

1 AMENDMENT TO HOUSE BILL 632

2 AMENDMENT NO. _____. Amend House Bill 632, AS AMENDED, as
3 follows:

4 by replacing everything after the enacting clause with the
5 following:

6 "Section 1. Short title. This Act may be cited as the
7 Abandoned Newborn Infant Protection Act.

8 Section 5. Public policy. Illinois recognizes that
9 newborn infants have been abandoned to the environment or to
10 other circumstances that may be unsafe to the newborn infant.
11 These circumstances have caused injury and death to newborn
12 infants and give rise to potential civil or criminal
13 liability to parents who may be under severe emotional
14 distress. This Act is intended to provide a mechanism for a
15 newborn infant to be relinquished to a safe environment and
16 for the parents of the infant to remain anonymous if they
17 choose and to avoid civil or criminal liability for the act
18 of relinquishing the infant. It is recognized that
19 establishing an adoption plan is preferable to relinquishing
20 a child using the procedures outlined in this Act, but to
21 reduce the chance of injury to a newborn infant, this Act

1 provides a safer alternative.

2 A public information campaign on this delicate issue
3 shall be implemented to encourage parents considering
4 abandonment of their newborn child to relinquish the child
5 under the procedures outlined in this Act, to choose a
6 traditional adoption plan, or to parent a child themselves
7 rather than place the newborn infant in harm's way.

8 Section 10. Definitions. In this Act:

9 "Abandon" has the same meaning as in the Abused and
10 Neglected Child Reporting Act.

11 "Abused child" has the same meaning as in the Abused and
12 Neglected Child Reporting Act.

13 "Child-placing agency" means a licensed public or private
14 agency that receives a child for the purpose of placing or
15 arranging for the placement of the child in a foster family
16 home or other facility for child care, apart from the custody
17 of the child's parents.

18 "Department" or "DCFS" means the Illinois Department of
19 Children and Family Services.

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

23 "Emergency medical professional" includes licensed
24 physicians, and any emergency medical technician-basic,
25 emergency medical technician-intermediate, emergency medical
26 technician-paramedic, trauma nurse specialist, and
27 pre-hospital RN, as defined in the Emergency Medical Services
28 (EMS) Systems Act.

29 "Fire station" means a fire station within the State that
30 is staffed with at least one full-time emergency medical
31 professional.

32 "Hospital" has the same meaning as in the Hospital
33 Licensing Act.

1 "Legal custody" means the relationship created by a court
2 order in the best interest of a newborn infant that imposes
3 on the infant's custodian the responsibility of physical
4 possession of the infant, the duty to protect, train, and
5 discipline the infant, and the duty to provide the infant
6 with food, shelter, education, and medical care, except as
7 these are limited by parental rights and responsibilities.

8 "Neglected child" has the same meaning as in the Abused
9 and Neglected Child Reporting Act.

10 "Newborn infant" means a child who a licensed physician
11 reasonably believes is 72 hours old or less at the time the
12 child is initially relinquished to a hospital, fire station,
13 or emergency medical facility, and who is not an abused or a
14 neglected child.

15 "Relinquish" means to bring a newborn infant, who a
16 licensed physician reasonably believes is 72 hours old or
17 less, to a hospital, fire station, or emergency medical
18 facility and to leave the infant with personnel of the
19 facility, if the person leaving the infant does not express
20 an intent to return for the infant or states that he or she
21 will not return for the infant. In the case of a mother who
22 gives birth to an infant in a hospital, the mother's act of
23 leaving that newborn infant at the hospital (i) without
24 expressing an intent to return for the infant or (ii) stating
25 that she will not return for the infant is not a
26 "relinquishment" under this Act.

27 "Temporary protective custody" means the temporary
28 placement of a newborn infant within a hospital or other
29 medical facility out of the custody of the infant's parent.

30 Section 15. Presumptions.

31 (a) There is a presumption that by relinquishing a
32 newborn infant in accordance with this Act, the infant's
33 parent consents to the termination of his or her parental

1 rights with respect to the infant.

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

4 (1) is the newborn infant's biological parent; and

5 (2) either without expressing an intent to return
6 for the infant or expressing an intent not to return for
7 the infant, did intend to relinquish the infant to the
8 hospital, fire station, or emergency medical facility to
9 treat, care for, and provide for the infant in accordance
10 with this Act.

11 (c) A parent of a relinquished newborn infant may rebut
12 the presumption set forth in either subsection (a) or
13 subsection (b) pursuant to Section 55, at any time before the
14 termination of the parent's parental rights.

15 Section 20. Procedures with respect to relinquished
16 newborn infants.

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

20 The act of relinquishing a newborn infant serves as
21 implied consent for the hospital and its medical personnel
22 and physicians on staff to treat and provide care for the
23 infant.

24 The hospital shall be deemed to have temporary protective
25 custody of a relinquished newborn infant until the infant is
26 discharged to the custody of a child-placing agency or the
27 Department.

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

32 The act of relinquishing a newborn infant serves as
33 implied consent for the fire station or emergency medical

1 facility and its emergency medical professionals to treat and
2 provide care for the infant, to the extent that those
3 emergency medical professionals are trained to provide those
4 services.

5 After the relinquishment of a newborn infant to a fire
6 station or emergency medical facility, the fire station or
7 emergency medical facility's personnel must arrange for the
8 transportation of the infant to the nearest hospital as soon
9 as transportation can be arranged.

10 If the parent of a new born infant returns to reclaim the
11 child within 72 hours after relinquishing the child to a fire
12 station or emergency medical facility, the fire station or
13 emergency medical facility must inform the parent of the name
14 and location of the hospital to which the infant was
15 transported.

16 Section 25. Immunity for relinquishing person.

17 (a) The act of relinquishing a newborn infant to a
18 hospital, fire station, or emergency medical facility in
19 accordance with this Act does not, by itself, constitute a
20 basis for a finding of abuse, neglect, or abandonment of the
21 infant pursuant to the laws of this State nor does it, by
22 itself, constitute a violation of Section 12-21.5 or 12-21.6
23 of the Criminal Code of 1961.

24 (b) If there is suspected child abuse or neglect that is
25 not based solely on the newborn infant's relinquishment to a
26 hospital, fire station, or emergency medical facility, the
27 personnel of the hospital, fire station, or emergency medical
28 facility who are mandated reporters under the Abused and
29 Neglected Child Reporting Act must report the abuse or
30 neglect pursuant to that Act.

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

1 Section 27. Immunity of facility and personnel. A
2 hospital, fire station, or emergency medical facility, and
3 any personnel of a hospital, fire station, or emergency
4 medical facility, are immune from criminal or civil liability
5 for acting in good faith in accordance with this Act. Nothing
6 in this Act, however, limits a person's liability for
7 negligence.

8 Section 30. Anonymity of relinquishing person. If there
9 is no evidence of abuse or neglect of a relinquished newborn
10 infant, the relinquishing person has the right to remain
11 anonymous and to leave the hospital, fire station, or
12 emergency medical facility at any time and not be pursued or
13 followed. Before the relinquishing person leaves the
14 hospital, fire station, or emergency medical facility, the
15 hospital, fire station, or emergency medical facility shall
16 offer the relinquishing person an information packet
17 described in Section 35 of this Act. However, nothing in this
18 Act shall be construed as precluding the relinquishing person
19 from providing his or her identity or completing the
20 application forms for the Illinois Adoption Registry and
21 Medical Information Exchange and requesting that the
22 hospital, fire station, or emergency medical facility forward
23 those forms to the Illinois Adoption Registry and Medical
24 information Exchange.

25 Section 35. Information for relinquishing person. A
26 hospital, fire station, or emergency medical facility that
27 receives a newborn infant relinquished in accordance with
28 this Act must offer an information packet to the
29 relinquishing person and, if possible, must clearly inform
30 the relinquishing person that his or her acceptance of the
31 information is completely voluntary, that registration with
32 the Illinois Adoption Registry and Medical Information

1 Exchange is voluntary, that the person will remain anonymous
2 if he or she completes a Denial of Information Exchange, and
3 that the person has the option to provide medical information
4 only and still remain anonymous. The information packet must
5 include all of the following:

6 (1) All Illinois Adoption Registry and Medical
7 Information Exchange application forms, including the
8 Medical Information Exchange Questionnaire and the web
9 site address and toll free phone number of the Registry.

10 (2) Written notice of the following:

11 (A) No sooner than 60 days following the date
12 of the initial relinquishment of the infant to a
13 hospital, fire station, or emergency medical
14 facility, the child-placing agency or the Department
15 will commence proceedings for the termination of
16 parental rights and placement of the infant for
17 adoption.

18 (B) Failure of a parent of the infant to
19 contact the Department and petition for the return
20 of custody of the infant before termination of
21 parental rights bars any future action asserting
22 legal rights with respect to the infant.

23 (3) A resource list of providers of counseling
24 services including grief counseling, pregnancy
25 counseling, and counseling regarding adoption and other
26 available options for placement of the infant.

27 Upon request, the Department of Public Health shall
28 provide the application forms for the Illinois Adoption
29 Registry and Medical Information Exchange to hospitals, fire
30 stations, and emergency medical facilities.

31 Section 40. Reporting requirements.

32 (a) Within 12 hours after accepting a newborn infant
33 from a relinquishing person or from a fire station or

1 emergency medical facility in accordance with this Act, a
2 hospital must report to the Department's State Central
3 Registry for the purpose of transferring physical custody of
4 the infant from the hospital to either a child-placing agency
5 or the Department.

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

11 (c) Once a hospital has made a report to the Department
12 under subsection (a), the Department must provide to the
13 hospital the name of a licensed child-placing agency. The
14 hospital must then arrange for the child-placing agency to
15 accept physical custody of the relinquished newborn infant.

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

19 Section 45. Medical assistance. Notwithstanding any
20 other provision of law, a newborn infant relinquished in
21 accordance with this Act shall be deemed eligible for medical
22 assistance under the Illinois Public Aid Code, and a hospital
23 providing medical services to such an infant shall be
24 reimbursed for those services in accordance with the payment
25 methodologies authorized under that Code. In addition, for
26 any day that a hospital has custody of a newborn infant
27 relinquished in accordance with this Act and the infant does
28 not require medically necessary care, the hospital shall be
29 reimbursed by the Illinois Department of Public Aid at the
30 general acute care per diem rate, in accordance with 89 Ill.
31 Adm. Code 148.270(c).

32 Section 50. Child-placing agency procedures.

1 (a) The Department's State Central Registry must
2 maintain a list of licensed child-placing agencies willing to
3 take legal custody of newborn infants relinquished in
4 accordance with this Act. The child-placing agencies on the
5 list must be contacted by the Department on a rotating basis
6 upon notice from a hospital that a newborn infant has been
7 relinquished in accordance with this Act.

8 (b) Upon notice from the Department that a newborn
9 infant has been relinquished in accordance with this Act, a
10 child-placing agency must accept the newborn infant if the
11 agency has the accommodations to do so. The child-placing
12 agency must seek an order for legal custody of the infant
13 upon its acceptance of the infant.

14 (c) In order to secure legal custody, the child-placing
15 agency shall file a petition seeking custody, alleging that
16 the newborn infant has been relinquished pursuant to this
17 Act. This petition shall be filed in the circuit court in
18 the division in which petitions for adoption would normally
19 be heard. The standard of proof and rules of evidence in the
20 nature of civil proceedings in this State are applicable to
21 proceedings under this subsection.

22 (d) If no licensed child-placing agency is able to
23 accept the relinquished newborn infant, then the Department
24 must assume responsibility for the infant as soon as
25 practicable.

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

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

32 (g) The Department or child-placing agency must initiate
33 proceedings to (i) terminate the parental rights of the
34 relinquished newborn infant's known or unknown parents, (ii)

1 appoint a guardian for the infant, and (iii) obtain consent
2 to the infant's adoption in accordance with this Act no
3 sooner than 60 days following the date of the initial
4 relinquishment of the infant to the hospital, fire station,
5 or emergency medical facility.

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

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

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

25 Section 55. Petition for return of custody.

26 (a) In compliance with Section 9 of the Adoption Act, if
27 the parent returns to the hospital, emergency medical
28 facility, or fire station to reclaim a child within 72 hours
29 after the child's birth, the provisions of the Adoption Act
30 shall apply, and the abandonment of the child shall not be
31 considered a relinquishment under this Act. In cases in
32 which the newborn infant was not born in a hospital or not
33 born in the hospital where he or she was relinquished,

1 however, the parent shall be required to undergo genetic
2 testing to confirm that he or she is the biological parent of
3 the child before the child can be released by the hospital.

4 (b) A parent of a newborn infant relinquished in
5 accordance with this Act may petition for the return of
6 custody of the infant before the termination of parental
7 rights with respect to the infant.

8 (c) A parent of a newborn infant relinquished in
9 accordance with this Act may petition for the return of
10 custody of the infant by contacting the Department for the
11 purpose of obtaining the name of the child-placing agency and
12 then filing a petition for return of custody in the circuit
13 court in which the proceeding for the termination of parental
14 rights is pending.

15 (d) If a petition for the termination of parental rights
16 has not been filed by the Department or the child-placing
17 agency, the parent of the relinquished newborn infant must
18 contact the Department, which must notify the parent of the
19 appropriate court in which the petition for return of custody
20 must be filed.

21 (e) The circuit court may hold the proceeding for the
22 termination of parental rights in abeyance for a period not
23 to exceed 60 days from the date that the petition for return
24 of custody was filed without a showing of good cause. During
25 that period:

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

28 (2) The Department shall conduct a child protective
29 investigation and home study to develop recommendations
30 to the court.

31 (3) When indicated as a result of the Department's
32 investigation and home study, further proceedings under
33 the Juvenile Court Act of 1987 as the court determines
34 appropriate, may be conducted. However, relinquishment

1 of a newborn infant in accordance with this Act does not
2 render the infant abused, neglected, or abandoned solely
3 because the newborn infant was relinquished to a
4 hospital, fire station, or emergency medical facility in
5 accordance with this Act.

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

18 Section 60. Department's duties. The Department must
19 implement a public information program to promote safe
20 placement alternatives for newborn infants. The public
21 information program must inform the public of the following:

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

26 (2) The alternative of adoption through a public or
27 private agency, in which the parent's identity may or may
28 not be known to the agency, but is kept anonymous from
29 the adoptive parents, if the birth parent so desires, and
30 which allows the parent to be actively involved in the
31 child's adoption plan.

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

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

3 (ii) Establishment of a web site.

4 (iii) Public service announcements and
5 advertisements.

6 (iv) Establishment of toll-free telephone hotlines
7 to provide information.

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

17 Section 70. Evaluation.

18 (a) The Department shall collect and analyze information
19 regarding the relinquishment of newborn infants and placement
20 of children under this Act. Fire stations, emergency medical
21 facilities, and medical professionals accepting and providing
22 services to a newborn infant under this Act shall report to
23 the Department data necessary for the Department to evaluate
24 and determine the effect of this Act in the prevention of
25 injury or death of newborn infants. Child-placing agencies
26 shall report to the Department data necessary to evaluate and
27 determine the effectiveness of these agencies in providing
28 child protective and child welfare services to newborn
29 infants relinquished under this Act.

30 (b) The information collected shall include, but need
31 not be limited to: the number of newborn infants
32 relinquished; the outcome of care for the relinquished

1 newborn infants; the number and disposition of cases of
2 relinquished newborn infants subject to placement; the number
3 of children accepted and served by child-placing agencies;
4 and the services provided by child-placing agencies and the
5 disposition of the cases of the children placed under this
6 Act.

7 (c) The Department shall submit a report by January 1,
8 2002, and on January 1 of each year thereafter, to the
9 Governor and General Assembly regarding the prevention of
10 injury or death of newborn infants and the effect of
11 placements of children under this Act. The report shall
12 include, but need not be limited to, a summary of collected
13 data, an analysis of the data and conclusions regarding the
14 Act's effectiveness, a determination whether the purposes of
15 the Act are being achieved, and recommendations for changes
16 that may be considered necessary to improve the
17 administration and enforcement of this Act.

18 Section 75. Repeal. This Act is repealed on July 1,
19 2007.

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

22 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

23 Sec. 4-1.2. Living Arrangements - Parents - Relatives -
24 Foster Care.

25 (a) The child or children must (1) be living with his or
26 their father, mother, grandfather, grandmother, brother,
27 sister, stepfather, stepmother, stepbrother, stepsister,
28 uncle or aunt, or other relative approved by the Illinois
29 Department, in a place of residence maintained by one or more
30 of such relatives as his or their own home, or (2) have been
31 (a) removed from the home of the parents or other relatives

1 by judicial order under the Juvenile Court Act or the
2 Juvenile Court Act of 1987, as amended, (b) placed under the
3 guardianship of the Department of Children and Family
4 Services, and (c) under such guardianship, placed in a foster
5 family home, group home or child care institution licensed
6 pursuant to the "Child Care Act of 1969", approved May 15,
7 1969, as amended, or approved by that Department as meeting
8 standards established for licensing under that Act, or (3)
9 have been relinquished in accordance with the Abandoned
10 Newborn Infant Protection Act. A child so placed in foster
11 care who was not receiving aid under this Article in or for
12 the month in which the court proceedings leading to that
13 placement were initiated may qualify only if he lived in the
14 home of his parents or other relatives at the time the
15 proceedings were initiated, or within 6 months prior to the
16 month of initiation, and would have received aid in and for
17 that month if application had been made therefor.

18 (b) The Illinois Department may, by rule, establish
19 those persons who are living together who must be included in
20 the same assistance unit in order to receive cash assistance
21 under this Article and the income and assets of those persons
22 in an assistance unit which must be considered in determining
23 eligibility.

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

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

30 (325 ILCS 5/3) (from Ch. 23, par. 2053)

31 Sec. 3. As used in this Act unless the context otherwise
32 requires:

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

4 "Department" means Department of Children and Family
5 Services.

6 "Local law enforcement agency" means the police of a
7 city, town, village or other incorporated area or the sheriff
8 of an unincorporated area or any sworn officer of the
9 Illinois Department of State Police.

10 "Abused child" means a child whose parent or immediate
11 family member, or any person responsible for the child's
12 welfare, or any individual residing in the same home as the
13 child, or a paramour of the child's parent:

14 a. inflicts, causes to be inflicted, or allows to
15 be inflicted upon such child physical injury, by other
16 than accidental means, which causes death, disfigurement,
17 impairment of physical or emotional health, or loss or
18 impairment of any bodily function;

19 b. creates a substantial risk of physical injury to
20 such child by other than accidental means which would be
21 likely to cause death, disfigurement, impairment of
22 physical or emotional health, or loss or impairment of
23 any bodily function;

24 c. commits or allows to be committed any sex
25 offense against such child, as such sex offenses are
26 defined in the Criminal Code of 1961, as amended, and
27 extending those definitions of sex offenses to include
28 children under 18 years of age;

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

31 e. inflicts excessive corporal punishment;

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

1 g. causes to be sold, transferred, distributed, or
2 given to such child under 18 years of age, a controlled
3 substance as defined in Section 102 of the Illinois
4 Controlled Substances Act in violation of Article IV of
5 the Illinois Controlled Substances Act, except for
6 controlled substances that are prescribed in accordance
7 with Article III of the Illinois Controlled Substances
8 Act and are dispensed to such child in a manner that
9 substantially complies with the prescription.

10 A child shall not be considered abused for the sole
11 reason that the child has been relinquished in accordance
12 with the Abandoned Newborn Infant Protection Act.

13 "Neglected child" means any child who is not receiving
14 the proper or necessary nourishment or medically indicated
15 treatment including food or care not provided solely on the
16 basis of the present or anticipated mental or physical
17 impairment as determined by a physician acting alone or in
18 consultation with other physicians or otherwise is not
19 receiving the proper or necessary support or medical or other
20 remedial care recognized under State law as necessary for a
21 child's well-being, or other care necessary for his or her
22 well-being, including adequate food, clothing and shelter; or
23 who is abandoned by his or her parents or other person
24 responsible for the child's welfare without a proper plan of
25 care; or who is a newborn infant whose blood, urine, or
26 meconium contains any amount of a controlled substance as
27 defined in subsection (f) of Section 102 of the Illinois
28 Controlled Substances Act or a metabolite thereof, with the
29 exception of a controlled substance or metabolite thereof
30 whose presence in the newborn infant is the result of medical
31 treatment administered to the mother or the newborn infant. A
32 child shall not be considered neglected for the sole reason
33 that the child's parent or other person responsible for his
34 or her welfare has left the child in the care of an adult

1 relative for any period of time. A child shall not be
2 considered neglected for the sole reason that the child has
3 been relinquished in accordance with the Abandoned Newborn
4 Infant Protection Act. A child shall not be considered
5 neglected or abused for the sole reason that such child's
6 parent or other person responsible for his or her welfare
7 depends upon spiritual means through prayer alone for the
8 treatment or cure of disease or remedial care as provided
9 under Section 4 of this Act. A child shall not be considered
10 neglected or abused solely because the child is not attending
11 school in accordance with the requirements of Article 26 of
12 The School Code, as amended.

13 "Child Protective Service Unit" means certain specialized
14 State employees of the Department assigned by the Director to
15 perform the duties and responsibilities as provided under
16 Section 7.2 of this Act.

17 "Person responsible for the child's welfare" means the
18 child's parent; guardian; foster parent; relative caregiver;
19 any person responsible for the child's welfare in a public or
20 private residential agency or institution; any person
21 responsible for the child's welfare within a public or
22 private profit or not for profit child care facility; or any
23 other person responsible for the child's welfare at the time
24 of the alleged abuse or neglect, or any person who came to
25 know the child through an official capacity or position of
26 trust, including but not limited to health care
27 professionals, educational personnel, recreational
28 supervisors, and volunteers or support personnel in any
29 setting where children may be subject to abuse or neglect.

30 "Temporary protective custody" means custody within a
31 hospital or other medical facility or a place previously
32 designated for such custody by the Department, subject to
33 review by the Court, including a licensed foster home, group
34 home, or other institution; but such place shall not be a

1 jail or other place for the detention of criminal or juvenile
2 offenders.

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

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

9 "An undetermined report" means any report made under this
10 Act in which it was not possible to initiate or complete an
11 investigation on the basis of information provided to the
12 Department.

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

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

20 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;
21 91-802, eff. 1-1-01.)

22 Section 95. The Juvenile Court Act of 1987 is amended by
23 changing Sections 2-3 and 2-4 as follows:

24 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

26 (1) Those who are neglected include:

27 (a) any minor under 18 years of age who is not
28 receiving the proper or necessary support, education as
29 required by law, or medical or other remedial care
30 recognized under State law as necessary for a minor's
31 well-being, or other care necessary for his or her
32 well-being, including adequate food, clothing and

1 shelter, or who is abandoned by his or her parents or
2 other person responsible for the minor's welfare, except
3 that a minor shall not be considered neglected for the
4 sole reason that the minor's parent or other person
5 responsible for the minor's welfare has left the minor in
6 the care of an adult relative for any period of time; or

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

9 (c) any newborn infant whose blood, urine, or
10 meconium contains any amount of a controlled substance as
11 defined in subsection (f) of Section 102 of the Illinois
12 Controlled Substances Act, as now or hereafter amended,
13 or a metabolite of a controlled substance, with the
14 exception of controlled substances or metabolites of such
15 substances, the presence of which in the newborn infant
16 is the result of medical treatment administered to the
17 mother or the newborn infant; or

18 (d) any minor under the age of 14 years whose
19 parent or other person responsible for the minor's
20 welfare leaves the minor without supervision for an
21 unreasonable period of time without regard for the mental
22 or physical health, safety, or welfare of that minor.

23 Whether the minor was left without regard for the mental
24 or physical health, safety, or welfare of that minor or the
25 period of time was unreasonable shall be determined by
26 considering the following factors, including but not limited
27 to:

28 (1) the age of the minor;

29 (2) the number of minors left at the location;

30 (3) special needs of the minor, including whether
31 the minor is physically or mentally handicapped, or
32 otherwise in need of ongoing prescribed medical treatment
33 such as periodic doses of insulin or other medications;

34 (4) the duration of time in which the minor was

1 left without supervision;

2 (5) the condition and location of the place where
3 the minor was left without supervision;

4 (6) the time of day or night when the minor was
5 left without supervision;

6 (7) the weather conditions, including whether the
7 minor was left in a location with adequate protection
8 from the natural elements such as adequate heat or light;

9 (8) the location of the parent or guardian at the
10 time the minor was left without supervision, the physical
11 distance the minor was from the parent or guardian at the
12 time the minor was without supervision;

13 (9) whether the minor's movement was restricted, or
14 the minor was otherwise locked within a room or other
15 structure;

16 (10) whether the minor was given a phone number of
17 a person or location to call in the event of an emergency
18 and whether the minor was capable of making an emergency
19 call;

20 (11) whether there was food and other provision
21 left for the minor;

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

27 (13) the age and physical and mental capabilities
28 of the person or persons who provided supervision for the
29 minor;

30 (14) whether the minor was left under the
31 supervision of another person;

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

34 A minor shall not be considered neglected for the sole

1 reason that the minor has been relinquished in accordance
2 with the Abandoned Newborn Infant Protection Act.

3 (2) Those who are abused include any minor under 18
4 years of age whose parent or immediate family member, or any
5 person responsible for the minor's welfare, or any person who
6 is in the same family or household as the minor, or any
7 individual residing in the same home as the minor, or a
8 paramour of the minor's parent:

9 (i) inflicts, causes to be inflicted, or allows to
10 be inflicted upon such minor physical injury, by other
11 than accidental means, which causes death, disfigurement,
12 impairment of physical or emotional health, or loss or
13 impairment of any bodily function;

14 (ii) creates a substantial risk of physical injury
15 to such minor by other than accidental means which would
16 be likely to cause death, disfigurement, impairment of
17 emotional health, or loss or impairment of any bodily
18 function;

19 (iii) commits or allows to be committed any sex
20 offense against such minor, as such sex offenses are
21 defined in the Criminal Code of 1961, as amended, and
22 extending those definitions of sex offenses to include
23 minors under 18 years of age;

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

26 (v) inflicts excessive corporal punishment.

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

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

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

1 (705 ILCS 405/2-4) (from Ch. 37, par. 802-4)

2 Sec. 2-4. Dependent minor.

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

5 (a) who is without a parent, guardian or legal
6 custodian;

7 (b) who is without proper care because of the
8 physical or mental disability of his parent, guardian or
9 custodian;

10 (c) who is without proper medical or other remedial
11 care recognized under State law or other care necessary
12 for his or her well being through no fault, neglect or
13 lack of concern by his parents, guardian or custodian,
14 provided that no order may be made terminating parental
15 rights, nor may a minor be removed from the custody of
16 his or her parents for longer than 6 months, pursuant to
17 an adjudication as a dependent minor under this
18 subdivision (c), unless it is found to be in his or her
19 best interest by the court or the case automatically
20 closes as provided under Section 2-31 of this Act; ~~or~~

21 (d) who has a parent, guardian or legal custodian
22 who with good cause wishes to be relieved of all
23 residual parental rights and responsibilities,
24 guardianship or custody, and who desires the appointment
25 of a guardian of the person with power to consent to the
26 adoption of the minor under Section 2-29; or-

27 (e) who has been relinquished as defined in the
28 Abandoned Newborn Infant Protection Act and, after
29 diligent efforts by the child-placing agency responsible
30 for the minor's care, an adoptive family can not be found
31 for the minor because of the minor's medical, physical,
32 or developmental special needs.

33 (2) This Section does not apply to a minor who would be
34 included herein solely for the purpose of qualifying for

1 financial assistance for himself, his parents, guardian or
2 custodian or to a minor solely because his or her parent or
3 guardian has left the minor for any period of time in the
4 care of an adult relative.

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

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

8 (720 ILCS 5/12-21.5)

9 Sec. 12-21.5. Child Abandonment.

10 (a) A person commits the offense of child abandonment
11 when he or she, as a parent, guardian, or other person having
12 physical custody or control of a child, without regard for
13 the mental or physical health, safety, or welfare of that
14 child, knowingly leaves that child who is under the age of 13
15 without supervision by a responsible person over the age of
16 14 for a period of 24 hours or more, except that a person
17 does not commit the offense of child abandonment when he or
18 she relinquishes a child in accordance with the Abandoned
19 Newborn Infant Protection Act.

20 (b) For the purposes of determining whether the child
21 was left without regard for the mental or physical health,
22 safety, or welfare of that child, the trier of fact shall
23 consider the following factors:

24 (1) the age of the child;

25 (2) the number of children left at the location;

26 (3) special needs of the child, including whether
27 the child is physically or mentally handicapped, or
28 otherwise in need of ongoing prescribed medical treatment
29 such as periodic doses of insulin or other medications;

30 (4) the duration of time in which the child was
31 left without supervision;

32 (5) the condition and location of the place where

1 the child was left without supervision;

2 (6) the time of day or night when the child was
3 left without supervision;

4 (7) the weather conditions, including whether the
5 child was left in a location with adequate protection
6 from the natural elements such as adequate heat or light;

7 (8) the location of the parent, guardian, or other
8 person having physical custody or control of the child at
9 the time the child was left without supervision, the
10 physical distance the child was from the parent,
11 guardian, or other person having physical custody or
12 control of the child at the time the child was without
13 supervision;

14 (9) whether the child's movement was restricted, or
15 the child was otherwise locked within a room or other
16 structure;

17 (10) whether the child was given a phone number of
18 a person or location to call in the event of an emergency
19 and whether the child was capable of making an emergency
20 call;

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

23 (12) whether any of the conduct is attributable to
24 economic hardship or illness and the parent, guardian or
25 other person having physical custody or control of the
26 child made a good faith effort to provide for the health
27 and safety of the child;

28 (13) the age and physical and mental capabilities
29 of the person or persons who provided supervision for the
30 child;

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

33 (15) whether the child was left under the
34 supervision of another person.

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

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

5 (720 ILCS 5/12-21.6)

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

7 (a) It is unlawful for any person to willfully cause or
8 permit the life or health of a child under the age of 18 to
9 be endangered or to willfully cause or permit a child to be
10 placed in circumstances that endanger the child's life or
11 health, except that it is not unlawful for a person to
12 relinquish a child in accordance with the Abandoned Newborn
13 Infant Protection Act.

14 (b) A violation of this Section is a Class A
15 misdemeanor. A second or subsequent violation of this
16 Section is a Class 3 felony. A violation of this Section
17 that is a proximate cause of the death of the child is a
18 Class 3 felony for which a person, if sentenced to a term of
19 imprisonment, shall be sentenced to a term of not less than 2
20 years and not more than 10 years.

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

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

24 (720 ILCS 130/2) (from Ch. 23, par. 2361)

25 Sec. 2. Any parent, legal guardian or person having the
26 custody of a child under the age of 18 years, who knowingly
27 or wilfully causes, aids or encourages such person to be or
28 to become a dependent and neglected child as defined in
29 section 1, who knowingly or wilfully does acts which directly
30 tend to render any such child so dependent and neglected, or
31 who knowingly or wilfully fails to do that which will

1 directly tend to prevent such state of dependency and neglect
2 is guilty of the Class A misdemeanor of contributing to the
3 dependency and neglect of children, except that a person who
4 relinquishes a child in accordance with the Abandoned Newborn
5 Infant Protection Act is not guilty of that misdemeanor.
6 Instead of imposing the punishment hereinbefore provided, the
7 court may release the defendant from custody on probation for
8 one year upon his or her entering into recognizance with or
9 without surety in such sum as the court directs. The
10 conditions of the recognizance shall be such that if the
11 defendant appears personally in court whenever ordered to do
12 so within the year and provides and cares for such neglected
13 and dependent child in such manner as to prevent a
14 continuance or repetition of such state of dependency and
15 neglect or as otherwise may be directed by the court then the
16 recognizance shall be void, otherwise it shall be of full
17 force and effect. If the court is satisfied by information
18 and due proof under oath that at any time during the year the
19 defendant has violated the terms of such order it may
20 forthwith revoke the order and sentence him or her under the
21 original conviction. Unless so sentenced, the defendant shall
22 at the end of the year be discharged. In case of forfeiture
23 on the recognizance the sum recovered thereon may in the
24 discretion of the court be paid in whole or in part to
25 someone designated by the court for the support of such
26 dependent and neglected child.

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

28 Section 97. The Adoption Act is amended by changing
29 Section 1 as follows:

30 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

1 A. "Child" means a person under legal age subject to
2 adoption under this Act.

3 B. "Related child" means a child subject to adoption
4 where either or both of the adopting parents stands in any of
5 the following relationships to the child by blood or
6 marriage: parent, grand-parent, brother, sister, step-parent,
7 step-grandparent, step-brother, step-sister, uncle, aunt,
8 great-uncle, great-aunt, or cousin of first degree. A child
9 whose parent has executed a final irrevocable consent to
10 adoption or a final irrevocable surrender for purposes of
11 adoption, or whose parent has had his or her parental rights
12 terminated, is not a related child to that person, unless the
13 consent is determined to be void or is void pursuant to
14 subsection O of Section 10.

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

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

25 (a) Abandonment of the child.

26 (a-1) Abandonment of a newborn infant in a
27 hospital.

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

31 (b) Failure to maintain a reasonable degree of
32 interest, concern or responsibility as to the child's
33 welfare.

34 (c) Desertion of the child for more than 3 months

1 next preceding the commencement of the Adoption
2 proceeding.

3 (d) Substantial neglect of the child if continuous
4 or repeated.

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

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

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

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

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

31 (i) Depravity. Conviction of any one of the
32 following crimes shall create a presumption that a parent
33 is depraved which can be overcome only by clear and
34 convincing evidence: (1) first degree murder in violation

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

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

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

29 (j) Open and notorious adultery or fornication.

30 (j-1) (Blank).

31 (k) Habitual drunkenness or addiction to drugs,
32 other than those prescribed by a physician, for at least
33 one year immediately prior to the commencement of the
34 unfitness proceeding.

1 There is a rebuttable presumption that a parent is
2 unfit under this subsection with respect to any child to
3 which that parent gives birth where there is a confirmed
4 test result that at birth the child's blood, urine, or
5 meconium contained any amount of a controlled substance
6 as defined in subsection (f) of Section 102 of the
7 Illinois Controlled Substances Act or metabolites of such
8 substances, the presence of which in the newborn infant
9 was not the result of medical treatment administered to
10 the mother or the newborn infant; and the biological
11 mother of this child is the biological mother of at least
12 one other child who was adjudicated a neglected minor
13 under subsection (c) of Section 2-3 of the Juvenile Court
14 Act of 1987.

15 (1) Failure to demonstrate a reasonable degree of
16 interest, concern or responsibility as to the welfare of
17 a new born child during the first 30 days after its
18 birth.

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

1 removal of the child from the parent and if those
2 services were available, then, for purposes of this Act,
3 "failure to make reasonable progress toward the return of
4 the child to the parent" includes (I) the parent's
5 failure to substantially fulfill his or her obligations
6 under the service plan and correct the conditions that
7 brought the child into care within 9 months after the
8 adjudication under Section 2-3 or 2-4 of the Juvenile
9 Court Act of 1987 and (II) the parent's failure to
10 substantially fulfill his or her obligations under the
11 service plan and correct the conditions that brought the
12 child into care during any 9-month period after the end
13 of the initial 9-month period following the adjudication
14 under Section 2-3 or 2-4 of the Juvenile Court Act of
15 1987.

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

1 (m-1), the date of entering foster care is the earlier
2 of: (i) the date of a judicial finding at an adjudicatory
3 hearing that the child is an abused, neglected, or
4 dependent minor; or (ii) 60 days after the date on which
5 the child is removed from his or her parent, guardian, or
6 legal custodian.

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

34 Contact or communication by a parent with his or her

1 child that does not demonstrate affection and concern
2 does not constitute reasonable contact and planning under
3 subdivision (n). In the absence of evidence to the
4 contrary, the ability to visit, communicate, maintain
5 contact, pay expenses and plan for the future shall be
6 presumed. The subjective intent of the parent, whether
7 expressed or otherwise, unsupported by evidence of the
8 foregoing parental acts manifesting that intent, shall
9 not preclude a determination that the parent has intended
10 to forgo his or her parental rights. In making this
11 determination, the court may consider but shall not
12 require a showing of diligent efforts by an authorized
13 agency to encourage the parent to perform the acts
14 specified in subdivision (n).

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

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

24 (p) Inability to discharge parental
25 responsibilities supported by competent evidence from a
26 psychiatrist, licensed clinical social worker, or
27 clinical psychologist of mental impairment, mental
28 illness or mental retardation as defined in Section 1-116
29 of the Mental Health and Developmental Disabilities Code,
30 or developmental disability as defined in Section 1-106
31 of that Code, and there is sufficient justification to
32 believe that the inability to discharge parental
33 responsibilities shall extend beyond a reasonable time
34 period. However, this subdivision (p) shall not be

1 construed so as to permit a licensed clinical social
2 worker to conduct any medical diagnosis to determine
3 mental illness or mental impairment.

4 (q) The parent has been criminally convicted of
5 aggravated battery, heinous battery, or attempted murder
6 of any child.

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

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

27 (t) A finding that at birth the child's blood,
28 urine, or meconium contained any amount of a controlled
29 substance as defined in subsection (f) of Section 102 of
30 the Illinois Controlled Substances Act, or a metabolite
31 of a controlled substance, with the exception of
32 controlled substances or metabolites of such substances,
33 the presence of which in the newborn infant was the
34 result of medical treatment administered to the mother or

1 the newborn infant, and that the biological mother of
2 this child is the biological mother of at least one other
3 child who was adjudicated a neglected minor under
4 subsection (c) of Section 2-3 of the Juvenile Court Act
5 of 1987, after which the biological mother had the
6 opportunity to enroll in and participate in a clinically
7 appropriate substance abuse counseling, treatment, and
8 rehabilitation program.

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

17 F. A person is available for adoption when the person
18 is:

19 (a) a child who has been surrendered for adoption
20 to an agency and to whose adoption the agency has
21 thereafter consented;

22 (b) a child to whose adoption a person authorized
23 by law, other than his parents, has consented, or to
24 whose adoption no consent is required pursuant to Section
25 8 of this Act;

26 (c) a child who is in the custody of persons who
27 intend to adopt him through placement made by his
28 parents;

29 (c-1) a child for whom a parent has signed a
30 specific consent pursuant to subsection O of Section 10;
31 or

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

34 (e) a child who has been relinquished as defined in

1 Section 10 of the Abandoned Newborn Infant Protection
2 Act.

3 A person who would otherwise be available for adoption
4 shall not be deemed unavailable for adoption solely by reason
5 of his or her death.

6 G. The singular includes the plural and the plural
7 includes the singular and the "male" includes the "female",
8 as the context of this Act may require.

9 H. "Adoption disruption" occurs when an adoptive
10 placement does not prove successful and it becomes necessary
11 for the child to be removed from placement before the
12 adoption is finalized.

13 I. "Foreign placing agency" is an agency or individual
14 operating in a country or territory outside the United States
15 that is authorized by its country to place children for
16 adoption either directly with families in the United States
17 or through United States based international agencies.

18 J. "Immediate relatives" means the biological parents,
19 the parents of the biological parents and siblings of the
20 biological parents.

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

23 L. "Intercountry Adoption Coordinator" is a staff person
24 of the Department of Children and Family Services appointed
25 by the Director to coordinate the provision of services by
26 the public and private sector to prospective parents of
27 foreign-born children.

28 M. "Interstate Compact on the Placement of Children" is
29 a law enacted by most states for the purpose of establishing
30 uniform procedures for handling the interstate placement of
31 children in foster homes, adoptive homes, or other child care
32 facilities.

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

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

5 P. "Abused child" means a child whose parent or
6 immediate family member, or any person responsible for the
7 child's welfare, or any individual residing in the same home
8 as the child, or a paramour of the child's parent:

9 (a) inflicts, causes to be inflicted, or allows to
10 be inflicted upon the child physical injury, by other
11 than accidental means, that causes death, disfigurement,
12 impairment of physical or emotional health, or loss or
13 impairment of any bodily function;

14 (b) creates a substantial risk of physical injury
15 to the child by other than accidental means which would
16 be likely to cause death, disfigurement, impairment of
17 physical or emotional health, or loss or impairment of
18 any bodily function;

19 (c) commits or allows to be committed any sex
20 offense against the child, as sex offenses are defined in
21 the Criminal Code of 1961 and extending those definitions
22 of sex offenses to include children under 18 years of
23 age;

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

26 (e) inflicts excessive corporal punishment.

27 Q. "Neglected child" means any child whose parent or
28 other person responsible for the child's welfare withholds or
29 denies nourishment or medically indicated treatment including
30 food or care denied solely on the basis of the present or
31 anticipated mental or physical impairment as determined by a
32 physician acting alone or in consultation with other
33 physicians or otherwise does not provide the proper or
34 necessary support, education as required by law, or medical

1 or other remedial care recognized under State law as
2 necessary for a child's well-being, or other care necessary
3 for his or her well-being, including adequate food, clothing
4 and shelter; or who is abandoned by his or her parents or
5 other person responsible for the child's welfare.

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

12 R. "Putative father" means a man who may be a child's
13 father, but who (1) is not married to the child's mother on
14 or before the date that the child was or is to be born and
15 (2) has not established paternity of the child in a court
16 proceeding before the filing of a petition for the adoption
17 of the child. The term includes a male who is less than 18
18 years of age. "Putative father" does not mean a man who is
19 the child's father as a result of criminal sexual abuse or
20 assault as defined under Article 12 of the Criminal Code of
21 1961.

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

28 T. "Terminally ill parent" means a person who has a
29 medical prognosis by a physician licensed to practice
30 medicine in all of its branches that the person has an
31 incurable and irreversible condition which will lead to
32 death.

33 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;
34 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,

1 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.
2 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,
3 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;
4 revised 8-31-99.)

5 Section 999. Effective date. This Act takes effect upon
6 becoming law."