

1 AN ACT in relation to children.

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

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

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

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

27 Section 10. Definitions. In this Act:

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

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

1 Neglected Child Reporting Act.

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

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

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

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

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

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

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

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

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

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

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

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

18 Section 15. Presumptions.

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

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

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

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

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

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

5 (a) Hospitals. Every hospital must accept and provide  
6 all necessary emergency services and care to a relinquished  
7 newborn infant, in accordance with this Act. The hospital  
8 shall examine a relinquished newborn infant and perform tests  
9 that, based on reasonable medical judgment, are appropriate  
10 in evaluating whether the relinquished newborn infant was  
11 abused or neglected.

12 The act of relinquishing a newborn infant serves as  
13 implied consent for the hospital and its medical personnel  
14 and physicians on staff to treat and provide care for the  
15 infant.

16 The hospital shall be deemed to have temporary protective  
17 custody of a relinquished newborn infant until the infant is  
18 discharged to the custody of a child-placing agency or the  
19 Department.

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

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

30 After the relinquishment of a newborn infant to a fire  
31 station or emergency medical facility, the fire station or  
32 emergency medical facility's personnel must arrange for the  
33 transportation of the infant to the nearest hospital as soon

1 as transportation can be arranged.

2 If the parent of a newborn infant returns to reclaim the  
3 child within 72 hours after relinquishing the child to a fire  
4 station or emergency medical facility, the fire station or  
5 emergency medical facility must inform the parent of the name  
6 and location of the hospital to which the infant was  
7 transported.

8 Section 25. Immunity for relinquishing person.

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

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

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

26 Section 27. Immunity of facility and personnel. A  
27 hospital, fire station, or emergency medical facility, and  
28 any personnel of a hospital, fire station, or emergency  
29 medical facility, are immune from criminal or civil liability  
30 for acting in good faith in accordance with this Act. Nothing  
31 in this Act limits liability for negligence for care and  
32 medical treatment.

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

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

1 include all of the following:

2 (1) All Illinois Adoption Registry and Medical  
3 Information Exchange application forms, including the  
4 Medical Information Exchange Questionnaire and the web  
5 site address and toll-free phone number of the Registry.

6 (2) Written notice of the following:

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

14 (B) Failure of a parent of the infant to  
15 contact the Department and petition for the return  
16 of custody of the infant before termination of  
17 parental rights bars any future action asserting  
18 legal rights with respect to the infant.

19 (3) A resource list of providers of counseling  
20 services including grief counseling, pregnancy  
21 counseling, and counseling regarding adoption and other  
22 available options for placement of the infant.

23 Upon request, the Department of Public Health shall  
24 provide the application forms for the Illinois Adoption  
25 Registry and Medical Information Exchange to hospitals, fire  
26 stations, and emergency medical facilities.

27 Section 40. Reporting requirements.

28 (a) Within 12 hours after accepting a newborn infant  
29 from a relinquishing person or from a fire station or  
30 emergency medical facility in accordance with this Act, a  
31 hospital must report to the Department's State Central  
32 Registry for the purpose of transferring physical custody of  
33 the infant from the hospital to either a child-placing agency

1 or the Department.

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

7 (c) Once a hospital has made a report to the Department  
8 under subsection (a), the Department must arrange for a  
9 licensed child-placing agency to accept physical custody of  
10 the relinquished newborn infant.

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

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

27 Section 50. Child-placing agency procedures.

28 (a) The Department's State Central Registry must  
29 maintain a list of licensed child-placing agencies willing to  
30 take legal custody of newborn infants relinquished in  
31 accordance with this Act. The child-placing agencies on the  
32 list must be contacted by the Department on a rotating basis



1 upon notice from a hospital that a newborn infant has been  
2 relinquished in accordance with this Act.

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

9 (c) Within 3 business days after assuming physical  
10 custody of the infant, the child-placing agency shall file a  
11 petition in the division of the circuit court in which  
12 petitions for adoption would normally be heard. The petition  
13 shall allege that the newborn infant has been relinquished in  
14 accordance with this Act and shall state that the  
15 child-placing agency intends to place the infant in an  
16 adoptive home.

17 (d) If no licensed child-placing agency is able to  
18 accept the relinquished newborn infant, then the Department  
19 must assume responsibility for the infant as soon as  
20 practicable.

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

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

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

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

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

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

20 Section 55. Petition for return of custody.

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

25 (b) A parent of a newborn infant relinquished in  
26 accordance with this Act may petition for the return of  
27 custody of the infant by contacting the Department for the  
28 purpose of obtaining the name of the child-placing agency and  
29 then filing a petition for return of custody in the circuit  
30 court in which the proceeding for the termination of parental  
31 rights is pending.

32 (c) If a petition for the termination of parental rights  
33 has not been filed by the Department or the child-placing

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

5 (d) The circuit court may hold the proceeding for the  
6 termination of parental rights in abeyance for a period not  
7 to exceed 60 days from the date that the petition for return  
8 of custody was filed without a showing of good cause. During  
9 that period:

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

12 (2) The Department shall conduct a child protective  
13 investigation and home study to develop recommendations  
14 to the court.

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

24 (e) Failure to file a petition for the return of custody  
25 of a relinquished newborn infant before the termination of  
26 parental rights bars any future action asserting legal rights  
27 with respect to the infant unless the parent's act of  
28 relinquishment that led to the termination of parental rights  
29 involved fraud perpetrated against and not stemming from or  
30 involving the parent. No action to void or revoke the  
31 termination of parental rights of a parent of a newborn  
32 infant relinquished in accordance with this Act, including an  
33 action based on fraud, may be commenced after 12 months after  
34 the date that the newborn infant was initially relinquished

1 to a hospital, fire station, or emergency medical facility.

2 Section 60. Department's duties. The Department must  
3 implement a public information program to promote safe  
4 placement alternatives for newborn infants. The public  
5 information program must inform the public of the following:

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

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

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

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

20 (ii) Establishment of a web site.

21 (iii) Public service announcements and  
22 advertisements.

23 (iv) Establishment of toll-free telephone hotlines  
24 to provide information.

25 Section 65. Evaluation.

26 (a) The Department shall collect and analyze information  
27 regarding the relinquishment of newborn infants and placement  
28 of children under this Act. Fire stations, emergency medical  
29 facilities, and medical professionals accepting and providing  
30 services to a newborn infant under this Act shall report to  
31 the Department data necessary for the Department to evaluate  
32 and determine the effect of this Act in the prevention of

1 injury or death of newborn infants. Child-placing agencies  
2 shall report to the Department data necessary to evaluate and  
3 determine the effectiveness of these agencies in providing  
4 child protective and child welfare services to newborn  
5 infants relinquished under this Act.

6 (b) The information collected shall include, but need  
7 not be limited to: the number of newborn infants  
8 relinquished; the services provided to relinquished newborn  
9 infants; the outcome of care for the relinquished newborn  
10 infants; the number and disposition of cases of relinquished  
11 newborn infants subject to placement; the number of children  
12 accepted and served by child-placing agencies; and the  
13 services provided by child-placing agencies and the  
14 disposition of the cases of the children placed under this  
15 Act.

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

27 Section 70. Construction of Act. Nothing in this Act  
28 shall be construed to preclude the courts of this State from  
29 exercising their discretion to protect the health and safety  
30 of children in individual cases. The best interests and  
31 welfare of a child shall be a paramount consideration in the  
32 construction and interpretation of this Act. It is in the  
33 child's best interests that this Act be construed and

1 interpreted so as not to result in extending time limits  
2 beyond those set forth in this Act.

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

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

6 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

7 Sec. 4-1.2. Living Arrangements - Parents - Relatives -  
8 Foster Care.

9 (a) The child or children must (1) be living with his or  
10 their father, mother, grandfather, grandmother, brother,  
11 sister, stepfather, stepmother, stepbrother, stepsister,  
12 uncle or aunt, or other relative approved by the Illinois  
13 Department, in a place of residence maintained by one or more  
14 of such relatives as his or their own home, or (2) have been  
15 (a) removed from the home of the parents or other relatives  
16 by judicial order under the Juvenile Court Act or the  
17 Juvenile Court Act of 1987, as amended, (b) placed under the  
18 guardianship of the Department of Children and Family  
19 Services, and (c) under such guardianship, placed in a foster  
20 family home, group home or child care institution licensed  
21 pursuant to the "Child Care Act of 1969", approved May 15,  
22 1969, as amended, or approved by that Department as meeting  
23 standards established for licensing under that Act, or (3)  
24 have been relinquished in accordance with the Abandoned  
25 Newborn Infant Protection Act. A child so placed in foster  
26 care who was not receiving aid under this Article in or for  
27 the month in which the court proceedings leading to that  
28 placement were initiated may qualify only if he lived in the  
29 home of his parents or other relatives at the time the  
30 proceedings were initiated, or within 6 months prior to the

1 month of initiation, and would have received aid in and for  
2 that month if application had been made therefor.

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

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

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

15 (325 ILCS 5/3) (from Ch. 23, par. 2053)

16 Sec. 3. As used in this Act unless the context otherwise  
17 requires:

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

21 "Department" means Department of Children and Family  
22 Services.

23 "Local law enforcement agency" means the police of a  
24 city, town, village or other incorporated area or the sheriff  
25 of an unincorporated area or any sworn officer of the  
26 Illinois Department of State Police.

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

31 a. inflicts, causes to be inflicted, or allows to  
32 be inflicted upon such child physical injury, by other

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

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

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

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

16 e. inflicts excessive corporal punishment;

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

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

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

32 "Neglected child" means any child who is not receiving  
33 the proper or necessary nourishment or medically indicated  
34 treatment including food or care not provided solely on the



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

32 "Child Protective Service Unit" means certain specialized  
33 State employees of the Department assigned by the Director to  
34 perform the duties and responsibilities as provided under

1 Section 7.2 of this Act.

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

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

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

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

28 "An undetermined report" means any report made under this  
29 Act in which it was not possible to initiate or complete an  
30 investigation on the basis of information provided to the  
31 Department.

32 "Subject of report" means any child reported to the  
33 central register of child abuse and neglect established under  
34 Section 7.7 of this Act and his or her parent, guardian or

1 other person responsible who is also named in the report.

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

5 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;  
6 91-802, eff. 1-1-01.)

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

9 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

11 (1) Those who are neglected include:

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

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

26 (c) any newborn infant whose blood, urine, or  
27 meconium contains any amount of a controlled substance as  
28 defined in subsection (f) of Section 102 of the Illinois  
29 Controlled Substances Act, as now or hereafter amended,  
30 or a metabolite of a controlled substance, with the  
31 exception of controlled substances or metabolites of such  
32 substances, the presence of which in the newborn infant

1 is the result of medical treatment administered to the  
2 mother or the newborn infant; or

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

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

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

1           (10) whether the minor was given a phone number of  
 2 a person or location to call in the event of an emergency  
 3 and whether the minor was capable of making an emergency  
 4 call;

5           (11) whether there was food and other provision  
 6 left for the minor;

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

12           (13) the age and physical and mental capabilities  
 13 of the person or persons who provided supervision for the  
 14 minor;

15           (14) whether the minor was left under the  
 16 supervision of another person;

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

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

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

28           (i) inflicts, causes to be inflicted, or allows to  
 29 be inflicted upon such minor physical injury, by other  
 30 than accidental means, which causes death, disfigurement,  
 31 impairment of physical or emotional health, or loss or  
 32 impairment of any bodily function;

33           (ii) creates a substantial risk of physical injury  
 34 to such minor by other than accidental means which would

1 be likely to cause death, disfigurement, impairment of  
2 emotional health, or loss or impairment of any bodily  
3 function;

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

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

11 (v) inflicts excessive corporal punishment.

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

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

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

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

22 (720 ILCS 5/12-21.5)

23 Sec. 12-21.5. Child Abandonment.

24 (a) A person commits the offense of child abandonment  
25 when he or she, as a parent, guardian, or other person having  
26 physical custody or control of a child, without regard for  
27 the mental or physical health, safety, or welfare of that  
28 child, knowingly leaves that child who is under the age of 13  
29 without supervision by a responsible person over the age of  
30 14 for a period of 24 hours or more, except that a person  
31 does not commit the offense of child abandonment when he or  
32 she relinquishes a child in accordance with the Abandoned

1 Newborn Infant Protection Act.

2 (b) For the purposes of determining whether the child  
3 was left without regard for the mental or physical health,  
4 safety, or welfare of that child, the trier of fact shall  
5 consider the following factors:

6 (1) the age of the child;

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

8 (3) special needs of the child, including whether  
9 the child is physically or mentally handicapped, or  
10 otherwise in need of ongoing prescribed medical treatment  
11 such as periodic doses of insulin or other medications;

12 (4) the duration of time in which the child was  
13 left without supervision;

14 (5) the condition and location of the place where  
15 the child was left without supervision;

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

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

21 (8) the location of the parent, guardian, or other  
22 person having physical custody or control of the child at  
23 the time the child was left without supervision, the  
24 physical distance the child was from the parent,  
25 guardian, or other person having physical custody or  
26 control of the child at the time the child was without  
27 supervision;

28 (9) whether the child's movement was restricted, or  
29 the child was otherwise locked within a room or other  
30 structure;

31 (10) whether the child was given a phone number of  
32 a person or location to call in the event of an emergency  
33 and whether the child was capable of making an emergency  
34 call;

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

3 (12) whether any of the conduct is attributable to  
4 economic hardship or illness and the parent, guardian or  
5 other person having physical custody or control of the  
6 child made a good faith effort to provide for the health  
7 and safety of the child;

8 (13) the age and physical and mental capabilities  
9 of the person or persons who provided supervision for the  
10 child;

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

13 (15) whether the child was left under the  
14 supervision of another person.

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

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

19 (720 ILCS 5/12-21.6)  
20 Sec. 12-21.6. Endangering the life or health of a child.

21 (a) It is unlawful for any person to willfully cause or  
22 permit the life or health of a child under the age of 18 to  
23 be endangered or to willfully cause or permit a child to be  
24 placed in circumstances that endanger the child's life or  
25 health, except that it is not unlawful for a person to  
26 relinquish a child in accordance with the Abandoned Newborn  
27 Infant Protection Act.

28 (b) A violation of this Section is a Class A  
29 misdemeanor. A second or subsequent violation of this  
30 Section is a Class 3 felony. A violation of this Section  
31 that is a proximate cause of the death of the child is a  
32 Class 3 felony for which a person, if sentenced to a term of  
33 imprisonment, shall be sentenced to a term of not less than 2



1 years and not more than 10 years.

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

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

5 (720 ILCS 130/2) (from Ch. 23, par. 2361)

6 Sec. 2. Any parent, legal guardian or person having the  
7 custody of a child under the age of 18 years, who knowingly  
8 or wilfully causes, aids or encourages such person to be or  
9 to become a dependent and neglected child as defined in  
10 section 1, who knowingly or wilfully does acts which directly  
11 tend to render any such child so dependent and neglected, or  
12 who knowingly or wilfully fails to do that which will  
13 directly tend to prevent such state of dependency and neglect  
14 is guilty of the Class A misdemeanor of contributing to the  
15 dependency and neglect of children, except that a person who  
16 relinquishes a child in accordance with the Abandoned Newborn  
17 Infant Protection Act is not guilty of that misdemeanor.

18 Instead of imposing the punishment hereinbefore provided, the  
19 court may release the defendant from custody on probation for  
20 one year upon his or her entering into recognizance with or  
21 without surety in such sum as the court directs. The  
22 conditions of the recognizance shall be such that if the  
23 defendant appears personally in court whenever ordered to do  
24 so within the year and provides and cares for such neglected  
25 and dependent child in such manner as to prevent a  
26 continuance or repetition of such state of dependency and  
27 neglect or as otherwise may be directed by the court then the  
28 recognizance shall be void, otherwise it shall be of full  
29 force and effect. If the court is satisfied by information  
30 and due proof under oath that at any time during the year the  
31 defendant has violated the terms of such order it may  
32 forthwith revoke the order and sentence him or her under the

1 original conviction. Unless so sentenced, the defendant shall  
 2 at the end of the year be discharged. In case of forfeiture  
 3 on the recognizance the sum recovered thereon may in the  
 4 discretion of the court be paid in whole or in part to  
 5 someone designated by the court for the support of such  
 6 dependent and neglected child.

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

8 Section 97. The Adoption Act is amended by changing  
 9 Section 1 as follows:

10 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

13 A. "Child" means a person under legal age subject to  
 14 adoption under this Act.

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

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

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

1 except that a person shall not be considered an unfit person  
 2 for the sole reason that the person has relinquished a child  
 3 in accordance with the Abandoned Newborn Infant Protection  
 4 Act:

5 (a) Abandonment of the child.

6 (a-1) Abandonment of a newborn infant in a  
 7 hospital.

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

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

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

17 (d) Substantial neglect of the child if continuous  
 18 or repeated.

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

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

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

34 (g) Failure to protect the child from conditions

1 within his environment injurious to the child's welfare.

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

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

29 There is a rebuttable presumption that a parent is  
30 depraved if the parent has been criminally convicted of  
31 at least 3 felonies under the laws of this State or any  
32 other state, or under federal law, or the criminal laws  
33 of any United States territory; and at least one of these  
34 convictions took place within 5 years of the filing of

1 the petition or motion seeking termination of parental  
2 rights.

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

9 (j) Open and notorious adultery or fornication.

10 (j-1) (Blank).

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

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

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

33 (m) Failure by a parent (i) to make reasonable  
34 efforts to correct the conditions that were the basis for

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

30 (m-1) Pursuant to the Juvenile Court Act of 1987, a  
31 child has been in foster care for 15 months out of any 22  
32 month period which begins on or after the effective date  
33 of this amendatory Act of 1998 unless the child's parent  
34 can prove by a preponderance of the evidence that it is

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

21 (n) Evidence of intent to forgo his or her parental  
22 rights, whether or not the child is a ward of the court,  
23 (1) as manifested by his or her failure for a period of  
24 12 months: (i) to visit the child, (ii) to communicate  
25 with the child or agency, although able to do so and not  
26 prevented from doing so by an agency or by court order,  
27 or (iii) to maintain contact with or plan for the future  
28 of the child, although physically able to do so, or (2)  
29 as manifested by the father's failure, where he and the  
30 mother of the child were unmarried to each other at the  
31 time of the child's birth, (i) to commence legal  
32 proceedings to establish his paternity under the Illinois  
33 Parentage Act of 1984 or the law of the jurisdiction of  
34 the child's birth within 30 days of being informed,

1           pursuant to Section 12a of this Act, that he is the  
2           father or the likely father of the child or, after being  
3           so informed where the child is not yet born, within 30  
4           days of the child's birth, or (ii) to make a good faith  
5           effort to pay a reasonable amount of the expenses related  
6           to the birth of the child and to provide a reasonable  
7           amount for the financial support of the child, the court  
8           to consider in its determination all relevant  
9           circumstances, including the financial condition of both  
10          parents; provided that the ground for termination  
11          provided in this subparagraph (n)(2)(ii) shall only be  
12          available where the petition is brought by the mother or  
13          the husband of the mother.

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

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



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

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

18           (q) The parent has been criminally convicted of  
19 aggravated battery, heinous battery, or attempted murder  
20 of any child.

21           (r) The child is in the temporary custody or  
22 guardianship of the Department of Children and Family  
23 Services, the parent is incarcerated as a result of  
24 criminal conviction at the time the petition or motion  
25 for termination of parental rights is filed, prior to  
26 incarceration the parent had little or no contact with  
27 the child or provided little or no support for the child,  
28 and the parent's incarceration will prevent the parent  
29 from discharging his or her parental responsibilities for  
30 the child for a period in excess of 2 years after the  
31 filing of the petition or motion for termination of  
32 parental rights.

33           (s) The child is in the temporary custody or  
34 guardianship of the Department of Children and Family

1 Services, the parent is incarcerated at the time the  
2 petition or motion for termination of parental rights is  
3 filed, the parent has been repeatedly incarcerated as a  
4 result of criminal convictions, and the parent's repeated  
5 incarceration has prevented the parent from discharging  
6 his or her parental responsibilities for the child.

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

23 E. "Parent" means the father or mother of a legitimate  
24 or illegitimate child. For the purpose of this Act, a person  
25 who has executed a final and irrevocable consent to adoption  
26 or a final and irrevocable surrender for purposes of  
27 adoption, or whose parental rights have been terminated by a  
28 court, is not a parent of the child who was the subject of  
29 the consent or surrender, unless the consent is void pursuant  
30 to subsection O of Section 10.

31 F. A person is available for adoption when the person  
32 is:

33 (a) a child who has been surrendered for adoption  
34 to an agency and to whose adoption the agency has

1           thereafter consented;

2           (b) a child to whose adoption a person authorized  
3 by law, other than his parents, has consented, or to  
4 whose adoption no consent is required pursuant to Section  
5 8 of this Act;

6           (c) a child who is in the custody of persons who  
7 intend to adopt him through placement made by his  
8 parents;

9           (c-1) a child for whom a parent has signed a  
10 specific consent pursuant to subsection O of Section 10;  
11 ~~or~~

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

14           (e) a child who has been relinquished as defined in  
15 Section 10 of the Abandoned Newborn Infant Protection  
16 Act.

17           A person who would otherwise be available for adoption  
18 shall not be deemed unavailable for adoption solely by reason  
19 of his or her death.

20           G. The singular includes the plural and the plural  
21 includes the singular and the "male" includes the "female",  
22 as the context of this Act may require.

23           H. "Adoption disruption" occurs when an adoptive  
24 placement does not prove successful and it becomes necessary  
25 for the child to be removed from placement before the  
26 adoption is finalized.

27           I. "Foreign placing agency" is an agency or individual  
28 operating in a country or territory outside the United States  
29 that is authorized by its country to place children for  
30 adoption either directly with families in the United States  
31 or through United States based international agencies.

32           J. "Immediate relatives" means the biological parents,  
33 the parents of the biological parents and siblings of the  
34 biological parents.

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

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

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

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

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

19 P. "Abused child" means a child whose parent or  
20 immediate family member, or any person responsible for the  
21 child's welfare, or any individual residing in the same home  
22 as the child, or a paramour of the child's parent:

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

28 (b) creates a substantial risk of physical injury  
29 to the child by other than accidental means which would  
30 be likely to cause death, disfigurement, impairment of  
31 physical or emotional health, or loss or impairment of  
32 any bodily function;

33 (c) commits or allows to be committed any sex  
34 offense against the child, as sex offenses are defined in

1 the Criminal Code of 1961 and extending those definitions  
2 of sex offenses to include children under 18 years of  
3 age;

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

6 (e) inflicts excessive corporal punishment.

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

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

26 R. "Putative father" means a man who may be a child's  
27 father, but who (1) is not married to the child's mother on  
28 or before the date that the child was or is to be born and  
29 (2) has not established paternity of the child in a court  
30 proceeding before the filing of a petition for the adoption  
31 of the child. The term includes a male who is less than 18  
32 years of age. "Putative father" does not mean a man who is  
33 the child's father as a result of criminal sexual abuse or  
34 assault as defined under Article 12 of the Criminal Code of

1 1961.

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

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

13 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;  
14 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,  
15 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.  
16 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,  
17 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;  
18 revised 8-31-99.)

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.