

1 AMENDMENT TO HOUSE BILL 632

2 AMENDMENT NO. _____. Amend House Bill 632 as follows:

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

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

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

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

7 Section 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

33 "Legal custody" means the relationship created by a court

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

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

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

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

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

29 Section 15. Presumptions.

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

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

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

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

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

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

16 (a) Hospitals. Every hospital must accept and provide
17 all necessary emergency services and care to a relinquished
18 newborn infant, in accordance with this Act. The hospital
19 shall examine a relinquished newborn infant and perform tests
20 that, based on reasonable medical judgment, are appropriate
21 in evaluating whether the relinquished newborn infant was
22 abused or neglected.

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

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

31 (b) Fire stations and emergency medical facilities.
32 Every fire station and emergency medical facility must accept
33 and provide all necessary emergency services and care to a

1 relinquished newborn infant, in accordance with this Act.

2 The act of relinquishing a newborn infant serves as
3 implied consent for the fire station or emergency medical
4 facility and its emergency medical professionals to treat and
5 provide care for the infant, to the extent that those
6 emergency medical professionals are trained to provide those
7 services.

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

13 If the parent of a newborn infant returns to reclaim the
14 child within 72 hours after relinquishing the child to a fire
15 station or emergency medical facility, the fire station or
16 emergency medical facility must inform the parent of the name
17 and location of the hospital to which the infant was
18 transported.

19 Section 25. Immunity for relinquishing person.

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

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

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

4 Section 27. Immunity of facility and personnel. A
5 hospital, fire station, or emergency medical facility, and
6 any personnel of a hospital, fire station, or emergency
7 medical facility, are immune from criminal or civil liability
8 for acting in good faith in accordance with this Act. Nothing
9 in this Act limits liability for negligence for care and
10 medical treatment.

11 Section 30. Anonymity of relinquishing person. If there
12 is no evidence of abuse or neglect of a relinquished newborn
13 infant, the relinquishing person has the right to remain
14 anonymous and to leave the hospital, fire station, or
15 emergency medical facility at any time and not be pursued or
16 followed. Before the relinquishing person leaves the
17 hospital, fire station, or emergency medical facility, the
18 hospital, fire station, or emergency medical facility
19 personnel shall i) verbally inform the relinquishing person
20 that by relinquishing the child anonymously, he or she will
21 have to petition the court if he or she desires to prevent
22 the termination of parental rights and regain custody of the
23 child and ii) shall offer the relinquishing person the
24 information packet described in Section 35 of this Act.
25 However, nothing in this Act shall be construed as precluding
26 the relinquishing person from providing his or her identity
27 or completing the application forms for the Illinois Adoption
28 Registry and Medical Information Exchange and requesting that
29 the hospital, fire station, or emergency medical facility
30 forward those forms to the Illinois Adoption Registry and
31 Medical information Exchange.

1 Section 35. Information for relinquishing person. A
2 hospital, fire station, or emergency medical facility that
3 receives a newborn infant relinquished in accordance with
4 this Act must offer an information packet to the
5 relinquishing person and, if possible, must clearly inform
6 the relinquishing person that his or her acceptance of the
7 information is completely voluntary, that registration with
8 the Illinois Adoption Registry and Medical Information
9 Exchange is voluntary, that the person will remain anonymous
10 if he or she completes a Denial of Information Exchange, and
11 that the person has the option to provide medical information
12 only and still remain anonymous. The information packet must
13 include all of the following:

14 (1) All Illinois Adoption Registry and Medical
15 Information Exchange application forms, including the
16 Medical Information Exchange Questionnaire and the web
17 site address and toll free phone number of the Registry.

18 (2) Written notice of the following:

19 (A) No sooner than 60 days following the date
20 of the initial relinquishment of the infant to a
21 hospital, fire station, or emergency medical
22 facility, the child-placing agency or the Department
23 will commence proceedings for the termination of
24 parental rights and placement of the infant for
25 adoption.

26 (B) Failure of a parent of the infant to
27 contact the Department and petition for the return
28 of custody of the infant before termination of
29 parental rights bars any future action asserting
30 legal rights with respect to the infant.

31 (3) A resource list of providers of counseling
32 services including grief counseling, pregnancy
33 counseling, and counseling regarding adoption and other
34 available options for placement of the infant.

1 Upon request, the Department of Public Health shall
2 provide the application forms for the Illinois Adoption
3 Registry and Medical Information Exchange to hospitals, fire
4 stations, and emergency medical facilities.

5 Section 40. Reporting requirements.

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

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

18 (c) Once a hospital has made a report to the Department
19 under subsection (a), the Department must arrange for a
20 licensed child-placing agency to accept physical custody of
21 the relinquished newborn infant.

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

25 Section 45. Medical assistance. Notwithstanding any
26 other provision of law, a newborn infant relinquished in
27 accordance with this Act shall be deemed eligible for medical
28 assistance under the Illinois Public Aid Code, and a hospital
29 providing medical services to such an infant shall be
30 reimbursed for those services in accordance with the payment
31 methodologies authorized under that Code. In addition, for
32 any day that a hospital has custody of a newborn infant

1 relinquished in accordance with this Act and the infant does
2 not require medically necessary care, the hospital shall be
3 reimbursed by the Illinois Department of Public Aid at the
4 general acute care per diem rate, in accordance with 89 Ill.
5 Adm. Code 148.270(c).

6 Section 50. Child-placing agency procedures.

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

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

20 (c) Within 3 business days after assuming physical
21 custody of the infant, the child-placing agency shall file a
22 petition in the division of the circuit court in which
23 petitions for adoption would normally be heard. The petition
24 shall allege that the newborn infant has been relinquished in
25 accordance with this Act and shall state that the
26 child-placing agency intends to place the infant in an
27 adoptive home.

28 (d) If no licensed child-placing agency is able to
29 accept the relinquished newborn infant, then the Department
30 must assume responsibility for the infant as soon as
31 practicable.

32 (e) A custody order issued under subsection (b) shall
33 remain in effect until a final adoption order based on the

1 relinquished newborn infant's best interests is issued in
2 accordance with this Act and the Adoption Act.

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

5 (g) The Department or child-placing agency must initiate
6 proceedings to (i) terminate the parental rights of the
7 relinquished newborn infant's known or unknown parents, (ii)
8 appoint a guardian for the infant, and (iii) obtain consent
9 to the infant's adoption in accordance with this Act no
10 sooner than 60 days following the date of the initial
11 relinquishment of the infant to the hospital, fire station,
12 or emergency medical facility.

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

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

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

32 Section 55. Petition for return of custody.

33 (a) A parent of a newborn infant relinquished in

1 accordance with this Act may petition for the return of
2 custody of the infant before the termination of parental
3 rights with respect to the infant.

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 by contacting the Department for the
7 purpose of obtaining the name of the child-placing agency and
8 then filing a petition for return of custody in the circuit
9 court in which the proceeding for the termination of parental
10 rights is pending.

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

17 (d) The circuit court may hold the proceeding for the
18 termination of parental rights in abeyance for a period not
19 to exceed 60 days from the date that the petition for return
20 of custody was filed without a showing of good cause. During
21 that period:

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

24 (2) The Department shall conduct a child protective
25 investigation and home study to develop recommendations
26 to the court.

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

1 accordance with this Act.

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

14 Section 60. Department's duties. The Department must
15 implement a public information program to promote safe
16 placement alternatives for newborn infants. The public
17 information program must inform the public of the following:

18 (1) The relinquishment alternative provided for in
19 this Act, which results in the adoption of a newborn
20 infant under 72 hours of age and which provides for the
21 parent's anonymity, if the parent so chooses.

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

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

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

32 (ii) Establishment of a web site.

33 (iii) Public service announcements and

1 advertisements.

2 (iv) Establishment of toll-free telephone hotlines
3 to provide information.

4 Section 65. Evaluation.

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

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

27 (c) The Department shall submit a report by January 1,
28 2002, and on January 1 of each year thereafter, to the
29 Governor and General Assembly regarding the prevention of
30 injury or death of newborn infants and the effect of
31 placements of children under this Act. The report shall
32 include, but need not be limited to, a summary of collected
33 data, an analysis of the data and conclusions regarding the

1 Act's effectiveness, a determination whether the purposes of
2 the Act are being achieved, and recommendations for changes
3 that may be considered necessary to improve the
4 administration and enforcement of this Act.

5 Section 70. Construction of Act. Nothing in this Act
6 shall be construed to preclude the courts of this State from
7 exercising their discretion to protect the health and safety
8 of children in individual cases. The best interests and
9 welfare of a child shall be a paramount consideration in the
10 construction and interpretation of this Act. It is in the
11 child's best interests that this Act be construed and
12 interpreted so as not to result in extending time limits
13 beyond those set forth in this Act.

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

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

17 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

18 Sec. 4-1.2. Living Arrangements - Parents - Relatives -
19 Foster Care.

20 (a) The child or children must (1) be living with his or
21 their father, mother, grandfather, grandmother, brother,
22 sister, stepfather, stepmother, stepbrother, stepsister,
23 uncle or aunt, or other relative approved by the Illinois
24 Department, in a place of residence maintained by one or more
25 of such relatives as his or their own home, or (2) have been
26 (a) removed from the home of the parents or other relatives
27 by judicial order under the Juvenile Court Act or the
28 Juvenile Court Act of 1987, as amended, (b) placed under the
29 guardianship of the Department of Children and Family

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

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

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

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

27 (325 ILCS 5/3) (from Ch. 23, par. 2053)

28 Sec. 3. As used in this Act unless the context otherwise
 29 requires:

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

1 "Department" means Department of Children and Family
2 Services.

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

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

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

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

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

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

28 e. inflicts excessive corporal punishment;

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

32 g. causes to be sold, transferred, distributed, or
33 given to such child under 18 years of age, a controlled
34 substance as defined in Section 102 of the Illinois

1 Controlled Substances Act in violation of Article IV of
2 the Illinois Controlled Substances Act, except for
3 controlled substances that are prescribed in accordance
4 with Article III of the Illinois Controlled Substances
5 Act and are dispensed to such child in a manner that
6 substantially complies with the prescription.

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

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

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

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

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

27 "Temporary protective custody" means custody within a
28 hospital or other medical facility or a place previously
29 designated for such custody by the Department, subject to
30 review by the Court, including a licensed foster home, group
31 home, or other institution; but such place shall not be a
32 jail or other place for the detention of criminal or juvenile
33 offenders.

34 "An unfounded report" means any report made under this

1 Act for which it is determined after an investigation that no
2 credible evidence of abuse or neglect exists.

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

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

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

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

17 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;
18 91-802, eff. 1-1-01.)

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

21 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

23 (1) Those who are neglected include:

24 (a) any minor under 18 years of age who is not
25 receiving the proper or necessary support, education as
26 required by law, or medical or other remedial care
27 recognized under State law as necessary for a minor's
28 well-being, or other care necessary for his or her
29 well-being, including adequate food, clothing and
30 shelter, or who is abandoned by his or her parents or
31 other person responsible for the minor's welfare, except
32 that a minor shall not be considered neglected for the

1 sole reason that the minor's parent or other person
2 responsible for the minor's welfare has left the minor in
3 the care of an adult relative for any period of time; or

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

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

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

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

25 (1) the age of the minor;

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

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

31 (4) the duration of time in which the minor was
32 left without supervision;

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

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

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

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

10 (9) whether the minor's movement was restricted, or
11 the minor was otherwise locked within a room or other
12 structure;

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

17 (11) whether there was food and other provision
18 left for the minor;

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

24 (13) the age and physical and mental capabilities
25 of the person or persons who provided supervision for the
26 minor;

27 (14) whether the minor was left under the
28 supervision of another person;

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

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

34 (2) Those who are abused include any minor under 18

1 years of age whose parent or immediate family member, or any
2 person responsible for the minor's welfare, or any person who
3 is in the same family or household as the minor, or any
4 individual residing in the same home as the minor, or a
5 paramour of the minor's parent:

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

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

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

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

23 (v) inflicts excessive corporal punishment.

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

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

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

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

1 (720 ILCS 5/12-21.5)

2 Sec. 12-21.5. Child Abandonment.

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

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

- 17 (1) the age of the child;
- 18 (2) the number of children left at the location;
- 19 (3) special needs of the child, including whether
20 the child 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 child was
24 left without supervision;
- 25 (5) the condition and location of the place where
26 the child was left without supervision;
- 27 (6) the time of day or night when the child was
28 left without supervision;
- 29 (7) the weather conditions, including whether the
30 child 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, guardian, or other
33 person having physical custody or control of the child at
34 the time the child was left without supervision, the

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

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

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

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

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

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

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

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

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

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

30 (720 ILCS 5/12-21.6)

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

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

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

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

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

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

16 (720 ILCS 130/2) (from Ch. 23, par. 2361)

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

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

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

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

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

21 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

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

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

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

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

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

16 (a) Abandonment of the child.

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

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

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

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

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

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

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

34 (f) Two or more findings of physical abuse to any

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

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

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

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

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

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

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

20 (j) Open and notorious adultery or fornication.

21 (j-1) (Blank).

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

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

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

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

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

1 substantially fulfill his or her obligations under the
2 service plan and correct the conditions that brought the
3 child into care during any 9-month period after the end
4 of the initial 9-month period following the adjudication
5 under Section 2-3 or 2-4 of the Juvenile Court Act of
6 1987.

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

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

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

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

1 to forgo his or her parental rights. In making this
2 determination, the court may consider but shall not
3 require a showing of diligent efforts by an authorized
4 agency to encourage the parent to perform the acts
5 specified in subdivision (n).

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

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

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

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

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

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

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

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

34 E. "Parent" means the father or mother of a legitimate

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

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

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

13 (b) a child to whose adoption a person authorized
 14 by law, other than his parents, has consented, or to
 15 whose adoption no consent is required pursuant to Section
 16 8 of this Act;

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

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

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

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

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

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

34 H. "Adoption disruption" occurs when an adoptive

1 placement does not prove successful and it becomes necessary
2 for the child to be removed from placement before the
3 adoption is finalized.

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

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

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

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

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

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

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

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

34 (a) inflicts, causes to be inflicted, or allows to

1 be inflicted upon the child physical injury, by other
2 than accidental means, that causes death, disfigurement,
3 impairment of physical or emotional health, or loss or
4 impairment of any bodily function;

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

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

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

17 (e) inflicts excessive corporal punishment.

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

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

1 disease or remedial care as provided under Section 4 of the
2 Abused and Neglected Child Reporting Act.

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

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

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

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

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