violation of Section 12-21.5 or 12-21.6
11 of the Criminal Code of 1961.

12 (b) If there is suspected child abuse or neglect that is
13 not based solely on the newborn infant's relinquishment to a
14 hospital, fire station, or emergency medical facility, the
15 personnel of the hospital, fire station, or emergency medical
16 facility who are mandated reporters under the Abused and
17 Neglected Child Reporting Act must report the abuse or
18 neglect pursuant to that Act.

19 (c) Neither a child protective investigation nor a
20 criminal investigation may be initiated solely because a
21 newborn infant is relinquished pursuant to this Act.

22 Section 27. Immunity of facility and personnel. A
23 hospital, fire station, or emergency medical facility, and
24 any personnel of a hospital, fire station, or emergency
25 medical facility, are immune from criminal or civil liability
26 for acting in good faith in accordance with this Act. Nothing
27 in this Act, however, limits a person's liability for
28 negligence.

29 Section 30. Anonymity of relinquishing person. If there
30 is no evidence of abuse or neglect of a relinquished newborn
31 infant, the relinquishing person has the right to remain

1 anonymous and to leave the hospital, fire station, or
2 emergency medical facility at any time and not be pursued or
3 followed. Before the relinquishing person leaves the
4 hospital, fire station, or emergency medical facility, the
5 hospital, fire station, or emergency medical facility shall
6 offer the relinquishing person an information packet
7 described in Section 35 of this Act. However, nothing in this
8 Act shall be construed as precluding the relinquishing person
9 from providing his or her identity or completing the
10 application forms for the Illinois Adoption Registry and
11 Medical Information Exchange and requesting that the
12 hospital, fire station, or emergency medical facility forward
13 those forms to the Illinois Adoption Registry and Medical
14 information Exchange.

15 Section 35. Information for relinquishing person. A
16 hospital, fire station, or emergency medical facility that
17 receives a newborn infant relinquished in accordance with
18 this Act must offer an information packet to the
19 relinquishing person and, if possible, must clearly inform
20 the relinquishing person that his or her acceptance of the
21 information is completely voluntary, that registration with
22 the Illinois Adoption Registry and Medical Information
23 Exchange is voluntary, that the person will remain anonymous
24 if he or she completes a Denial of Information Exchange, and
25 that the person has the option to provide medical information
26 only and still remain anonymous. The information packet must
27 include all of the following:

28 (1) All Illinois Adoption Registry and Medical
29 Information Exchange application forms, including the
30 Medical Information Exchange Questionnaire and the web
31 site address and toll free phone number of the Registry.

32 (2) Written notice of the following:

33 (A) No sooner than 60 days following the date

1 of the initial relinquishment of the infant to a
2 hospital, fire station, or emergency medical
3 facility, the child-placing agency or the Department
4 will commence proceedings for the termination of
5 parental rights and placement of the infant for
6 adoption.

7 (B) Failure of a parent of the infant to
8 contact the Department and petition for the return
9 of custody of the infant before termination of
10 parental rights bars any future action asserting
11 legal rights with respect to the infant.

12 (3) A resource list of providers of counseling
13 services including grief counseling, pregnancy
14 counseling, and counseling regarding adoption and other
15 available options for placement of the infant.

16 Upon request, the Department of Public Health shall
17 provide the application forms for the Illinois Adoption
18 Registry and Medical Information Exchange to hospitals, fire
19 stations, and emergency medical facilities.

20 Section 40. Reporting requirements.

21 (a) Within 12 hours after accepting a newborn infant
22 from a relinquishing person or from a fire station or
23 emergency medical facility in accordance with this Act, a
24 hospital must report to the Department's State Central
25 Registry for the purpose of transferring physical custody of
26 the infant from the hospital to either a child-placing agency
27 or the Department.

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

33 (c) Once a hospital has made a report to the Department

1 under subsection (a), the Department must provide to the
2 hospital the name of a licensed child-placing agency. The
3 hospital must then arrange for the child-placing agency to
4 accept physical custody of the relinquished newborn infant.

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

8 Section 45. Medical assistance. Notwithstanding any
9 other provision of law, a newborn infant relinquished in
10 accordance with this Act shall be deemed eligible for medical
11 assistance under the Illinois Public Aid Code, and a hospital
12 providing medical services to such an infant shall be
13 reimbursed for those services in accordance with the payment
14 methodologies authorized under that Code. In addition, for
15 any day that a hospital has custody of a newborn infant
16 relinquished in accordance with this Act and the infant does
17 not require medically necessary care, the hospital shall be
18 reimbursed by the Illinois Department of Public Aid at the
19 general acute care per diem rate, in accordance with 89 Ill.
20 Adm. Code 148.270(c).

21 Section 50. Child-placing agency procedures.

22 (a) The Department's State Central Registry must
23 maintain a list of licensed child-placing agencies willing to
24 take legal custody of newborn infants relinquished in
25 accordance with this Act. The child-placing agencies on the
26 list must be contacted by the Department on a rotating basis
27 upon notice from a hospital that a newborn infant has been
28 relinquished in accordance with this Act.

29 (b) Upon notice from the Department that a newborn
30 infant has been relinquished in accordance with this Act, a
31 child-placing agency must accept the newborn infant if the
32 agency has the accommodations to do so. The child-placing

1 agency must seek an order for legal custody of the infant
2 upon its acceptance of the infant.

3 (c) In order to secure legal custody, the child-placing
4 agency shall file a petition seeking custody, alleging that
5 the newborn infant has been relinquished pursuant to this
6 Act. This petition shall be filed in the circuit court in
7 the division in which petitions for adoption would normally
8 be heard. The standard of proof and rules of evidence in the
9 nature of civil proceedings in this State are applicable to
10 proceedings under this subsection.

11 (d) If no licensed child-placing agency is able to
12 accept the relinquished newborn infant, then the Department
13 must assume responsibility for the infant as soon as
14 practicable.

15 (e) A custody order issued under subsection (b) shall
16 remain in effect until a final adoption order based on the
17 relinquished newborn infant's best interests is issued in
18 accordance with this Act and the Adoption Act.

19 (f) When possible, the child-placing agency must place a
20 relinquished newborn infant in a prospective adoptive home.

21 (g) The Department or child-placing agency must initiate
22 proceedings to (i) terminate the parental rights of the
23 relinquished newborn infant's known or unknown parents, (ii)
24 appoint a guardian for the infant, and (iii) obtain consent
25 to the infant's adoption in accordance with this Act no
26 sooner than 60 days following the date of the initial
27 relinquishment of the infant to the hospital, fire station,
28 or emergency medical facility.

29 (h) Before filing a petition for termination of parental
30 rights, the Department or child-placing agency must do the
31 following:

32 (1) Search its Putative Father Registry for the
33 purpose of determining the identity and location of the
34 putative father of the relinquished newborn infant who

1 is, or is expected to be, the subject of an adoption
2 proceeding, in order to provide notice of the proceeding
3 to the putative father. At least one search of the
4 Registry must be conducted, at least 30 days after the
5 relinquished newborn infant's estimated date of birth;
6 earlier searches may be conducted, however. Notice to any
7 potential putative father discovered in a search of the
8 Registry according to the estimated age of the
9 relinquished newborn infant must be in accordance with
10 Section 12a of the Adoption Act.

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

14 Section 55. Petition for return of custody.

15 (a) In compliance with Section 9 of the Adoption Act, if
16 the parent returns to the hospital, emergency medical
17 facility, or fire station to reclaim a child within 72 hours
18 after the child's birth, the provisions of the Adoption Act
19 shall apply, and the abandonment of the child shall not be
20 considered a relinquishment under this Act. In cases in
21 which the newborn infant was not born in a hospital or not
22 born in the hospital where he or she was relinquished,
23 however, the parent shall be required to undergo genetic
24 testing to confirm that he or she is the biological parent of
25 the child before the child can be released by the hospital.

26 (b) A parent of a newborn infant relinquished in
27 accordance with this Act may petition for the return of
28 custody of the infant before the termination of parental
29 rights with respect to the infant.

30 (c) A parent of a newborn infant relinquished in
31 accordance with this Act may petition for the return of
32 custody of the infant by contacting the Department for the
33 purpose of obtaining the name of the child-placing agency and

1 then filing a petition for return of custody in the circuit
2 court in which the proceeding for the termination of parental
3 rights is pending.

4 (d) If a petition for the termination of parental rights
5 has not been filed by the Department or the child-placing
6 agency, the parent of the relinquished newborn infant must
7 contact the Department, which must notify the parent of the
8 appropriate court in which the petition for return of custody
9 must be filed.

10 (e) The circuit court may hold the proceeding for the
11 termination of parental rights in abeyance for a period not
12 to exceed 60 days from the date that the petition for return
13 of custody was filed without a showing of good cause. During
14 that period:

15 (1) The court shall order genetic testing to
16 establish maternity or paternity, or both.

17 (2) The Department shall conduct a child protective
18 investigation and home study to develop recommendations
19 to the court.

20 (3) When indicated as a result of the Department's
21 investigation and home study, further proceedings under
22 the Juvenile Court Act of 1987 as the court determines
23 appropriate, may be conducted. However, relinquishment
24 of a newborn infant in accordance with this Act does not
25 render the infant abused, neglected, or abandoned solely
26 because the newborn infant was relinquished to a
27 hospital, fire station, or emergency medical facility in
28 accordance with this Act.

29 (f) Failure to file a petition for the return of custody
30 of a relinquished newborn infant before the termination of
31 parental rights bars any future action asserting legal rights
32 with respect to the infant unless the parent's act of
33 relinquishment that led to the termination of parental rights
34 involved fraud perpetrated against and not stemming from or

1 involving the parent. No action to void or revoke the
2 termination of parental rights of a parent of a newborn
3 infant relinquished in accordance with this Act, including an
4 action based on fraud, may be commenced after 12 months after
5 the date that the newborn infant was initially relinquished
6 to a hospital, fire station, or emergency medical facility.

7 Section 60. Department's duties. The Department must
8 implement a public information program to promote safe
9 placement alternatives for newborn infants. The public
10 information program must inform the public of the following:

11 (1) The relinquishment alternative provided for in
12 this Act, which results in the adoption of a newborn
13 infant 72 hours old or less and which provides for the
14 parent's anonymity if the parent so chooses.

15 (2) The alternative of adoption through a public or
16 private agency, in which the parent's identity may or may
17 not be known to the agency, but is kept anonymous from
18 the adoptive parents, if the birth parent so desires, and
19 which allows the parent to be actively involved in the
20 child's adoption plan.

21 The public information program may include, but need not
22 be limited to, the following elements:

23 (i) Educational and informational materials in
24 print, audio, video, electronic or other media.

25 (ii) Establishment of a web site.

26 (iii) Public service announcements and
27 advertisements.

28 (iv) Establishment of toll-free telephone hotlines
29 to provide information.

30 Section 65. Construction of Act. Nothing in this Act
31 shall be construed to preclude the courts of this State from
32 exercising their discretion to protect the health and safety

1 of children in individual cases. The best interests and
2 welfare of a child shall be a paramount consideration in the
3 construction and interpretation of this Act. It is in the
4 child's best interests that this Act be construed and
5 interpreted so as not to result in extending time limits
6 beyond those set forth in this Act.

7 Section 70. Evaluation.

8 (a) The Department shall collect and analyze information
9 regarding the relinquishment of newborn infants and placement
10 of children under this Act. Fire stations, emergency medical
11 facilities, and medical professionals accepting and providing
12 services to a newborn infant under this Act shall report to
13 the Department data necessary for the Department to evaluate
14 and determine the effect of this Act in the prevention of
15 injury or death of newborn infants. Child-placing agencies
16 shall report to the Department data necessary to evaluate and
17 determine the effectiveness of these agencies in providing
18 child protective and child welfare services to newborn
19 infants relinquished under this Act.

20 (b) The information collected shall include, but need
21 not be limited to: the number of newborn infants
22 relinquished; the outcome of care for the relinquished
23 newborn infants; the number and disposition of cases of
24 relinquished newborn infants subject to placement; the number
25 of children accepted and served by child-placing agencies;
26 and the services provided by child-placing agencies and the
27 disposition of the cases of the children placed under this
28 Act.

29 (c) The Department shall submit a report by January 1,
30 2002, and on January 1 of each year thereafter, to the
31 Governor and General Assembly regarding the prevention of
32 injury or death of newborn infants and the effect of
33 placements of children under this Act. The report shall

1 include, but need not be limited to, a summary of collected
 2 data, an analysis of the data and conclusions regarding the
 3 Act's effectiveness, a determination whether the purposes of
 4 the Act are being achieved, and recommendations for changes
 5 that may be considered necessary to improve the
 6 administration and enforcement of this Act.

7 Section 75. Repeal. This Act is repealed on July 1,
 8 2007.

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

11 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

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

14 (a) The child or children must (1) be living with his or
 15 their father, mother, grandfather, grandmother, brother,
 16 sister, stepfather, stepmother, stepbrother, stepsister,
 17 uncle or aunt, or other relative approved by the Illinois
 18 Department, in a place of residence maintained by one or more
 19 of such relatives as his or their own home, or (2) have been
 20 (a) removed from the home of the parents or other relatives
 21 by judicial order under the Juvenile Court Act or the
 22 Juvenile Court Act of 1987, as amended, (b) placed under the
 23 guardianship of the Department of Children and Family
 24 Services, and (c) under such guardianship, placed in a foster
 25 family home, group home or child care institution licensed
 26 pursuant to the "Child Care Act of 1969", approved May 15,
 27 1969, as amended, or approved by that Department as meeting
 28 standards established for licensing under that Act, or (3)
 29 have been relinquished in accordance with the Abandoned
 30 Newborn Infant Protection Act. A child so placed in foster
 31 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 Sections 2-3 and 2-4 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 (705 ILCS 405/2-4) (from Ch. 37, par. 802-4)

25 Sec. 2-4. Dependent minor.

26 (1) Those who are dependent include any minor under 18
27 years of age:

28 (a) who is without a parent, guardian or legal
29 custodian;

30 (b) who is without proper care because of the
31 physical or mental disability of his parent, guardian or
32 custodian;

33 (c) who is without proper medical or other remedial

1 care recognized under State law or other care necessary
 2 for his or her well being through no fault, neglect or
 3 lack of concern by his parents, guardian or custodian,
 4 provided that no order may be made terminating parental
 5 rights, nor may a minor be removed from the custody of
 6 his or her parents for longer than 6 months, pursuant to
 7 an adjudication as a dependent minor under this
 8 subdivision (c), unless it is found to be in his or her
 9 best interest by the court or the case automatically
 10 closes as provided under Section 2-31 of this Act; or

11 (d) who has a parent, guardian or legal custodian
 12 who with good cause wishes to be relieved of all
 13 residual parental rights and responsibilities,
 14 guardianship or custody, and who desires the appointment
 15 of a guardian of the person with power to consent to the
 16 adoption of the minor under Section 2-29; or-

17 (e) who has been relinquished as defined in the
 18 Abandoned Newborn Infant Protection Act and, after
 19 diligent efforts by the child-placing agency responsible
 20 for the minor's care, an adoptive family cannot be found
 21 for the minor because of the minor's medical, physical,
 22 or developmental special needs.

23 (2) This Section does not apply to a minor who would be
 24 included herein solely for the purpose of qualifying for
 25 financial assistance for himself, his parents, guardian or
 26 custodian or to a minor solely because his or her parent or
 27 guardian has left the minor for any period of time in the
 28 care of an adult relative.

29 (Source: P.A. 91-357, eff. 7-29-99.)

30 Section 96. The Criminal Code of 1961 is amended by
 31 changing Sections 12-21.5 and 12-21.6 as follows:

32 (720 ILCS 5/12-21.5)

1 Sec. 12-21.5. Child Abandonment.

2 (a) A person commits the offense of child abandonment
3 when he or she, as a parent, guardian, or other person having
4 physical custody or control of a child, without regard for
5 the mental or physical health, safety, or welfare of that
6 child, knowingly leaves that child who is under the age of 13
7 without supervision by a responsible person over the age of
8 14 for a period of 24 hours or more, except that a person
9 does not commit the offense of child abandonment when he or
10 she relinquishes a child in accordance with the Abandoned
11 Newborn Infant Protection Act.

12 (b) For the purposes of determining whether the child
13 was left without regard for the mental or physical health,
14 safety, or welfare of that child, the trier of fact shall
15 consider the following factors:

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

1 guardian, or other person having physical custody or
2 control of the child at the time the child was without
3 supervision;

4 (9) whether the child's movement was restricted, or
5 the child was otherwise locked within a room or other
6 structure;

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

11 (11) whether there was food and other provision
12 left for the child;

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

18 (13) the age and physical and mental capabilities
19 of the person or persons who provided supervision for the
20 child;

21 (14) any other factor that would endanger the
22 health or safety of that particular child;

23 (15) whether the child was left under the
24 supervision of another person.

25 (d) Child abandonment is a Class 4 felony. A second or
26 subsequent offense after a prior conviction is a Class 3
27 felony.

28 (Source: P.A. 88-479.)

29 (720 ILCS 5/12-21.6)

30 Sec. 12-21.6. Endangering the life or health of a child.

31 (a) It is unlawful for any person to willfully cause or
32 permit the life or health of a child under the age of 18 to
33 be endangered or to willfully cause or permit a child to be

1 placed in circumstances that endanger the child's life or
 2 health, except that it is not unlawful for a person to
 3 relinquish a child in accordance with the Abandoned Newborn
 4 Infant Protection Act.

5 (b) A violation of this Section is a Class A
 6 misdemeanor. A second or subsequent violation of this
 7 Section is a Class 3 felony. A violation of this Section
 8 that is a proximate cause of the death of the child is a
 9 Class 3 felony for which a person, if sentenced to a term of
 10 imprisonment, shall be sentenced to a term of not less than 2
 11 years and not more than 10 years.

12 (Source: P.A. 90-687, eff. 7-31-98.)

13 Section 96.5. The Neglected Children Offense Act is
 14 amended by changing Section 2 as follows:

15 (720 ILCS 130/2) (from Ch. 23, par. 2361)

16 Sec. 2. Any parent, legal guardian or person having the
 17 custody of a child under the age of 18 years, who knowingly
 18 or wilfully causes, aids or encourages such person to be or
 19 to become a dependent and neglected child as defined in
 20 section 1, who knowingly or wilfully does acts which directly
 21 tend to render any such child so dependent and neglected, or
 22 who knowingly or wilfully fails to do that which will
 23 directly tend to prevent such state of dependency and neglect
 24 is guilty of the Class A misdemeanor of contributing to the
 25 dependency and neglect of children, except that a person who
 26 relinquishes a child in accordance with the Abandoned Newborn
 27 Infant Protection Act is not guilty of that misdemeanor.

28 Instead of imposing the punishment hereinbefore provided, the
 29 court may release the defendant from custody on probation for
 30 one year upon his or her entering into recognizance with or
 31 without surety in such sum as the court directs. The
 32 conditions of the recognizance shall be such that if the

1 defendant appears personally in court whenever ordered to do
 2 so within the year and provides and cares for such neglected
 3 and dependent child in such manner as to prevent a
 4 continuance or repetition of such state of dependency and
 5 neglect or as otherwise may be directed by the court then the
 6 recognizance shall be void, otherwise it shall be of full
 7 force and effect. If the court is satisfied by information
 8 and due proof under oath that at any time during the year the
 9 defendant has violated the terms of such order it may
 10 forthwith revoke the order and sentence him or her under the
 11 original conviction. Unless so sentenced, the defendant shall
 12 at the end of the year be discharged. In case of forfeiture
 13 on the recognizance the sum recovered thereon may in the
 14 discretion of the court be paid in whole or in part to
 15 someone designated by the court for the support of such
 16 dependent and neglected child.

17 (Source: P.A. 77-2350.)

18 Section 97. The Adoption Act is amended by changing
 19 Section 1 as follows:

20 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

23 A. "Child" means a person under legal age subject to
 24 adoption under this Act.

25 B. "Related child" means a child subject to adoption
 26 where either or both of the adopting parents stands in any of
 27 the following relationships to the child by blood or
 28 marriage: parent, grand-parent, brother, sister, step-parent,
 29 step-grandparent, step-brother, step-sister, uncle, aunt,
 30 great-uncle, great-aunt, or cousin of first degree. A child
 31 whose parent has executed a final irrevocable consent to
 32 adoption or a final irrevocable surrender for purposes of

1 adoption, or whose parent has had his or her parental rights
2 terminated, is not a related child to that person, unless the
3 consent is determined to be void or is void pursuant to
4 subsection O of Section 10.

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

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

15 (a) Abandonment of the child.

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

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

21 (b) Failure to maintain a reasonable degree of
22 interest, concern or responsibility as to the child's
23 welfare.

24 (c) Desertion of the child for more than 3 months
25 next preceding the commencement of the Adoption
26 proceeding.

27 (d) Substantial neglect of the child if continuous
28 or repeated.

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

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

33 (f) Two or more findings of physical abuse to any
34 children under Section 4-8 of the Juvenile Court Act or

1 Section 2-21 of the Juvenile Court Act of 1987, the most
2 recent of which was determined by the juvenile court
3 hearing the matter to be supported by clear and
4 convincing evidence; a criminal conviction or a finding
5 of not guilty by reason of insanity resulting from the
6 death of any child by physical child abuse; or a finding
7 of physical child abuse resulting from the death of any
8 child under Section 4-8 of the Juvenile Court Act or
9 Section 2-21 of the Juvenile Court Act of 1987.

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

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

21 (i) Depravity. Conviction of any one of the
22 following crimes shall create a presumption that a parent
23 is depraved which can be overcome only by clear and
24 convincing evidence: (1) first degree murder in violation
25 of paragraph 1 or 2 of subsection (a) of Section 9-1 of
26 the Criminal Code of 1961 or conviction of second degree
27 murder in violation of subsection (a) of Section 9-2 of
28 the Criminal Code of 1961 of a parent of the child to be
29 adopted; (2) first degree murder or second degree murder
30 of any child in violation of the Criminal Code of 1961;
31 (3) attempt or conspiracy to commit first degree murder
32 or second degree murder of any child in violation of the
33 Criminal Code of 1961; (4) solicitation to commit murder
34 of any child, solicitation to commit murder of any child

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

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

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

19 (j) Open and notorious adultery or fornication.

20 (j-1) (Blank).

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

25 There is a rebuttable presumption that a parent is
26 unfit under this subsection with respect to any child to
27 which that parent gives birth where there is a confirmed
28 test result that at birth the child's blood, urine, or
29 meconium contained any amount of a controlled substance
30 as defined in subsection (f) of Section 102 of the
31 Illinois Controlled Substances Act or metabolites of such
32 substances, the presence of which in the newborn infant
33 was not the result of medical treatment administered to
34 the mother or the newborn infant; and the biological

1 mother of this child is the biological mother of at least
2 one other child who was adjudicated a neglected minor
3 under subsection (c) of Section 2-3 of the Juvenile Court
4 Act of 1987.

5 (l) Failure to demonstrate a reasonable degree of
6 interest, concern or responsibility as to the welfare of
7 a new born child during the first 30 days after its
8 birth.

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

1 service plan and correct the conditions that brought the
2 child into care during any 9-month period after the end
3 of the initial 9-month period following the adjudication
4 under Section 2-3 or 2-4 of the Juvenile Court Act of
5 1987.

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

31 (n) Evidence of intent to forgo his or her parental
32 rights, whether or not the child is a ward of the court,
33 (1) as manifested by his or her failure for a period of
34 12 months: (i) to visit the child, (ii) to communicate

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

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

1 determination, the court may consider but shall not
2 require a showing of diligent efforts by an authorized
3 agency to encourage the parent to perform the acts
4 specified in subdivision (n).

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

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

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

28 (q) The parent has been criminally convicted of
29 aggravated battery, heinous battery, or attempted murder
30 of any child.

31 (r) The child is in the temporary custody or
32 guardianship of the Department of Children and Family
33 Services, the parent is incarcerated as a result of
34 criminal conviction at the time the petition or motion

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

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

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

33 E. "Parent" means the father or mother of a legitimate
34 or illegitimate child. For the purpose of this Act, a person

1 who has executed a final and irrevocable consent to adoption
 2 or a final and irrevocable surrender for purposes of
 3 adoption, or whose parental rights have been terminated by a
 4 court, is not a parent of the child who was the subject of
 5 the consent or surrender, unless the consent is void pursuant
 6 to subsection O of Section 10.

7 F. A person is available for adoption when the person
 8 is:

9 (a) a child who has been surrendered for adoption
 10 to an agency and to whose adoption the agency has
 11 thereafter consented;

12 (b) a child to whose adoption a person authorized
 13 by law, other than his parents, has consented, or to
 14 whose adoption no consent is required pursuant to Section
 15 8 of this Act;

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

19 (c-1) a child for whom a parent has signed a
 20 specific consent pursuant to subsection O of Section 10;
 21 or

22 (d) an adult who meets the conditions set forth in
 23 Section 3 of this Act; or-

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

27 A person who would otherwise be available for adoption
 28 shall not be deemed unavailable for adoption solely by reason
 29 of his or her death.

30 G. The singular includes the plural and the plural
 31 includes the singular and the "male" includes the "female",
 32 as the context of this Act may require.

33 H. "Adoption disruption" occurs when an adoptive
 34 placement does not prove successful and it becomes necessary

1 for the child to be removed from placement before the
2 adoption is finalized.

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

8 J. "Immediate relatives" means the biological parents,
9 the parents of the biological parents and siblings of the
10 biological parents.

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

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

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

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

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

29 P. "Abused child" means a child whose parent or
30 immediate family member, or any person responsible for the
31 child's welfare, or any individual residing in the same home
32 as the child, or a paramour of the child's parent:

33 (a) inflicts, causes to be inflicted, or allows to
34 be inflicted upon the child physical injury, by other

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

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

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

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

16 (e) inflicts excessive corporal punishment.

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

30 A child shall not be considered neglected or abused for
31 the sole reason that the child's parent or other person
32 responsible for his or her welfare depends upon spiritual
33 means through prayer alone for the treatment or cure of
34 disease or remedial care as provided under Section 4 of the

1 Abused and Neglected Child Reporting Act.

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

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

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

23 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;
24 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,
25 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.
26 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,
27 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;
28 revised 8-31-99.)

29 Section 999. Effective date. This Act takes effect upon
30 becoming law.