



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1909

Introduced 2/15/2019, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. Requires certain group health insurance policies and other specified policies to provide coverage of medically necessary treatment for postpartum complications as determined by the woman's treating physician. Makes conforming changes in the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act, and the Voluntary Health Services Plans Act. Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Adds provisions regarding birthing facilities and neonatal and maternal care designations. Amends the Department of Human Services Act. Provides that the Department of Human Services may establish the Nurse-Family Partnership Pilot Program. Amends the Illinois Public Aid Code. Provides that women during pregnancy and during a 12-month (rather than 60-day) period are eligible for medical assistance. Provides that otherwise eligible women shall receive coverage for doula services, perinatal depression screenings, and other services. Provides that the Department of Children and Family Services shall seek approval of a State Plan amendment to expand coverage for family planning services to women whose income is at or below 200% of the federal poverty level. Makes other changes. Amends the Adoption Act. Removes a rebuttable presumption regarding a parent's unfitness if, at birth, the urine, blood, or meconium of the parent's child contains any amount of specified controlled substances. Makes conforming changes to the Abused and Neglected Child Reporting Act and the Juvenile Court Act of 1987. Effective immediately.

LRB101 09278 CPF 54372 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 1. This Act may be referred to as the Improving
5 Health Care for Pregnant and Postpartum Individuals Act.

6 Section 5. The State Employees Group Insurance Act of 1971
7 is amended by changing Section 6.11 as follows:

8 (5 ILCS 375/6.11)

9 (Text of Section before amendment by P.A. 100-1170)

10 Sec. 6.11. Required health benefits; Illinois Insurance
11 Code requirements. The program of health benefits shall provide
12 the post-mastectomy care benefits required to be covered by a
13 policy of accident and health insurance under Section 356t of
14 the Illinois Insurance Code. The program of health benefits
15 shall provide the coverage required under Sections 356g,
16 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
17 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
18 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, ~~and~~ 356z.26, ~~and~~
19 356z.29, 356z.32, and 356z.33 of the Illinois Insurance Code.
20 The program of health benefits must comply with Sections
21 155.22a, 155.37, 355b, 356z.19, 370c, and 370c.1 of the
22 Illinois Insurance Code. The Department of Insurance shall

1 enforce the requirements of this Section.

2 Rulemaking authority to implement Public Act 95-1045, if
3 any, is conditioned on the rules being adopted in accordance
4 with all provisions of the Illinois Administrative Procedure
5 Act and all rules and procedures of the Joint Committee on
6 Administrative Rules; any purported rule not so adopted, for
7 whatever reason, is unauthorized.

8 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
9 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
10 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
11 1-8-19.)

12 (Text of Section after amendment by P.A. 100-1170)

13 Sec. 6.11. Required health benefits; Illinois Insurance
14 Code requirements. The program of health benefits shall provide
15 the post-mastectomy care benefits required to be covered by a
16 policy of accident and health insurance under Section 356t of
17 the Illinois Insurance Code. The program of health benefits
18 shall provide the coverage required under Sections 356g,
19 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
20 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
21 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, 356z.26, 356z.29,
22 ~~and~~ 356z.32, and 356z.33 of the Illinois Insurance Code. The
23 program of health benefits must comply with Sections 155.22a,
24 155.37, 355b, 356z.19, 370c, and 370c.1 of the Illinois
25 Insurance Code. The Department of Insurance shall enforce the

1 requirements of this Section with respect to Sections 370c and
2 370c.1 of the Illinois Insurance Code; all other requirements
3 of this Section shall be enforced by the Department of Central
4 Management Services.

5 Rulemaking authority to implement Public Act 95-1045, if
6 any, is conditioned on the rules being adopted in accordance
7 with all provisions of the Illinois Administrative Procedure
8 Act and all rules and procedures of the Joint Committee on
9 Administrative Rules; any purported rule not so adopted, for
10 whatever reason, is unauthorized.

11 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
12 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
13 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19;
14 100-1170, eff. 6-1-19.)

15 Section 10. The Department of Human Services Act is amended
16 by adding Section 10-24 as follows:

17 (20 ILCS 1305/10-24 new)

18 Sec. 10-24. Nurse-Family Partnership Pilot Program.
19 Subject to the availability of funds provided for this purpose
20 by public or private sources, the Department may, in its
21 discretion, establish an evidence-based, voluntary, nurse home
22 visitation program that improves the health and well-being of
23 low-income, first-time pregnant women and their children. The
24 program shall be known as the Nurse-Family Partnership Pilot

1 Program and shall include, but not be limited to, the following
2 components:

3 (1) Eligibility criteria. Program participants must be
4 first-time pregnant women who have yet to reach the 28th
5 week of pregnancy and who are eligible for medical
6 assistance under Article V of the Illinois Public Aid Code.

7 (2) Maternal health education. Registered nurses shall
8 make home visits to program participants and shall provide
9 education, support, and guidance regarding pregnancy and
10 maternal health, child health and development, parenting,
11 the mother's life course development, and instruction on
12 how to identify and use family and community supports.

13 (3) Pre-natal and post-natal care. Home visits to
14 program participants shall begin before their 28th week of
15 pregnancy and shall continue on a weekly or biweekly basis
16 until their children reach the age of 2.

17 Section 15. The Department of Public Health Powers and
18 Duties Law of the Civil Administrative Code of Illinois is
19 amended by adding Section 2310-455 as follows:

20 (20 ILCS 2310/2310-455 new)

21 Sec. 2310-455. Birthing facilities; neonatal and maternal
22 care designations.

23 (a) In this Section, "birthing facility" means: (1) a
24 hospital, as defined in the Hospital Licensing Act, with more

1 than one licensed obstetric bed or a neonatal intensive care
2 unit; (2) a hospital operated by a State university; or (3) a
3 birth center, as defined in the Alternative Health Care
4 Delivery Act.

5 (b) Every birthing facility shall, at a minimum, have an
6 obstetric hemorrhage protocol and conduct a drill or simulation
7 of the protocol. Every contracted provider who may encounter a
8 pregnant woman shall participate in the drill or simulation on
9 a regular basis.

10 (c) After holding multiple public hearings in diverse
11 geographic regions of the State and seeking broad public and
12 stakeholder input, the Department shall establish criteria for
13 levels of neonatal care designations and levels of maternal
14 care designations for birthing facilities. The levels
15 developed under this Section shall be based upon:

16 (1) the most current published version of the "Levels
17 of Neonatal Care" developed by the American Academy of
18 Pediatrics;

19 (2) the most current published version of the "Levels
20 of Maternal Care" developed by the American Congress of
21 Obstetricians and Gynecologists and the Society for
22 Maternal-Fetal Medicine; and

23 (3) necessary variance when considering the geographic
24 and varied needs of citizens of this State.

25 (d) Nothing in this Section shall be construed in any way
26 to modify or expand the licensure of any health care

1 professional.

2 (e) Nothing in this Section shall be construed in any way
3 to require a patient to be transferred to a different facility.

4 (f) The Department shall adopt rules to implement the
5 provisions of this Section no later than January 1, 2021. These
6 rules shall be limited to those necessary for the establishment
7 of levels of neonatal care designations and levels of maternal
8 care designations for birthing facilities under subsection (c)
9 of this Section.

10 (g) Beginning January 1, 2022, a birthing facility shall
11 report to the Department its appropriate level of neonatal care
12 designation and maternal care designation as determined by the
13 criteria outlined under subsection (c) of this Section.

14 Section 20. The Counties Code is amended by changing
15 Section 5-1069.3 as follows:

16 (55 ILCS 5/5-1069.3)

17 Sec. 5-1069.3. Required health benefits. If a county,
18 including a home rule county, is a self-insurer for purposes of
19 providing health insurance coverage for its employees, the
20 coverage shall include coverage for the post-mastectomy care
21 benefits required to be covered by a policy of accident and
22 health insurance under Section 356t and the coverage required
23 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
24 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,

1 356z.14, 356z.15, 356z.22, 356z.25, ~~and~~ 356z.26, ~~and~~ 356z.29,
2 356z.32, and 356z.33 of the Illinois Insurance Code. The
3 coverage shall comply with Sections 155.22a, 355b, 356z.19, and
4 370c of the Illinois Insurance Code. The Department of
5 Insurance shall enforce the requirements of this Section. The
6 requirement that health benefits be covered as provided in this
7 Section is an exclusive power and function of the State and is
8 a denial and limitation under Article VII, Section 6,
9 subsection (h) of the Illinois Constitution. A home rule county
10 to which this Section applies must comply with every provision
11 of this Section.

12 Rulemaking authority to implement Public Act 95-1045, if
13 any, is conditioned on the rules being adopted in accordance
14 with all provisions of the Illinois Administrative Procedure
15 Act and all rules and procedures of the Joint Committee on
16 Administrative Rules; any purported rule not so adopted, for
17 whatever reason, is unauthorized.

18 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
19 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
20 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
21 10-3-18.)

22 Section 25. The Illinois Municipal Code is amended by
23 changing Section 10-4-2.3 as follows:

24 (65 ILCS 5/10-4-2.3)

1 Sec. 10-4-2.3. Required health benefits. If a
2 municipality, including a home rule municipality, is a
3 self-insurer for purposes of providing health insurance
4 coverage for its employees, the coverage shall include coverage
5 for the post-mastectomy care benefits required to be covered by
6 a policy of accident and health insurance under Section 356t
7 and the coverage required under Sections 356g, 356g.5,
8 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
9 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25,
10 ~~and 356z.26, and 356z.29~~, 356z.32, and 356z.33 of the Illinois
11 Insurance Code. The coverage shall comply with Sections
12 155.22a, 355b, 356z.19, and 370c of the Illinois Insurance
13 Code. The Department of Insurance shall enforce the
14 requirements of this Section. The requirement that health
15 benefits be covered as provided in this is an exclusive power
16 and function of the State and is a denial and limitation under
17 Article VII, Section 6, subsection (h) of the Illinois
18 Constitution. A home rule municipality to which this Section
19 applies must comply with every provision of this Section.

20 Rulemaking authority to implement Public Act 95-1045, if
21 any, is conditioned on the rules being adopted in accordance
22 with all provisions of the Illinois Administrative Procedure
23 Act and all rules and procedures of the Joint Committee on
24 Administrative Rules; any purported rule not so adopted, for
25 whatever reason, is unauthorized.

26 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;

1 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
2 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
3 10-4-18.)

4 Section 30. The School Code is amended by changing Section
5 10-22.3f as follows:

6 (105 ILCS 5/10-22.3f)

7 Sec. 10-22.3f. Required health benefits. Insurance
8 protection and benefits for employees shall provide the
9 post-mastectomy care benefits required to be covered by a
10 policy of accident and health insurance under Section 356t and
11 the coverage required under Sections 356g, 356g.5, 356g.5-1,
12 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
13 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, ~~and~~ 356z.26, ~~and~~
14 356z.29, 356z.32, and 356z.33 of the Illinois Insurance Code.
15 Insurance policies shall comply with Section 356z.19 of the
16 Illinois Insurance Code. The coverage shall comply with
17 Sections 155.22a, 355b, and 370c of the Illinois Insurance
18 Code. The Department of Insurance shall enforce the
19 requirements of this Section.

20 Rulemaking authority to implement Public Act 95-1045, if
21 any, is conditioned on the rules being adopted in accordance
22 with all provisions of the Illinois Administrative Procedure
23 Act and all rules and procedures of the Joint Committee on
24 Administrative Rules; any purported rule not so adopted, for

1 whatever reason, is unauthorized.

2 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
3 100-863, eff. 8-14-18; 100-1024, eff. 1-1-19; 100-1057, eff.
4 1-1-19; 100-1102, eff. 1-1-19; revised 10-4-18.)

5 Section 35. The Illinois Insurance Code is amended by
6 adding Section 356z.33 as follows:

7 (215 ILCS 5/356z.33 new)

8 Sec. 356z.33. Pregnancy and postpartum coverage.

9 (a) A group health insurance policy, individual health
10 policy, group policy of accident and health insurance, group
11 health benefit plan, qualified health plan that is offered
12 through the health insurance marketplace, small employer group
13 health plan, or large employer group health plan that is
14 amended, delivered, issued, executed, or renewed in this State
15 or approved for issuance or renewal in this State on or after
16 the effective date of this amendatory Act of the 101st General
17 Assembly shall provide coverage of medically necessary
18 treatment for postpartum complications as determined by the
19 woman's treating physician, including, but not limited to,
20 infection, depression, and hemorrhaging, up to one year after
21 the woman has given birth to a child.

22 (b) A group health insurance policy, individual health
23 policy, group policy of accident and health insurance, group
24 health benefit plan, qualified health plan that is offered

1 through the health insurance marketplace, small employer group
2 health plan, or large employer group health plan that is
3 amended, delivered, issued, executed, or renewed in this State
4 or approved for issuance or renewal in this State on or after
5 the effective date of this amendatory Act of the 101st General
6 Assembly shall provide unlimited benefits for inpatient and
7 outpatient treatment of mental, emotional, nervous, or
8 substance use disorder or conditions at in-network facilities
9 for a pregnant or postpartum woman up to one year after giving
10 birth to a child. The services for the treatment of mental,
11 emotional, nervous, or substance use disorder or condition
12 shall be prescribed by a licensed physician, licensed
13 psychologist, licensed psychiatrist, or licensed advanced
14 practice registered nurse and provided by licensed health care
15 professionals or licensed or certified mental, emotional,
16 nervous, or substance use disorder or conditions providers in
17 licensed, certified, or otherwise State-approved facilities.

18 As used in this subsection (b), "provider" includes
19 licensed physicians, licensed psychologists, licensed
20 psychiatrists, licensed advanced practice registered nurses,
21 and licensed and certified mental, emotional, nervous, and
22 substance use disorder and conditions providers.

23 Benefits under this subsection (b) shall be as follows:

24 (1) The benefits provided for treatment services for
25 the first 180 days per plan year of inpatient and
26 outpatient treatment of mental, emotional, nervous, or

1 substance use disorder or conditions shall be provided when
2 determined medically necessary by the covered pregnant or
3 postpartum woman's provider without the imposition of any
4 prior authorization or other prospective utilization
5 review requirements. The facility or provider shall notify
6 the insurer of both the admission and the initial treatment
7 plan within 48 hours after admission or initiation of
8 treatment. If there is no in-network facility immediately
9 available for the covered pregnant or postpartum woman, the
10 insurer shall provide necessary exceptions to its network
11 to ensure admission and treatment with a provider or at a
12 treatment facility within 24 hours.

13 (2) The benefits for the first 28 days of an inpatient
14 stay, detoxification/withdrawal management, partial
15 hospitalization, intensive outpatient treatment, and
16 outpatient treatment during each plan year shall be
17 provided without any retrospective review or concurrent
18 review of medical necessity, and medical necessity shall be
19 as determined solely by the covered pregnant or postpartum
20 woman's provider.

21 (3) The benefits for days 29 and thereafter of
22 inpatient care, detoxification/withdrawal management,
23 partial hospitalization, intensive outpatient treatment,
24 and outpatient treatment shall be subject to concurrent
25 review as defined in the Health Carrier External Review
26 Act. A request for approval of inpatient care,

1 detoxification/withdrawal management, partial
2 hospitalization, intensive outpatient treatment, and
3 outpatient treatment beyond the first 28 days shall be
4 submitted for concurrent review before the expiration of
5 the initial 28-day period. A request for approval of
6 inpatient care, detoxification/withdrawal management,
7 partial hospitalization, intensive outpatient treatment,
8 and outpatient treatment beyond any period that is approved
9 under concurrent review shall be submitted within the
10 period that was previously approved. No insurer shall
11 initiate concurrent review more frequently than at 2-week
12 intervals. If an insurer determines that continued
13 inpatient care, detoxification/withdrawal management,
14 partial hospitalization, intensive outpatient treatment,
15 or outpatient treatment in a facility is no longer
16 medically necessary, the insurer shall, within 24 hours,
17 provide written notice to the covered pregnant or
18 postpartum woman and the covered pregnant or postpartum
19 woman's provider of its decision and the right to file an
20 expedited internal appeal of the determination. The
21 insurer shall review and make a determination with respect
22 to the internal appeal within 24 hours and communicate such
23 determination to the covered pregnant or postpartum woman
24 and the covered pregnant or postpartum woman's provider. If
25 the determination is to uphold the denial, the covered
26 pregnant or postpartum woman and the covered pregnant or

1 postpartum woman's provider have the right to file an
2 expedited external appeal. An independent utilization
3 review organization shall make a determination within 24
4 hours. If the insurer's determination is upheld and it is
5 determined continued inpatient care,
6 detoxification/withdrawal management, partial
7 hospitalization, intensive outpatient treatment, or
8 outpatient treatment is not medically necessary, the
9 insurer shall remain responsible to provide benefits for
10 the inpatient care, detoxification/withdrawal management,
11 partial hospitalization, intensive outpatient treatment,
12 or outpatient treatment through the day following the date
13 the determination is made and the covered pregnant or
14 postpartum woman shall only be responsible for any
15 applicable copayment, deductible, and coinsurance for the
16 stay through that date as applicable under the policy. The
17 covered pregnant or postpartum woman shall not be
18 discharged or released from the inpatient facility,
19 detoxification/withdrawal management, partial
20 hospitalization, intensive outpatient treatment, or
21 outpatient treatment until all internal appeals and
22 independent utilization review organization appeals are
23 exhausted.

24 (4) The benefits for outpatient prescription drugs to
25 treat mental, emotional, nervous, or substance use
26 disorder or conditions shall be provided when determined

1 medically necessary by the covered pregnant or postpartum
2 woman's provider with prescriptive authority, without the
3 imposition of any prior authorization or other prospective
4 utilization management requirements.

5 (5) The first 180 days per plan year of benefits shall
6 be computed based on inpatient days. One or more unused
7 inpatient days may be exchanged for 2 outpatient visits.
8 All extended outpatient services, such as partial
9 hospitalization and intensive outpatient, shall be deemed
10 inpatient days for the purpose of the visit to day exchange
11 provided in this subsection (b).

12 (6) Except as otherwise stated in this subsection (b),
13 the benefits and cost-sharing shall be provided to the same
14 extent as for any other medical condition covered under the
15 policy.

16 (7) The benefits required by this subsection (b) are to
17 be provided to all covered pregnant or postpartum woman
18 with a diagnosis of mental, emotional, nervous, or
19 substance use disorder or conditions. The presence of
20 additional related or unrelated diagnoses shall not be a
21 basis to reduce or deny the benefits required by this
22 subsection (b).

23 (c) A group health insurance policy, individual health
24 policy, group policy of accident and health insurance, group
25 health benefit plan, qualified health plan that is offered
26 through the health insurance marketplace, small employer group

1 health plan, or large employer group health plan that is
2 amended, delivered, issued, executed, or renewed in this State
3 or approved for issuance or renewal in this State on or after
4 the effective date of this amendatory Act of the 101st General
5 Assembly shall provide coverage for case management and
6 outreach for a postpartum woman that had a high-risk pregnancy.
7 The coverage under this subsection (c) shall take into
8 consideration the cultural differences of the covered
9 postpartum woman in case coordination. As used in this
10 subsection (c), "high-risk pregnancy" means a pregnancy in
11 which the mother or baby is at increased risk for poor health
12 or complications during pregnancy or childbirth.

13 Section 40. The Health Maintenance Organization Act is
14 amended by changing Section 5-3 as follows:

15 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

16 Sec. 5-3. Insurance Code provisions.

17 (a) Health Maintenance Organizations shall be subject to
18 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
19 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
20 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
21 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
22 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
23 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,
24 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32, 356z.33,

1 364, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,
2 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2,
3 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
4 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
5 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

6 (b) For purposes of the Illinois Insurance Code, except for
7 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
8 Maintenance Organizations in the following categories are
9 deemed to be "domestic companies":

10 (1) a corporation authorized under the Dental Service
11 Plan Act or the Voluntary Health Services Plans Act;

12 (2) a corporation organized under the laws of this
13 State; or

14 (3) a corporation organized under the laws of another
15 state, 30% or more of the enrollees of which are residents
16 of this State, except a corporation subject to
17 substantially the same requirements in its state of
18 organization as is a "domestic company" under Article VIII
19 1/2 of the Illinois Insurance Code.

20 (c) In considering the merger, consolidation, or other
21 acquisition of control of a Health Maintenance Organization
22 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

23 (1) the Director shall give primary consideration to
24 the continuation of benefits to enrollees and the financial
25 conditions of the acquired Health Maintenance Organization
26 after the merger, consolidation, or other acquisition of

1 control takes effect;

2 (2) (i) the criteria specified in subsection (1) (b) of
3 Section 131.8 of the Illinois Insurance Code shall not
4 apply and (ii) the Director, in making his determination
5 with respect to the merger, consolidation, or other
6 acquisition of control, need not take into account the
7 effect on competition of the merger, consolidation, or
8 other acquisition of control;

9 (3) the Director shall have the power to require the
10 following information:

11 (A) certification by an independent actuary of the
12 adequacy of the reserves of the Health Maintenance
13 Organization sought to be acquired;

14 (B) pro forma financial statements reflecting the
15 combined balance sheets of the acquiring company and
16 the Health Maintenance Organization sought to be
17 acquired as of the end of the preceding year and as of
18 a date 90 days prior to the acquisition, as well as pro
19 forma financial statements reflecting projected
20 combined operation for a period of 2 years;

21 (C) a pro forma business plan detailing an
22 acquiring party's plans with respect to the operation
23 of the Health Maintenance Organization sought to be
24 acquired for a period of not less than 3 years; and

25 (D) such other information as the Director shall
26 require.

1 (d) The provisions of Article VIII 1/2 of the Illinois
2 Insurance Code and this Section 5-3 shall apply to the sale by
3 any health maintenance organization of greater than 10% of its
4 enrollee population (including without limitation the health
5 maintenance organization's right, title, and interest in and to
6 its health care certificates).

7 (e) In considering any management contract or service
8 agreement subject to Section 141.1 of the Illinois Insurance
9 Code, the Director (i) shall, in addition to the criteria
10 specified in Section 141.2 of the Illinois Insurance Code, take
11 into account the effect of the management contract or service
12 agreement on the continuation of benefits to enrollees and the
13 financial condition of the health maintenance organization to
14 be managed or serviced, and (ii) need not take into account the
15 effect of the management contract or service agreement on
16 competition.

17 (f) Except for small employer groups as defined in the
18 Small Employer Rating, Renewability and Portability Health
19 Insurance Act and except for medicare supplement policies as
20 defined in Section 363 of the Illinois Insurance Code, a Health
21 Maintenance Organization may by contract agree with a group or
22 other enrollment unit to effect refunds or charge additional
23 premiums under the following terms and conditions:

24 (i) the amount of, and other terms and conditions with
25 respect to, the refund or additional premium are set forth
26 in the group or enrollment unit contract agreed in advance

1 of the period for which a refund is to be paid or
2 additional premium is to be charged (which period shall not
3 be less than one year); and

4 (ii) the amount of the refund or additional premium
5 shall not exceed 20% of the Health Maintenance
6 Organization's profitable or unprofitable experience with
7 respect to the group or other enrollment unit for the
8 period (and, for purposes of a refund or additional
9 premium, the profitable or unprofitable experience shall
10 be calculated taking into account a pro rata share of the
11 Health Maintenance Organization's administrative and
12 marketing expenses, but shall not include any refund to be
13 made or additional premium to be paid pursuant to this
14 subsection (f)). The Health Maintenance Organization and
15 the group or enrollment unit may agree that the profitable
16 or unprofitable experience may be calculated taking into
17 account the refund period and the immediately preceding 2
18 plan years.

19 The Health Maintenance Organization shall include a
20 statement in the evidence of coverage issued to each enrollee
21 describing the possibility of a refund or additional premium,
22 and upon request of any group or enrollment unit, provide to
23 the group or enrollment unit a description of the method used
24 to calculate (1) the Health Maintenance Organization's
25 profitable experience with respect to the group or enrollment
26 unit and the resulting refund to the group or enrollment unit

1 or (2) the Health Maintenance Organization's unprofitable
2 experience with respect to the group or enrollment unit and the
3 resulting additional premium to be paid by the group or
4 enrollment unit.

5 In no event shall the Illinois Health Maintenance
6 Organization Guaranty Association be liable to pay any
7 contractual obligation of an insolvent organization to pay any
8 refund authorized under this Section.

9 (g) Rulemaking authority to implement Public Act 95-1045,
10 if any, is conditioned on the rules being adopted in accordance
11 with all provisions of the Illinois Administrative Procedure
12 Act and all rules and procedures of the Joint Committee on
13 Administrative Rules; any purported rule not so adopted, for
14 whatever reason, is unauthorized.

15 (Source: P.A. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;
16 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1026, eff.
17 8-22-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
18 10-4-18.)

19 Section 45. The Voluntary Health Services Plans Act is
20 amended by changing Section 10 as follows:

21 (215 ILCS 165/10) (from Ch. 32, par. 604)

22 Sec. 10. Application of Insurance Code provisions. Health
23 services plan corporations and all persons interested therein
24 or dealing therewith shall be subject to the provisions of

1 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
2 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g,
3 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,
4 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
5 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,
6 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30,
7 356z.32, 356z.33, 364.01, 367.2, 368a, 401, 401.1, 402, 403,
8 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
9 Section 367 of the Illinois Insurance Code.

10 Rulemaking authority to implement Public Act 95-1045, if
11 any, is conditioned on the rules being adopted in accordance
12 with all provisions of the Illinois Administrative Procedure
13 Act and all rules and procedures of the Joint Committee on
14 Administrative Rules; any purported rule not so adopted, for
15 whatever reason, is unauthorized.

16 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
17 100-863, eff. 8-14-18; 100-1026, eff. 8-22-18; 100-1057, eff.
18 1-1-19; 100-1102, eff. 1-1-19; revised 10-4-18.)

19 Section 50. The Illinois Public Aid Code is amended by
20 changing Sections 5-2, 5-5, and 5-5.24 and by adding Section
21 5-5.27 as follows:

22 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

23 Sec. 5-2. Classes of Persons Eligible.

24 Medical assistance under this Article shall be available to

1 any of the following classes of persons in respect to whom a
2 plan for coverage has been submitted to the Governor by the
3 Illinois Department and approved by him. If changes made in
4 this Section 5-2 require federal approval, they shall not take
5 effect until such approval has been received:

6 1. Recipients of basic maintenance grants under
7 Articles III and IV.

8 2. Beginning January 1, 2014, persons otherwise
9 eligible for basic maintenance under Article III,
10 excluding any eligibility requirements that are
11 inconsistent with any federal law or federal regulation, as
12 interpreted by the U.S. Department of Health and Human
13 Services, but who fail to qualify thereunder on the basis
14 of need, and who have insufficient income and resources to
15 meet the costs of necessary medical care, including but not
16 limited to the following:

17 (a) All persons otherwise eligible for basic
18 maintenance under Article III but who fail to qualify
19 under that Article on the basis of need and who meet
20 either of the following requirements:

21 (i) their income, as determined by the
22 Illinois Department in accordance with any federal
23 requirements, is equal to or less than 100% of the
24 federal poverty level; or

25 (ii) their income, after the deduction of
26 costs incurred for medical care and for other types

1 of remedial care, is equal to or less than 100% of
2 the federal poverty level.

3 (b) (Blank).

4 3. (Blank).

5 4. Persons not eligible under any of the preceding
6 paragraphs who fall sick, are injured, or die, not having
7 sufficient money, property or other resources to meet the
8 costs of necessary medical care or funeral and burial
9 expenses.

10 5.(a) Women during pregnancy and during the 12-month
11 ~~60-day~~ period beginning on the last day of the pregnancy,
12 together with their infants, whose income is at or below
13 200% of the federal poverty level. Until September 30,
14 2019, or sooner if the maintenance of effort requirements
15 under the Patient Protection and Affordable Care Act are
16 eliminated or may be waived before then, women during
17 pregnancy and during the 12-month ~~60-day~~ period beginning
18 on the last day of the pregnancy, whose countable monthly
19 income, after the deduction of costs incurred for medical
20 care and for other types of remedial care as specified in
21 administrative rule, is equal to or less than the Medical
22 Assistance-No Grant(C) (MANG(C)) Income Standard in effect
23 on April 1, 2013 as set forth in administrative rule.

24 (b) The plan for coverage shall provide ambulatory
25 prenatal care to pregnant women during a presumptive
26 eligibility period and establish an income eligibility

1 standard that is equal to 200% of the federal poverty
2 level, provided that costs incurred for medical care are
3 not taken into account in determining such income
4 eligibility.

5 (c) The Illinois Department may conduct a
6 demonstration in at least one county that will provide
7 medical assistance to pregnant women, together with their
8 infants and children up to one year of age, where the
9 income eligibility standard is set up to 185% of the
10 nonfarm income official poverty line, as defined by the
11 federal Office of Management and Budget. The Illinois
12 Department shall seek and obtain necessary authorization
13 provided under federal law to implement such a
14 demonstration. Such demonstration may establish resource
15 standards that are not more restrictive than those
16 established under Article IV of this Code.

17 6. (a) Children younger than age 19 when countable
18 income is at or below 133% of the federal poverty level.
19 Until September 30, 2019, or sooner if the maintenance of
20 effort requirements under the Patient Protection and
21 Affordable Care Act are eliminated or may be waived before
22 then, children younger than age 19 whose countable monthly
23 income, after the deduction of costs incurred for medical
24 care and for other types of remedial care as specified in
25 administrative rule, is equal to or less than the Medical
26 Assistance-No Grant(C) (MANG(C)) Income Standard in effect

1 on April 1, 2013 as set forth in administrative rule.

2 (b) Children and youth who are under temporary custody
3 or guardianship of the Department of Children and Family
4 Services or who receive financial assistance in support of
5 an adoption or guardianship placement from the Department
6 of Children and Family Services.

7 7. (Blank).

8 8. As required under federal law, persons who are
9 eligible for Transitional Medical Assistance as a result of
10 an increase in earnings or child or spousal support
11 received. The plan for coverage for this class of persons
12 shall:

13 (a) extend the medical assistance coverage to the
14 extent required by federal law; and

15 (b) offer persons who have initially received 6
16 months of the coverage provided in paragraph (a) above,
17 the option of receiving an additional 6 months of
18 coverage, subject to the following:

19 (i) such coverage shall be pursuant to
20 provisions of the federal Social Security Act;

21 (ii) such coverage shall include all services
22 covered under Illinois' State Medicaid Plan;

23 (iii) no premium shall be charged for such
24 coverage; and

25 (iv) such coverage shall be suspended in the
26 event of a person's failure without good cause to

1 file in a timely fashion reports required for this
2 coverage under the Social Security Act and
3 coverage shall be reinstated upon the filing of
4 such reports if the person remains otherwise
5 eligible.

6 9. Persons with acquired immunodeficiency syndrome
7 (AIDS) or with AIDS-related conditions with respect to whom
8 there has been a determination that but for home or
9 community-based services such individuals would require
10 the level of care provided in an inpatient hospital,
11 skilled nursing facility or intermediate care facility the
12 cost of which is reimbursed under this Article. Assistance
13 shall be provided to such persons to the maximum extent
14 permitted under Title XIX of the Federal Social Security
15 Act.

16 10. Participants in the long-term care insurance
17 partnership program established under the Illinois
18 Long-Term Care Partnership Program Act who meet the
19 qualifications for protection of resources described in
20 Section 15 of that Act.

21 11. Persons with disabilities who are employed and
22 eligible for Medicaid, pursuant to Section
23 1902(a)(10)(A)(ii)(xv) of the Social Security Act, and,
24 subject to federal approval, persons with a medically
25 improved disability who are employed and eligible for
26 Medicaid pursuant to Section 1902(a)(10)(A)(ii)(xvi) of

1 the Social Security Act, as provided by the Illinois
2 Department by rule. In establishing eligibility standards
3 under this paragraph 11, the Department shall, subject to
4 federal approval:

5 (a) set the income eligibility standard at not
6 lower than 350% of the federal poverty level;

7 (b) exempt retirement accounts that the person
8 cannot access without penalty before the age of 59 1/2,
9 and medical savings accounts established pursuant to
10 26 U.S.C. 220;

11 (c) allow non-exempt assets up to \$25,000 as to
12 those assets accumulated during periods of eligibility
13 under this paragraph 11; and

14 (d) continue to apply subparagraphs (b) and (c) in
15 determining the eligibility of the person under this
16 Article even if the person loses eligibility under this
17 paragraph 11.

18 12. Subject to federal approval, persons who are
19 eligible for medical assistance coverage under applicable
20 provisions of the federal Social Security Act and the
21 federal Breast and Cervical Cancer Prevention and
22 Treatment Act of 2000. Those eligible persons are defined
23 to include, but not be limited to, the following persons:

24 (1) persons who have been screened for breast or
25 cervical cancer under the U.S. Centers for Disease
26 Control and Prevention Breast and Cervical Cancer

1 Program established under Title XV of the federal
2 Public Health Services Act in accordance with the
3 requirements of Section 1504 of that Act as
4 administered by the Illinois Department of Public
5 Health; and

6 (2) persons whose screenings under the above
7 program were funded in whole or in part by funds
8 appropriated to the Illinois Department of Public
9 Health for breast or cervical cancer screening.

10 "Medical assistance" under this paragraph 12 shall be
11 identical to the benefits provided under the State's
12 approved plan under Title XIX of the Social Security Act.
13 The Department must request federal approval of the
14 coverage under this paragraph 12 within 30 days after the
15 effective date of this amendatory Act of the 92nd General
16 Assembly.

17 In addition to the persons who are eligible for medical
18 assistance pursuant to subparagraphs (1) and (2) of this
19 paragraph 12, and to be paid from funds appropriated to the
20 Department for its medical programs, any uninsured person
21 as defined by the Department in rules residing in Illinois
22 who is younger than 65 years of age, who has been screened
23 for breast and cervical cancer in accordance with standards
24 and procedures adopted by the Department of Public Health
25 for screening, and who is referred to the Department by the
26 Department of Public Health as being in need of treatment

1 for breast or cervical cancer is eligible for medical
2 assistance benefits that are consistent with the benefits
3 provided to those persons described in subparagraphs (1)
4 and (2). Medical assistance coverage for the persons who
5 are eligible under the preceding sentence is not dependent
6 on federal approval, but federal moneys may be used to pay
7 for services provided under that coverage upon federal
8 approval.

9 13. Subject to appropriation and to federal approval,
10 persons living with HIV/AIDS who are not otherwise eligible
11 under this Article and who qualify for services covered
12 under Section 5-5.04 as provided by the Illinois Department
13 by rule.

14 14. Subject to the availability of funds for this
15 purpose, the Department may provide coverage under this
16 Article to persons who reside in Illinois who are not
17 eligible under any of the preceding paragraphs and who meet
18 the income guidelines of paragraph 2(a) of this Section and
19 (i) have an application for asylum pending before the
20 federal Department of Homeland Security or on appeal before
21 a court of competent jurisdiction and are represented
22 either by counsel or by an advocate accredited by the
23 federal Department of Homeland Security and employed by a
24 not-for-profit organization in regard to that application
25 or appeal, or (ii) are receiving services through a
26 federally funded torture treatment center. Medical

1 coverage under this paragraph 14 may be provided for up to
2 24 continuous months from the initial eligibility date so
3 long as an individual continues to satisfy the criteria of
4 this paragraph 14. If an individual has an appeal pending
5 regarding an application for asylum before the Department
6 of Homeland Security, eligibility under this paragraph 14
7 may be extended until a final decision is rendered on the
8 appeal. The Department may adopt rules governing the
9 implementation of this paragraph 14.

10 15. Family Care Eligibility.

11 (a) On and after July 1, 2012, a parent or other
12 caretaker relative who is 19 years of age or older when
13 countable income is at or below 133% of the federal
14 poverty level. A person may not spend down to become
15 eligible under this paragraph 15.

16 (b) Eligibility shall be reviewed annually.

17 (c) (Blank).

18 (d) (Blank).

19 (e) (Blank).

20 (f) (Blank).

21 (g) (Blank).

22 (h) (Blank).

23 (i) Following termination of an individual's
24 coverage under this paragraph 15, the individual must
25 be determined eligible before the person can be
26 re-enrolled.

1 16. Subject to appropriation, uninsured persons who
2 are not otherwise eligible under this Section who have been
3 certified and referred by the Department of Public Health
4 as having been screened and found to need diagnostic
5 evaluation or treatment, or both diagnostic evaluation and
6 treatment, for prostate or testicular cancer. For the
7 purposes of this paragraph 16, uninsured persons are those
8 who do not have creditable coverage, as defined under the
9 Health Insurance Portability and Accountability Act, or
10 have otherwise exhausted any insurance benefits they may
11 have had, for prostate or testicular cancer diagnostic
12 evaluation or treatment, or both diagnostic evaluation and
13 treatment. To be eligible, a person must furnish a Social
14 Security number. A person's assets are exempt from
15 consideration in determining eligibility under this
16 paragraph 16. Such persons shall be eligible for medical
17 assistance under this paragraph 16 for so long as they need
18 treatment for the cancer. A person shall be considered to
19 need treatment if, in the opinion of the person's treating
20 physician, the person requires therapy directed toward
21 cure or palliation of prostate or testicular cancer,
22 including recurrent metastatic cancer that is a known or
23 presumed complication of prostate or testicular cancer and
24 complications resulting from the treatment modalities
25 themselves. Persons who require only routine monitoring
26 services are not considered to need treatment. "Medical

1 assistance" under this paragraph 16 shall be identical to
2 the benefits provided under the State's approved plan under
3 Title XIX of the Social Security Act. Notwithstanding any
4 other provision of law, the Department (i) does not have a
5 claim against the estate of a deceased recipient of
6 services under this paragraph 16 and (ii) does not have a
7 lien against any homestead property or other legal or
8 equitable real property interest owned by a recipient of
9 services under this paragraph 16.

10 17. Persons who, pursuant to a waiver approved by the
11 Secretary of the U.S. Department of Health and Human
12 Services, are eligible for medical assistance under Title
13 XIX or XXI of the federal Social Security Act.
14 Notwithstanding any other provision of this Code and
15 consistent with the terms of the approved waiver, the
16 Illinois Department, may by rule:

17 (a) Limit the geographic areas in which the waiver
18 program operates.

19 (b) Determine the scope, quantity, duration, and
20 quality, and the rate and method of reimbursement, of
21 the medical services to be provided, which may differ
22 from those for other classes of persons eligible for
23 assistance under this Article.

24 (c) Restrict the persons' freedom in choice of
25 providers.

26 18. Beginning January 1, 2014, persons aged 19 or

1 older, but younger than 65, who are not otherwise eligible
2 for medical assistance under this Section 5-2, who qualify
3 for medical assistance pursuant to 42 U.S.C.
4 1396a(a)(10)(A)(i)(VIII) and applicable federal
5 regulations, and who have income at or below 133% of the
6 federal poverty level plus 5% for the applicable family
7 size as determined pursuant to 42 U.S.C. 1396a(e)(14) and
8 applicable federal regulations. Persons eligible for
9 medical assistance under this paragraph 18 shall receive
10 coverage for the Health Benefits Service Package as that
11 term is defined in subsection (m) of Section 5-1.1 of this
12 Code. If Illinois' federal medical assistance percentage
13 (FMAP) is reduced below 90% for persons eligible for
14 medical assistance under this paragraph 18, eligibility
15 under this paragraph 18 shall cease no later than the end
16 of the third month following the month in which the
17 reduction in FMAP takes effect.

18 19. Beginning January 1, 2014, as required under 42
19 U.S.C. 1396a(a)(10)(A)(i)(IX), persons older than age 18
20 and younger than age 26 who are not otherwise eligible for
21 medical assistance under paragraphs (1) through (17) of
22 this Section who (i) were in foster care under the
23 responsibility of the State on the date of attaining age 18
24 or on the date of attaining age 21 when a court has
25 continued wardship for good cause as provided in Section
26 2-31 of the Juvenile Court Act of 1987 and (ii) received

1 medical assistance under the Illinois Title XIX State Plan
2 or waiver of such plan while in foster care.

3 20. Beginning January 1, 2018, persons who are
4 foreign-born victims of human trafficking, torture, or
5 other serious crimes as defined in Section 2-19 of this
6 Code and their derivative family members if such persons:
7 (i) reside in Illinois; (ii) are not eligible under any of
8 the preceding paragraphs; (iii) meet the income guidelines
9 of subparagraph (a) of paragraph 2; and (iv) meet the
10 nonfinancial eligibility requirements of Sections 16-2,
11 16-3, and 16-5 of this Code. The Department may extend
12 medical assistance for persons who are foreign-born
13 victims of human trafficking, torture, or other serious
14 crimes whose medical assistance would be terminated
15 pursuant to subsection (b) of Section 16-5 if the
16 Department determines that the person, during the year of
17 initial eligibility (1) experienced a health crisis, (2)
18 has been unable, after reasonable attempts, to obtain
19 necessary information from a third party, or (3) has other
20 extenuating circumstances that prevented the person from
21 completing his or her application for status. The
22 Department may adopt any rules necessary to implement the
23 provisions of this paragraph.

24 In implementing the provisions of Public Act 96-20, the
25 Department is authorized to adopt only those rules necessary,
26 including emergency rules. Nothing in Public Act 96-20 permits

1 the Department to adopt rules or issue a decision that expands
2 eligibility for the FamilyCare Program to a person whose income
3 exceeds 185% of the Federal Poverty Level as determined from
4 time to time by the U.S. Department of Health and Human
5 Services, unless the Department is provided with express
6 statutory authority.

7 The eligibility of any such person for medical assistance
8 under this Article is not affected by the payment of any grant
9 under the Senior Citizens and Persons with Disabilities
10 Property Tax Relief Act or any distributions or items of income
11 described under subparagraph (X) of paragraph (2) of subsection
12 (a) of Section 203 of the Illinois Income Tax Act.

13 The Department shall by rule establish the amounts of
14 assets to be disregarded in determining eligibility for medical
15 assistance, which shall at a minimum equal the amounts to be
16 disregarded under the Federal Supplemental Security Income
17 Program. The amount of assets of a single person to be
18 disregarded shall not be less than \$2,000, and the amount of
19 assets of a married couple to be disregarded shall not be less
20 than \$3,000.

21 To the extent permitted under federal law, any person found
22 guilty of a second violation of Article VIII A shall be
23 ineligible for medical assistance under this Article, as
24 provided in Section 8A-8.

25 The eligibility of any person for medical assistance under
26 this Article shall not be affected by the receipt by the person

1 of donations or benefits from fundraisers held for the person
2 in cases of serious illness, as long as neither the person nor
3 members of the person's family have actual control over the
4 donations or benefits or the disbursement of the donations or
5 benefits.

6 Notwithstanding any other provision of this Code, if the
7 United States Supreme Court holds Title II, Subtitle A, Section
8 2001(a) of Public Law 111-148 to be unconstitutional, or if a
9 holding of Public Law 111-148 makes Medicaid eligibility
10 allowed under Section 2001(a) inoperable, the State or a unit
11 of local government shall be prohibited from enrolling
12 individuals in the Medical Assistance Program as the result of
13 federal approval of a State Medicaid waiver on or after the
14 effective date of this amendatory Act of the 97th General
15 Assembly, and any individuals enrolled in the Medical
16 Assistance Program pursuant to eligibility permitted as a
17 result of such a State Medicaid waiver shall become immediately
18 ineligible.

19 Notwithstanding any other provision of this Code, if an Act
20 of Congress that becomes a Public Law eliminates Section
21 2001(a) of Public Law 111-148, the State or a unit of local
22 government shall be prohibited from enrolling individuals in
23 the Medical Assistance Program as the result of federal
24 approval of a State Medicaid waiver on or after the effective
25 date of this amendatory Act of the 97th General Assembly, and
26 any individuals enrolled in the Medical Assistance Program

1 pursuant to eligibility permitted as a result of such a State
2 Medicaid waiver shall become immediately ineligible.

3 Effective October 1, 2013, the determination of
4 eligibility of persons who qualify under paragraphs 5, 6, 8,
5 15, 17, and 18 of this Section shall comply with the
6 requirements of 42 U.S.C. 1396a(e)(14) and applicable federal
7 regulations.

8 The Department of Healthcare and Family Services, the
9 Department of Human Services, and the Illinois health insurance
10 marketplace shall work cooperatively to assist persons who
11 would otherwise lose health benefits as a result of changes
12 made under this amendatory Act of the 98th General Assembly to
13 transition to other health insurance coverage.

14 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
15 99-143, eff. 7-27-15; 99-870, eff. 8-22-16.)

16 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

17 Sec. 5-5. Medical services. The Illinois Department, by
18 rule, shall determine the quantity and quality of and the rate
19 of reimbursement for the medical assistance for which payment
20 will be authorized, and the medical services to be provided,
21 which may include all or part of the following: (1) inpatient
22 hospital services; (2) outpatient hospital services; (3) other
23 laboratory and X-ray services; (4) skilled nursing home
24 services; (5) physicians' services whether furnished in the
25 office, the patient's home, a hospital, a skilled nursing home,

1 or elsewhere; (6) medical care, or any other type of remedial
2 care furnished by licensed practitioners; (7) home health care
3 services; (8) private duty nursing service; (9) clinic
4 services; (10) dental services, including prevention and
5 treatment of periodontal disease and dental caries disease for
6 pregnant women, provided by an individual licensed to practice
7 dentistry or dental surgery; for purposes of this item (10),
8 "dental services" means diagnostic, preventive, or corrective
9 procedures provided by or under the supervision of a dentist in
10 the practice of his or her profession; (11) physical therapy
11 and related services; (12) prescribed drugs, dentures, and
12 prosthetic devices; and eyeglasses prescribed by a physician
13 skilled in the diseases of the eye, or by an optometrist,
14 whichever the person may select; (13) other diagnostic,
15 screening, preventive, and rehabilitative services, including
16 to ensure that the individual's need for intervention or
17 treatment of mental disorders or substance use disorders or
18 co-occurring mental health and substance use disorders is
19 determined using a uniform screening, assessment, and
20 evaluation process inclusive of criteria, for children and
21 adults; for purposes of this item (13), a uniform screening,
22 assessment, and evaluation process refers to a process that
23 includes an appropriate evaluation and, as warranted, a
24 referral; "uniform" does not mean the use of a singular
25 instrument, tool, or process that all must utilize; (14)
26 transportation and such other expenses as may be necessary;

1 (15) medical treatment of sexual assault survivors, as defined
2 in Section 1a of the Sexual Assault Survivors Emergency
3 Treatment Act, for injuries sustained as a result of the sexual
4 assault, including examinations and laboratory tests to
5 discover evidence which may be used in criminal proceedings
6 arising from the sexual assault; (16) the diagnosis and
7 treatment of sickle cell anemia; and (17) any other medical
8 care, and any other type of remedial care recognized under the
9 laws of this State. The term "any other type of remedial care"
10 shall include nursing care and nursing home service for persons
11 who rely on treatment by spiritual means alone through prayer
12 for healing.

13 Notwithstanding any other provision of this Section, a
14 comprehensive tobacco use cessation program that includes
15 purchasing prescription drugs or prescription medical devices
16 approved by the Food and Drug Administration shall be covered
17 under the medical assistance program under this Article for
18 persons who are otherwise eligible for assistance under this
19 Article.

20 Notwithstanding any other provision of this Code,
21 reproductive health care that is otherwise legal in Illinois
22 shall be covered under the medical assistance program for
23 persons who are otherwise eligible for medical assistance under
24 this Article.

25 Notwithstanding any other provision of this Code, the
26 Illinois Department may not require, as a condition of payment

1 for any laboratory test authorized under this Article, that a
2 physician's handwritten signature appear on the laboratory
3 test order form. The Illinois Department may, however, impose
4 other appropriate requirements regarding laboratory test order
5 documentation.

6 Upon receipt of federal approval of an amendment to the
7 Illinois Title XIX State Plan for this purpose, the Department
8 shall authorize the Chicago Public Schools (CPS) to procure a
9 vendor or vendors to manufacture eyeglasses for individuals
10 enrolled in a school within the CPS system. CPS shall ensure
11 that its vendor or vendors are enrolled as providers in the
12 medical assistance program and in any capitated Medicaid
13 managed care entity (MCE) serving individuals enrolled in a
14 school within the CPS system. Under any contract procured under
15 this provision, the vendor or vendors must serve only
16 individuals enrolled in a school within the CPS system. Claims
17 for services provided by CPS's vendor or vendors to recipients
18 of benefits in the medical assistance program under this Code,
19 the Children's Health Insurance Program, or the Covering ALL
20 KIDS Health Insurance Program shall be submitted to the
21 Department or the MCE in which the individual is enrolled for
22 payment and shall be reimbursed at the Department's or the
23 MCE's established rates or rate methodologies for eyeglasses.

24 On and after July 1, 2012, the Department of Healthcare and
25 Family Services may provide the following services to persons
26 eligible for assistance under this Article who are

1 participating in education, training or employment programs
2 operated by the Department of Human Services as successor to
3 the Department of Public Aid:

4 (1) dental services provided by or under the
5 supervision of a dentist; and

6 (2) eyeglasses prescribed by a physician skilled in the
7 diseases of the eye, or by an optometrist, whichever the
8 person may select.

9 On and after July 1, 2018, the Department of Healthcare and
10 Family Services shall provide dental services to any adult who
11 is otherwise eligible for assistance under the medical
12 assistance program. As used in this paragraph, "dental
13 services" means diagnostic, preventative, restorative, or
14 corrective procedures, including procedures and services for
15 the prevention and treatment of periodontal disease and dental
16 caries disease, provided by an individual who is licensed to
17 practice dentistry or dental surgery or who is under the
18 supervision of a dentist in the practice of his or her
19 profession.

20 On and after July 1, 2018, targeted dental services, as set
21 forth in Exhibit D of the Consent Decree entered by the United
22 States District Court for the Northern District of Illinois,
23 Eastern Division, in the matter of Memisovski v. Maram, Case
24 No. 92 C 1982, that are provided to adults under the medical
25 assistance program shall be established at no less than the
26 rates set forth in the "New Rate" column in Exhibit D of the

1 Consent Decree for targeted dental services that are provided
2 to persons under the age of 18 under the medical assistance
3 program.

4 Notwithstanding any other provision of this Code and
5 subject to federal approval, the Department may adopt rules to
6 allow a dentist who is volunteering his or her service at no
7 cost to render dental services through an enrolled
8 not-for-profit health clinic without the dentist personally
9 enrolling as a participating provider in the medical assistance
10 program. A not-for-profit health clinic shall include a public
11 health clinic or Federally Qualified Health Center or other
12 enrolled provider, as determined by the Department, through
13 which dental services covered under this Section are performed.
14 The Department shall establish a process for payment of claims
15 for reimbursement for covered dental services rendered under
16 this provision.

17 The Illinois Department, by rule, may distinguish and
18 classify the medical services to be provided only in accordance
19 with the classes of persons designated in Section 5-2.

20 The Department of Healthcare and Family Services must
21 provide coverage and reimbursement for amino acid-based
22 elemental formulas, regardless of delivery method, for the
23 diagnosis and treatment of (i) eosinophilic disorders and (ii)
24 short bowel syndrome when the prescribing physician has issued
25 a written order stating that the amino acid-based elemental
26 formula is medically necessary.

1 The Illinois Department shall authorize the provision of,
2 and shall authorize payment for, screening by low-dose
3 mammography for the presence of occult breast cancer for women
4 35 years of age or older who are eligible for medical
5 assistance under this Article, as follows:

6 (A) A baseline mammogram for women 35 to 39 years of
7 age.

8 (B) An annual mammogram for women 40 years of age or
9 older.

10 (C) A mammogram at the age and intervals considered
11 medically necessary by the woman's health care provider for
12 women under 40 years of age and having a family history of
13 breast cancer, prior personal history of breast cancer,
14 positive genetic testing, or other risk factors.

15 (D) A comprehensive ultrasound screening and MRI of an
16 entire breast or breasts if a mammogram demonstrates
17 heterogeneous or dense breast tissue, when medically
18 necessary as determined by a physician licensed to practice
19 medicine in all of its branches.

20 (E) A screening MRI when medically necessary, as
21 determined by a physician licensed to practice medicine in
22 all of its branches.

23 All screenings shall include a physical breast exam,
24 instruction on self-examination and information regarding the
25 frequency of self-examination and its value as a preventative
26 tool. For purposes of this Section, "low-dose mammography"

1 means the x-ray examination of the breast using equipment
2 dedicated specifically for mammography, including the x-ray
3 tube, filter, compression device, and image receptor, with an
4 average radiation exposure delivery of less than one rad per
5 breast for 2 views of an average size breast. The term also
6 includes digital mammography and includes breast
7 tomosynthesis. As used in this Section, the term "breast
8 tomosynthesis" means a radiologic procedure that involves the
9 acquisition of projection images over the stationary breast to
10 produce cross-sectional digital three-dimensional images of
11 the breast. If, at any time, the Secretary of the United States
12 Department of Health and Human Services, or its successor
13 agency, promulgates rules or regulations to be published in the
14 Federal Register or publishes a comment in the Federal Register
15 or issues an opinion, guidance, or other action that would
16 require the State, pursuant to any provision of the Patient
17 Protection and Affordable Care Act (Public Law 111-148),
18 including, but not limited to, 42 U.S.C. 18031(d)(3)(B) or any
19 successor provision, to defray the cost of any coverage for
20 breast tomosynthesis outlined in this paragraph, then the
21 requirement that an insurer cover breast tomosynthesis is
22 inoperative other than any such coverage authorized under
23 Section 1902 of the Social Security Act, 42 U.S.C. 1396a, and
24 the State shall not assume any obligation for the cost of
25 coverage for breast tomosynthesis set forth in this paragraph.

26 On and after January 1, 2016, the Department shall ensure

1 that all networks of care for adult clients of the Department
2 include access to at least one breast imaging Center of Imaging
3 Excellence as certified by the American College of Radiology.

4 On and after January 1, 2012, providers participating in a
5 quality improvement program approved by the Department shall be
6 reimbursed for screening and diagnostic mammography at the same
7 rate as the Medicare program's rates, including the increased
8 reimbursement for digital mammography.

9 The Department shall convene an expert panel including
10 representatives of hospitals, free-standing mammography
11 facilities, and doctors, including radiologists, to establish
12 quality standards for mammography.

13 On and after January 1, 2017, providers participating in a
14 breast cancer treatment quality improvement program approved
15 by the Department shall be reimbursed for breast cancer
16 treatment at a rate that is no lower than 95% of the Medicare
17 program's rates for the data elements included in the breast
18 cancer treatment quality program.

19 The Department shall convene an expert panel, including
20 representatives of hospitals, free-standing breast cancer
21 treatment centers, breast cancer quality organizations, and
22 doctors, including breast surgeons, reconstructive breast
23 surgeons, oncologists, and primary care providers to establish
24 quality standards for breast cancer treatment.

25 Subject to federal approval, the Department shall
26 establish a rate methodology for mammography at federally

1 qualified health centers and other encounter-rate clinics.
2 These clinics or centers may also collaborate with other
3 hospital-based mammography facilities. By January 1, 2016, the
4 Department shall report to the General Assembly on the status
5 of the provision set forth in this paragraph.

6 The Department shall establish a methodology to remind
7 women who are age-appropriate for screening mammography, but
8 who have not received a mammogram within the previous 18
9 months, of the importance and benefit of screening mammography.
10 The Department shall work with experts in breast cancer
11 outreach and patient navigation to optimize these reminders and
12 shall establish a methodology for evaluating their
13 effectiveness and modifying the methodology based on the
14 evaluation.

15 The Department shall establish a performance goal for
16 primary care providers with respect to their female patients
17 over age 40 receiving an annual mammogram. This performance
18 goal shall be used to provide additional reimbursement in the
19 form of a quality performance bonus to primary care providers
20 who meet that goal.

21 The Department shall devise a means of case-managing or
22 patient navigation for beneficiaries diagnosed with breast
23 cancer. This program shall initially operate as a pilot program
24 in areas of the State with the highest incidence of mortality
25 related to breast cancer. At least one pilot program site shall
26 be in the metropolitan Chicago area and at least one site shall

1 be outside the metropolitan Chicago area. On or after July 1,
2 2016, the pilot program shall be expanded to include one site
3 in western Illinois, one site in southern Illinois, one site in
4 central Illinois, and 4 sites within metropolitan Chicago. An
5 evaluation of the pilot program shall be carried out measuring
6 health outcomes and cost of care for those served by the pilot
7 program compared to similarly situated patients who are not
8 served by the pilot program.

9 The Department shall require all networks of care to
10 develop a means either internally or by contract with experts
11 in navigation and community outreach to navigate cancer
12 patients to comprehensive care in a timely fashion. The
13 Department shall require all networks of care to include access
14 for patients diagnosed with cancer to at least one academic
15 commission on cancer-accredited cancer program as an
16 in-network covered benefit.

17 On or after July 1, 2019, women who are otherwise eligible
18 for medical assistance under this Article shall receive
19 coverage for doula services by a certified doula during their
20 pregnancy and during the 12-month period beginning on the last
21 day of their pregnancy. As used in this paragraph, "certified
22 doula" means an individual who has received a certification to
23 perform doula services from the International Childbirth
24 Education Association, the Doulas of North America, the
25 Association of Labor Assistants and Childbirth Educators,
26 BirthWorks, the Childbirth and Postpartum Professional

1 Association, Childbirth International, the International
2 Center for Traditional Childbearing, or Commonsense Childbirth
3 Inc. As used in this paragraph, "doula services" means
4 continuous personal, non-medical emotional and physical
5 support throughout labor and birth, and intermittently during
6 the prenatal and postpartum periods.

7 On or after July 1, 2019, women who are otherwise eligible
8 for medical assistance under this Article shall receive
9 coverage for perinatal depression screenings for the 12-month
10 period beginning on the last day of their pregnancy. Medical
11 assistance coverage under this paragraph shall be conditioned
12 on the use of a screening instrument approved by the
13 Department.

14 Any medical or health care provider shall immediately
15 recommend, to any pregnant woman who is being provided prenatal
16 services and is suspected of having a substance use disorder as
17 defined in the Substance Use Disorder Act, referral to a local
18 substance use disorder treatment program licensed by the
19 Department of Human Services or to a licensed hospital which
20 provides substance abuse treatment services. The Department of
21 Healthcare and Family Services shall assure coverage for the
22 cost of treatment of the drug abuse or addiction for pregnant
23 recipients in accordance with the Illinois Medicaid Program in
24 conjunction with the Department of Human Services.

25 All medical providers providing medical assistance to
26 pregnant women under this Code shall receive information from

1 the Department on the availability of services under any
2 program providing case management services for addicted women,
3 including information on appropriate referrals for other
4 social services that may be needed by addicted women in
5 addition to treatment for addiction.

6 The Illinois Department, in cooperation with the
7 Departments of Human Services (as successor to the Department
8 of Alcoholism and Substance Abuse) and Public Health, through a
9 public awareness campaign, may provide information concerning
10 treatment for alcoholism and drug abuse and addiction, prenatal
11 health care, and other pertinent programs directed at reducing
12 the number of drug-affected infants born to recipients of
13 medical assistance.

14 Neither the Department of Healthcare and Family Services
15 nor the Department of Human Services shall sanction the
16 recipient solely on the basis of her substance abuse.

17 The Illinois Department shall establish such regulations
18 governing the dispensing of health services under this Article
19 as it shall deem appropriate. The Department should seek the
20 advice of formal professional advisory committees appointed by
21 the Director of the Illinois Department for the purpose of
22 providing regular advice on policy and administrative matters,
23 information dissemination and educational activities for
24 medical and health care providers, and consistency in
25 procedures to the Illinois Department.

26 The Illinois Department may develop and contract with

1 Partnerships of medical providers to arrange medical services
2 for persons eligible under Section 5-2 of this Code.
3 Implementation of this Section may be by demonstration projects
4 in certain geographic areas. The Partnership shall be
5 represented by a sponsor organization. The Department, by rule,
6 shall develop qualifications for sponsors of Partnerships.
7 Nothing in this Section shall be construed to require that the
8 sponsor organization be a medical organization.

9 The sponsor must negotiate formal written contracts with
10 medical providers for physician services, inpatient and
11 outpatient hospital care, home health services, treatment for
12 alcoholism and substance abuse, and other services determined
13 necessary by the Illinois Department by rule for delivery by
14 Partnerships. Physician services must include prenatal and
15 obstetrical care. The Illinois Department shall reimburse
16 medical services delivered by Partnership providers to clients
17 in target areas according to provisions of this Article and the
18 Illinois Health Finance Reform Act, except that:

19 (1) Physicians participating in a Partnership and
20 providing certain services, which shall be determined by
21 the Illinois Department, to persons in areas covered by the
22 Partnership may receive an additional surcharge for such
23 services.

24 (2) The Department may elect to consider and negotiate
25 financial incentives to encourage the development of
26 Partnerships and the efficient delivery of medical care.

1 (3) Persons receiving medical services through
2 Partnerships may receive medical and case management
3 services above the level usually offered through the
4 medical assistance program.

5 Medical providers shall be required to meet certain
6 qualifications to participate in Partnerships to ensure the
7 delivery of high quality medical services. These
8 qualifications shall be determined by rule of the Illinois
9 Department and may be higher than qualifications for
10 participation in the medical assistance program. Partnership
11 sponsors may prescribe reasonable additional qualifications
12 for participation by medical providers, only with the prior
13 written approval of the Illinois Department.

14 Nothing in this Section shall limit the free choice of
15 practitioners, hospitals, and other providers of medical
16 services by clients. In order to ensure patient freedom of
17 choice, the Illinois Department shall immediately promulgate
18 all rules and take all other necessary actions so that provided
19 services may be accessed from therapeutically certified
20 optometrists to the full extent of the Illinois Optometric
21 Practice Act of 1987 without discriminating between service
22 providers.

23 The Department shall apply for a waiver from the United
24 States Health Care Financing Administration to allow for the
25 implementation of Partnerships under this Section.

26 The Illinois Department shall require health care

1 providers to maintain records that document the medical care
2 and services provided to recipients of Medical Assistance under
3 this Article. Such records must be retained for a period of not
4 less than 6 years from the date of service or as provided by
5 applicable State law, whichever period is longer, except that
6 if an audit is initiated within the required retention period
7 then the records must be retained until the audit is completed
8 and every exception is resolved. The Illinois Department shall
9 require health care providers to make available, when
10 authorized by the patient, in writing, the medical records in a
11 timely fashion to other health care providers who are treating
12 or serving persons eligible for Medical Assistance under this
13 Article. All dispensers of medical services shall be required
14 to maintain and retain business and professional records
15 sufficient to fully and accurately document the nature, scope,
16 details and receipt of the health care provided to persons
17 eligible for medical assistance under this Code, in accordance
18 with regulations promulgated by the Illinois Department. The
19 rules and regulations shall require that proof of the receipt
20 of prescription drugs, dentures, prosthetic devices and
21 eyeglasses by eligible persons under this Section accompany
22 each claim for reimbursement submitted by the dispenser of such
23 medical services. No such claims for reimbursement shall be
24 approved for payment by the Illinois Department without such
25 proof of receipt, unless the Illinois Department shall have put
26 into effect and shall be operating a system of post-payment

1 audit and review which shall, on a sampling basis, be deemed
2 adequate by the Illinois Department to assure that such drugs,
3 dentures, prosthetic devices and eyeglasses for which payment
4 is being made are actually being received by eligible
5 recipients. Within 90 days after September 16, 1984 (the
6 effective date of Public Act 83-1439), the Illinois Department
7 shall establish a current list of acquisition costs for all
8 prosthetic devices and any other items recognized as medical
9 equipment and supplies reimbursable under this Article and
10 shall update such list on a quarterly basis, except that the
11 acquisition costs of all prescription drugs shall be updated no
12 less frequently than every 30 days as required by Section
13 5-5.12.

14 Notwithstanding any other law to the contrary, the Illinois
15 Department shall, within 365 days after July 22, 2013 (the
16 effective date of Public Act 98-104), establish procedures to
17 permit skilled care facilities licensed under the Nursing Home
18 Care Act to submit monthly billing claims for reimbursement
19 purposes. Following development of these procedures, the
20 Department shall, by July 1, 2016, test the viability of the
21 new system and implement any necessary operational or
22 structural changes to its information technology platforms in
23 order to allow for the direct acceptance and payment of nursing
24 home claims.

25 Notwithstanding any other law to the contrary, the Illinois
26 Department shall, within 365 days after August 15, 2014 (the

1 effective date of Public Act 98-963), establish procedures to
2 permit ID/DD facilities licensed under the ID/DD Community Care
3 Act and MC/DD facilities licensed under the MC/DD Act to submit
4 monthly billing claims for reimbursement purposes. Following
5 development of these procedures, the Department shall have an
6 additional 365 days to test the viability of the new system and
7 to ensure that any necessary operational or structural changes
8 to its information technology platforms are implemented.

9 The Illinois Department shall require all dispensers of
10 medical services, other than an individual practitioner or
11 group of practitioners, desiring to participate in the Medical
12 Assistance program established under this Article to disclose
13 all financial, beneficial, ownership, equity, surety or other
14 interests in any and all firms, corporations, partnerships,
15 associations, business enterprises, joint ventures, agencies,
16 institutions or other legal entities providing any form of
17 health care services in this State under this Article.

18 The Illinois Department may require that all dispensers of
19 medical services desiring to participate in the medical
20 assistance program established under this Article disclose,
21 under such terms and conditions as the Illinois Department may
22 by rule establish, all inquiries from clients and attorneys
23 regarding medical bills paid by the Illinois Department, which
24 inquiries could indicate potential existence of claims or liens
25 for the Illinois Department.

26 Enrollment of a vendor shall be subject to a provisional

1 period and shall be conditional for one year. During the period
2 of conditional enrollment, the Department may terminate the
3 vendor's eligibility to participate in, or may disenroll the
4 vendor from, the medical assistance program without cause.
5 Unless otherwise specified, such termination of eligibility or
6 disenrollment is not subject to the Department's hearing
7 process. However, a disenrolled vendor may reapply without
8 penalty.

9 The Department has the discretion to limit the conditional
10 enrollment period for vendors based upon category of risk of
11 the vendor.

12 Prior to enrollment and during the conditional enrollment
13 period in the medical assistance program, all vendors shall be
14 subject to enhanced oversight, screening, and review based on
15 the risk of fraud, waste, and abuse that is posed by the
16 category of risk of the vendor. The Illinois Department shall
17 establish the procedures for oversight, screening, and review,
18 which may include, but need not be limited to: criminal and
19 financial background checks; fingerprinting; license,
20 certification, and authorization verifications; unscheduled or
21 unannounced site visits; database checks; prepayment audit
22 reviews; audits; payment caps; payment suspensions; and other
23 screening as required by federal or State law.

24 The Department shall define or specify the following: (i)
25 by provider notice, the "category of risk of the vendor" for
26 each type of vendor, which shall take into account the level of

1 screening applicable to a particular category of vendor under
2 federal law and regulations; (ii) by rule or provider notice,
3 the maximum length of the conditional enrollment period for
4 each category of risk of the vendor; and (iii) by rule, the
5 hearing rights, if any, afforded to a vendor in each category
6 of risk of the vendor that is terminated or disenrolled during
7 the conditional enrollment period.

8 To be eligible for payment consideration, a vendor's
9 payment claim or bill, either as an initial claim or as a
10 resubmitted claim following prior rejection, must be received
11 by the Illinois Department, or its fiscal intermediary, no
12 later than 180 days after the latest date on the claim on which
13 medical goods or services were provided, with the following
14 exceptions:

15 (1) In the case of a provider whose enrollment is in
16 process by the Illinois Department, the 180-day period
17 shall not begin until the date on the written notice from
18 the Illinois Department that the provider enrollment is
19 complete.

20 (2) In the case of errors attributable to the Illinois
21 Department or any of its claims processing intermediaries
22 which result in an inability to receive, process, or
23 adjudicate a claim, the 180-day period shall not begin
24 until the provider has been notified of the error.

25 (3) In the case of a provider for whom the Illinois
26 Department initiates the monthly billing process.

1 (4) In the case of a provider operated by a unit of
2 local government with a population exceeding 3,000,000
3 when local government funds finance federal participation
4 for claims payments.

5 For claims for services rendered during a period for which
6 a recipient received retroactive eligibility, claims must be
7 filed within 180 days after the Department determines the
8 applicant is eligible. For claims for which the Illinois
9 Department is not the primary payer, claims must be submitted
10 to the Illinois Department within 180 days after the final
11 adjudication by the primary payer.

12 In the case of long term care facilities, within 45
13 calendar days of receipt by the facility of required
14 prescreening information, new admissions with associated
15 admission documents shall be submitted through the Medical
16 Electronic Data Interchange (MEDI) or the Recipient
17 Eligibility Verification (REV) System or shall be submitted
18 directly to the Department of Human Services using required
19 admission forms. Effective September 1, 2014, admission
20 documents, including all prescreening information, must be
21 submitted through MEDI or REV. Confirmation numbers assigned to
22 an accepted transaction shall be retained by a facility to
23 verify timely submittal. Once an admission transaction has been
24 completed, all resubmitted claims following prior rejection
25 are subject to receipt no later than 180 days after the
26 admission transaction has been completed.

1 Claims that are not submitted and received in compliance
2 with the foregoing requirements shall not be eligible for
3 payment under the medical assistance program, and the State
4 shall have no liability for payment of those claims.

5 To the extent consistent with applicable information and
6 privacy, security, and disclosure laws, State and federal
7 agencies and departments shall provide the Illinois Department
8 access to confidential and other information and data necessary
9 to perform eligibility and payment verifications and other
10 Illinois Department functions. This includes, but is not
11 limited to: information pertaining to licensure;
12 certification; earnings; immigration status; citizenship; wage
13 reporting; unearned and earned income; pension income;
14 employment; supplemental security income; social security
15 numbers; National Provider Identifier (NPI) numbers; the
16 National Practitioner Data Bank (NPDB); program and agency
17 exclusions; taxpayer identification numbers; tax delinquency;
18 corporate information; and death records.

19 The Illinois Department shall enter into agreements with
20 State agencies and departments, and is authorized to enter into
21 agreements with federal agencies and departments, under which
22 such agencies and departments shall share data necessary for
23 medical assistance program integrity functions and oversight.
24 The Illinois Department shall develop, in cooperation with
25 other State departments and agencies, and in compliance with
26 applicable federal laws and regulations, appropriate and

1 effective methods to share such data. At a minimum, and to the
2 extent necessary to provide data sharing, the Illinois
3 Department shall enter into agreements with State agencies and
4 departments, and is authorized to enter into agreements with
5 federal agencies and departments, including but not limited to:
6 the Secretary of State; the Department of Revenue; the
7 Department of Public Health; the Department of Human Services;
8 and the Department of Financial and Professional Regulation.

9 Beginning in fiscal year 2013, the Illinois Department
10 shall set forth a request for information to identify the
11 benefits of a pre-payment, post-adjudication, and post-edit
12 claims system with the goals of streamlining claims processing
13 and provider reimbursement, reducing the number of pending or
14 rejected claims, and helping to ensure a more transparent
15 adjudication process through the utilization of: (i) provider
16 data verification and provider screening technology; and (ii)
17 clinical code editing; and (iii) pre-pay, pre- or
18 post-adjudicated predictive modeling with an integrated case
19 management system with link analysis. Such a request for
20 information shall not be considered as a request for proposal
21 or as an obligation on the part of the Illinois Department to
22 take any action or acquire any products or services.

23 The Illinois Department shall establish policies,
24 procedures, standards and criteria by rule for the acquisition,
25 repair and replacement of orthotic and prosthetic devices and
26 durable medical equipment. Such rules shall provide, but not be

1 limited to, the following services: (1) immediate repair or
2 replacement of such devices by recipients; and (2) rental,
3 lease, purchase or lease-purchase of durable medical equipment
4 in a cost-effective manner, taking into consideration the
5 recipient's medical prognosis, the extent of the recipient's
6 needs, and the requirements and costs for maintaining such
7 equipment. Subject to prior approval, such rules shall enable a
8 recipient to temporarily acquire and use alternative or
9 substitute devices or equipment pending repairs or
10 replacements of any device or equipment previously authorized
11 for such recipient by the Department. Notwithstanding any
12 provision of Section 5-5f to the contrary, the Department may,
13 by rule, exempt certain replacement wheelchair parts from prior
14 approval and, for wheelchairs, wheelchair parts, wheelchair
15 accessories, and related seating and positioning items,
16 determine the wholesale price by methods other than actual
17 acquisition costs.

18 The Department shall require, by rule, all providers of
19 durable medical equipment to be accredited by an accreditation
20 organization approved by the federal Centers for Medicare and
21 Medicaid Services and recognized by the Department in order to
22 bill the Department for providing durable medical equipment to
23 recipients. No later than 15 months after the effective date of
24 the rule adopted pursuant to this paragraph, all providers must
25 meet the accreditation requirement.

26 In order to promote environmental responsibility, meet the

1 needs of recipients and enrollees, and achieve significant cost
2 savings, the Department, or a managed care organization under
3 contract with the Department, may provide recipients or managed
4 care enrollees who have a prescription or Certificate of
5 Medical Necessity access to refurbished durable medical
6 equipment under this Section (excluding prosthetic and
7 orthotic devices as defined in the Orthotics, Prosthetics, and
8 Pedorthics Practice Act and complex rehabilitation technology
9 products and associated services) through the State's
10 assistive technology program's reutilization program, using
11 staff with the Assistive Technology Professional (ATP)
12 Certification if the refurbished durable medical equipment:
13 (i) is available; (ii) is less expensive, including shipping
14 costs, than new durable medical equipment of the same type;
15 (iii) is able to withstand at least 3 years of use; (iv) is
16 cleaned, disinfected, sterilized, and safe in accordance with
17 federal Food and Drug Administration regulations and guidance
18 governing the reprocessing of medical devices in health care
19 settings; and (v) equally meets the needs of the recipient or
20 enrollee. The reutilization program shall confirm that the
21 recipient or enrollee is not already in receipt of same or
22 similar equipment from another service provider, and that the
23 refurbished durable medical equipment equally meets the needs
24 of the recipient or enrollee. Nothing in this paragraph shall
25 be construed to limit recipient or enrollee choice to obtain
26 new durable medical equipment or place any additional prior

1 authorization conditions on enrollees of managed care
2 organizations.

3 The Department shall execute, relative to the nursing home
4 prescreening project, written inter-agency agreements with the
5 Department of Human Services and the Department on Aging, to
6 effect the following: (i) intake procedures and common
7 eligibility criteria for those persons who are receiving
8 non-institutional services; and (ii) the establishment and
9 development of non-institutional services in areas of the State
10 where they are not currently available or are undeveloped; and
11 (iii) notwithstanding any other provision of law, subject to
12 federal approval, on and after July 1, 2012, an increase in the
13 determination of need (DON) scores from 29 to 37 for applicants
14 for institutional and home and community-based long term care;
15 if and only if federal approval is not granted, the Department
16 may, in conjunction with other affected agencies, implement
17 utilization controls or changes in benefit packages to
18 effectuate a similar savings amount for this population; and
19 (iv) no later than July 1, 2013, minimum level of care
20 eligibility criteria for institutional and home and
21 community-based long term care; and (v) no later than October
22 1, 2013, establish procedures to permit long term care
23 providers access to eligibility scores for individuals with an
24 admission date who are seeking or receiving services from the
25 long term care provider. In order to select the minimum level
26 of care eligibility criteria, the Governor shall establish a

1 workgroup that includes affected agency representatives and
2 stakeholders representing the institutional and home and
3 community-based long term care interests. This Section shall
4 not restrict the Department from implementing lower level of
5 care eligibility criteria for community-based services in
6 circumstances where federal approval has been granted.

7 The Illinois Department shall develop and operate, in
8 cooperation with other State Departments and agencies and in
9 compliance with applicable federal laws and regulations,
10 appropriate and effective systems of health care evaluation and
11 programs for monitoring of utilization of health care services
12 and facilities, as it affects persons eligible for medical
13 assistance under this Code.

14 The Illinois Department shall report annually to the
15 General Assembly, no later than the second Friday in April of
16 1979 and each year thereafter, in regard to:

17 (a) actual statistics and trends in utilization of
18 medical services by public aid recipients;

19 (b) actual statistics and trends in the provision of
20 the various medical services by medical vendors;

21 (c) current rate structures and proposed changes in
22 those rate structures for the various medical vendors; and

23 (d) efforts at utilization review and control by the
24 Illinois Department.

25 The period covered by each report shall be the 3 years
26 ending on the June 30 prior to the report. The report shall

1 include suggested legislation for consideration by the General
2 Assembly. The requirement for reporting to the General Assembly
3 shall be satisfied by filing copies of the report as required
4 by Section 3.1 of the General Assembly Organization Act, and
5 filing such additional copies with the State Government Report
6 Distribution Center for the General Assembly as is required
7 under paragraph (t) of Section 7 of the State Library Act.

8 Rulemaking authority to implement Public Act 95-1045, if
9 any, is conditioned on the rules being adopted in accordance
10 with all provisions of the Illinois Administrative Procedure
11 Act and all rules and procedures of the Joint Committee on
12 Administrative Rules; any purported rule not so adopted, for
13 whatever reason, is unauthorized.

14 On and after July 1, 2012, the Department shall reduce any
15 rate of reimbursement for services or other payments or alter
16 any methodologies authorized by this Code to reduce any rate of
17 reimbursement for services or other payments in accordance with
18 Section 5-5e.

19 Because kidney transplantation can be an appropriate,
20 cost-effective alternative to renal dialysis when medically
21 necessary and notwithstanding the provisions of Section 1-11 of
22 this Code, beginning October 1, 2014, the Department shall
23 cover kidney transplantation for noncitizens with end-stage
24 renal disease who are not eligible for comprehensive medical
25 benefits, who meet the residency requirements of Section 5-3 of
26 this Code, and who would otherwise meet the financial

1 requirements of the appropriate class of eligible persons under
2 Section 5-2 of this Code. To qualify for coverage of kidney
3 transplantation, such person must be receiving emergency renal
4 dialysis services covered by the Department. Providers under
5 this Section shall be prior approved and certified by the
6 Department to perform kidney transplantation and the services
7 under this Section shall be limited to services associated with
8 kidney transplantation.

9 Notwithstanding any other provision of this Code to the
10 contrary, on or after July 1, 2015, all FDA approved forms of
11 medication assisted treatment prescribed for the treatment of
12 alcohol dependence or treatment of opioid dependence shall be
13 covered under both fee for service and managed care medical
14 assistance programs for persons who are otherwise eligible for
15 medical assistance under this Article and shall not be subject
16 to any (1) utilization control, other than those established
17 under the American Society of Addiction Medicine patient
18 placement criteria, (2) prior authorization mandate, or (3)
19 lifetime restriction limit mandate.

20 On or after July 1, 2015, opioid antagonists prescribed for
21 the treatment of an opioid overdose, including the medication
22 product, administration devices, and any pharmacy fees related
23 to the dispensing and administration of the opioid antagonist,
24 shall be covered under the medical assistance program for
25 persons who are otherwise eligible for medical assistance under
26 this Article. As used in this Section, "opioid antagonist"

1 means a drug that binds to opioid receptors and blocks or
2 inhibits the effect of opioids acting on those receptors,
3 including, but not limited to, naloxone hydrochloride or any
4 other similarly acting drug approved by the U.S. Food and Drug
5 Administration.

6 Upon federal approval, the Department shall provide
7 coverage and reimbursement for all drugs that are approved for
8 marketing by the federal Food and Drug Administration and that
9 are recommended by the federal Public Health Service or the
10 United States Centers for Disease Control and Prevention for
11 pre-exposure prophylaxis and related pre-exposure prophylaxis
12 services, including, but not limited to, HIV and sexually
13 transmitted infection screening, treatment for sexually
14 transmitted infections, medical monitoring, assorted labs, and
15 counseling to reduce the likelihood of HIV infection among
16 individuals who are not infected with HIV but who are at high
17 risk of HIV infection.

18 A federally qualified health center, as defined in Section
19 1905(1)(2)(B) of the federal Social Security Act, shall be
20 reimbursed by the Department in accordance with the federally
21 qualified health center's encounter rate for services provided
22 to medical assistance recipients that are performed by a dental
23 hygienist, as defined under the Illinois Dental Practice Act,
24 working under the general supervision of a dentist and employed
25 by a federally qualified health center.

26 Notwithstanding any other provision of this Code, the

1 Illinois Department shall authorize licensed dietitian
2 nutritionists and certified diabetes educators to counsel
3 senior diabetes patients in the senior diabetes patients' homes
4 to remove the hurdle of transportation for senior diabetes
5 patients to receive treatment.

6 The Department shall seek approval of a State Plan
7 amendment to expand coverage for family planning services to
8 women whose income is at or below 200% of the federal poverty
9 level.

10 (Source: P.A. 99-78, eff. 7-20-15; 99-180, eff. 7-29-15;
11 99-236, eff. 8-3-15; 99-407 (see Section 20 of P.A. 99-588 for
12 the effective date of P.A. 99-407); 99-433, eff. 8-21-15;
13 99-480, eff. 9-9-15; 99-588, eff. 7-20-16; 99-642, eff.
14 7-28-16; 99-772, eff. 1-1-17; 99-895, eff. 1-1-17; 100-201,
15 eff. 8-18-17; 100-395, eff. 1-1-18; 100-449, eff. 1-1-18;
16 100-538, eff. 1-1-18; 100-587, eff. 6-4-18; 100-759, eff.
17 1-1-19; 100-863, eff. 8-14-18; 100-974, eff. 8-19-18;
18 100-1009, eff. 1-1-19; 100-1018, eff. 1-1-19; 100-1148, eff.
19 12-10-18.)

20 (305 ILCS 5/5-5.24)

21 Sec. 5-5.24. Prenatal and perinatal care. The Department of
22 Healthcare and Family Services may provide reimbursement under
23 this Article for all prenatal and perinatal health care
24 services that are provided for the purpose of preventing
25 low-birthweight infants, reducing the need for neonatal

1 intensive care hospital services, and promoting perinatal and
2 maternal health. These services may include comprehensive risk
3 assessments for pregnant women, women with infants, and
4 infants, lactation counseling, nutrition counseling,
5 childbirth support, psychosocial counseling, treatment and
6 prevention of periodontal disease, language translation, nurse
7 home visitation, and other support services that have been
8 proven to improve birth and maternal health outcomes. The
9 Department shall maximize the use of preventive prenatal and
10 perinatal health care services consistent with federal
11 statutes, rules, and regulations. The Department of Public Aid
12 (now Department of Healthcare and Family Services) shall
13 develop a plan for prenatal and perinatal preventive health
14 care and shall present the plan to the General Assembly by
15 January 1, 2004. On or before January 1, 2006 and every 2 years
16 thereafter, the Department shall report to the General Assembly
17 concerning the effectiveness of prenatal and perinatal health
18 care services reimbursed under this Section in preventing
19 low-birthweight infants and reducing the need for neonatal
20 intensive care hospital services. Each such report shall
21 include an evaluation of how the ratio of expenditures for
22 treating low-birthweight infants compared with the investment
23 in promoting healthy births and infants in local community
24 areas throughout Illinois relates to healthy infant
25 development in those areas.

26 On and after July 1, 2012, the Department shall reduce any

1 rate of reimbursement for services or other payments or alter
2 any methodologies authorized by this Code to reduce any rate of
3 reimbursement for services or other payments in accordance with
4 Section 5-5e.

5 (Source: P.A. 97-689, eff. 6-14-12.)

6 Section 55. The Abused and Neglected Child Reporting Act is
7 amended by changing Section 3 as follows:

8 (325 ILCS 5/3) (from Ch. 23, par. 2053)

9 Sec. 3. As used in this Act unless the context otherwise
10 requires:

11 "Adult resident" means any person between 18 and 22 years
12 of age who resides in any facility licensed by the Department
13 under the Child Care Act of 1969. For purposes of this Act, the
14 criteria set forth in the definitions of "abused child" and
15 "neglected child" shall be used in determining whether an adult
16 resident is abused or neglected.

17 "Agency" means a child care facility licensed under Section
18 2.05 or Section 2.06 of the Child Care Act of 1969 and includes
19 a transitional living program that accepts children and adult
20 residents for placement who are in the guardianship of the
21 Department.

22 "Blatant disregard" means an incident where the real,
23 significant, and imminent risk of harm would be so obvious to a
24 reasonable parent or caretaker that it is unlikely that a

1 reasonable parent or caretaker would have exposed the child to
2 the danger without exercising precautionary measures to
3 protect the child from harm. With respect to a person working
4 at an agency in his or her professional capacity with a child
5 or adult resident, "blatant disregard" includes a failure by
6 the person to perform job responsibilities intended to protect
7 the child's or adult resident's health, physical well-being, or
8 welfare, and, when viewed in light of the surrounding
9 circumstances, evidence exists that would cause a reasonable
10 person to believe that the child was neglected. With respect to
11 an agency, "blatant disregard" includes a failure to implement
12 practices that ensure the health, physical well-being, or
13 welfare of the children and adult residents residing in the
14 facility.

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

18 "Department" means Department of Children and Family
19 Services.

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

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

1 child, or a paramour of the child's parent:

2 (a) inflicts, causes to be inflicted, or allows to be
3 inflicted upon such child physical injury, by other than
4 accidental means, which causes death, disfigurement,
5 impairment of physical or emotional health, or loss or
6 impairment of any bodily function;

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

12 (c) commits or allows to be committed any sex offense
13 against such child, as such sex offenses are defined in the
14 Criminal Code of 2012 or in the Wrongs to Children Act, and
15 extending those definitions of sex offenses to include
16 children under 18 years of age;

17 (d) commits or allows to be committed an act or acts of
18 torture upon such child;

19 (e) inflicts excessive corporal punishment or, in the
20 case of a person working for an agency who is prohibited
21 from using corporal punishment, inflicts corporal
22 punishment upon a child or adult resident with whom the
23 person is working in his or her professional capacity;

24 (f) commits or allows to be committed the offense of
25 female genital mutilation, as defined in Section 12-34 of
26 the Criminal Code of 2012, against the child;

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

11 (h) commits or allows to be committed the offense of
12 involuntary servitude, involuntary sexual servitude of a
13 minor, or trafficking in persons as defined in Section 10-9
14 of the Criminal Code of 2012 against the child.

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

18 "Neglected child" means any child who is not receiving the
19 proper or necessary nourishment or medically indicated
20 treatment including food or care not provided solely on the
21 basis of the present or anticipated mental or physical
22 impairment as determined by a physician acting alone or in
23 consultation with other physicians or otherwise is not
24 receiving the proper or necessary support or medical or other
25 remedial care recognized under State law as necessary for a
26 child's well-being, or other care necessary for his or her

1 well-being, including adequate food, clothing and shelter; or
2 who is subjected to an environment which is injurious insofar
3 as (i) the child's environment creates a likelihood of harm to
4 the child's health, physical well-being, or welfare and (ii)
5 the likely harm to the child is the result of a blatant
6 disregard of parent, caretaker, or agency responsibilities; or
7 who is abandoned by his or her parents or other person
8 responsible for the child's welfare without a proper plan of
9 care; or who has been provided with interim crisis intervention
10 services under Section 3-5 of the Juvenile Court Act of 1987
11 and whose parent, guardian, or custodian refuses to permit the
12 child to return home and no other living arrangement agreeable
13 to the parent, guardian, or custodian can be made, and the
14 parent, guardian, or custodian has not made any other
15 appropriate living arrangement for the child; ~~or who is a~~
16 ~~newborn infant whose blood, urine, or meconium contains any~~
17 ~~amount of a controlled substance as defined in subsection (f)~~
18 ~~of Section 102 of the Illinois Controlled Substances Act or a~~
19 ~~metabolite thereof, with the exception of a controlled~~
20 ~~substance or metabolite thereof whose presence in the newborn~~
21 ~~infant is the result of medical treatment administered to the~~
22 ~~mother or the newborn infant.~~ A child shall not be considered
23 neglected for the sole reason that the child's parent or other
24 person responsible for his or her welfare has left the child in
25 the care of an adult relative for any period of time. A child
26 shall not be considered neglected for the sole reason that the

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

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

15 "Near fatality" means an act that, as certified by a
16 physician, places the child in serious or critical condition,
17 including acts of great bodily harm inflicted upon children
18 under 13 years of age, and as otherwise defined by Department
19 rule.

20 "Great bodily harm" includes bodily injury which creates a
21 high probability of death, or which causes serious permanent
22 disfigurement, or which causes a permanent or protracted loss
23 or impairment of the function of any bodily member or organ, or
24 other serious bodily harm.

25 "Person responsible for the child's welfare" means the
26 child's parent; guardian; foster parent; relative caregiver;

1 any person responsible for the child's welfare in a public or
2 private residential agency or institution; any person
3 responsible for the child's welfare within a public or private
4 profit or not for profit child care facility; or any other
5 person responsible for the child's welfare at the time of the
6 alleged abuse or neglect, including any person that is the
7 custodian of a child under 18 years of age who commits or
8 allows to be committed, against the child, the offense of
9 involuntary servitude, involuntary sexual servitude of a
10 minor, or trafficking in persons for forced labor or services,
11 as provided in Section 10-9 of the Criminal Code of 2012, or
12 any person who came to know the child through an official
13 capacity or position of trust, including but not limited to
14 health care professionals, educational personnel, recreational
15 supervisors, members of the clergy, and volunteers or support
16 personnel in any setting where children may be subject to abuse
17 or neglect.

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

25 "An unfounded report" means any report made under this Act
26 for which it is determined after an investigation that no

1 credible evidence of abuse or neglect exists.

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

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

9 "Subject of report" means any child reported to the central
10 register of child abuse and neglect established under Section
11 7.7 of this Act as an alleged victim of child abuse or neglect
12 and the parent or guardian of the alleged victim or other
13 person responsible for the alleged victim's welfare who is
14 named in the report or added to the report as an alleged
15 perpetrator of child abuse or neglect.

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

19 "Member of the clergy" means a clergyman or practitioner of
20 any religious denomination accredited by the religious body to
21 which he or she belongs.

22 (Source: P.A. 99-350, eff. 6-1-16; 100-733, eff. 1-1-19.)

23 Section 60. The Juvenile Court Act of 1987 is amended by
24 changing Sections 2-3 and 2-18 as follows:

1 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

3 (1) Those who are neglected include:

4 (a) any minor under 18 years of age who is not
5 receiving the proper or necessary support, education as
6 required by law, or medical or other remedial care
7 recognized under State law as necessary for a minor's
8 well-being, or other care necessary for his or her
9 well-being, including adequate food, clothing and shelter,
10 or who is abandoned by his or her parent or parents or
11 other person or persons responsible for the minor's
12 welfare, except that a minor shall not be considered
13 neglected for the sole reason that the minor's parent or
14 parents or other person or persons responsible for the
15 minor's welfare have left the minor in the care of an adult
16 relative for any period of time, who the parent or parents
17 or other person responsible for the minor's welfare know is
18 both a mentally capable adult relative and physically
19 capable adult relative, as defined by this Act; or

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

22 (c) (blank); or ~~any newborn infant whose blood, urine,~~
23 ~~or meconium contains any amount of a controlled substance~~
24 ~~as defined in subsection (f) of Section 102 of the Illinois~~
25 ~~Controlled Substances Act, as now or hereafter amended, or~~
26 ~~a metabolite of a controlled substance, with the exception~~

1 ~~of controlled substances or metabolites of such~~
2 ~~substances, the presence of which in the newborn infant is~~
3 ~~the result of medical treatment administered to the mother~~
4 ~~or the newborn infant; or~~

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

10 (e) any minor who has been provided with interim crisis
11 intervention services under Section 3-5 of this Act and
12 whose parent, guardian, or custodian refuses to permit the
13 minor to return home unless the minor is an immediate
14 physical danger to himself, herself, or others living in
15 the home.

16 Whether the minor was left without regard for the mental or
17 physical health, safety, or welfare of that minor or the period
18 of time was unreasonable shall be determined by considering the
19 following factors, including but not limited to:

20 (1) the age of the minor;

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

22 (3) special needs of the minor, including whether the
23 minor is a person with a physical or mental disability, or
24 otherwise in need of ongoing prescribed medical treatment
25 such as periodic doses of insulin or other medications;

26 (4) the duration of time in which the minor was left

1 without supervision;

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

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

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

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

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

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

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

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

26 (13) the age and physical and mental capabilities of

1 the person or persons who provided supervision for the
2 minor;

3 (14) whether the minor was left under the supervision
4 of another person;

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

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

10 (2) Those who are abused include any minor under 18 years
11 of age whose parent or immediate family member, or any person
12 responsible for the minor's welfare, or any person who is in
13 the same family or household as the minor, or any individual
14 residing in the same home as the minor, or a paramour of the
15 minor's parent:

16 (i) inflicts, causes to be inflicted, or allows to be
17 inflicted upon such minor physical injury, by other than
18 accidental means, which causes death, disfigurement,
19 impairment of physical or emotional health, or loss or
20 impairment of any bodily function;

21 (ii) creates a substantial risk of physical injury to
22 such minor by other than accidental means which would be
23 likely to cause death, disfigurement, impairment of
24 emotional health, or loss or impairment of any bodily
25 function;

26 (iii) commits or allows to be committed any sex offense

1 against such minor, as such sex offenses are defined in the
2 Criminal Code of 1961 or the Criminal Code of 2012, or in
3 the Wrongs to Children Act, and extending those definitions
4 of sex offenses to include minors under 18 years of age;

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

7 (v) inflicts excessive corporal punishment;

8 (vi) commits or allows to be committed the offense of
9 involuntary servitude, involuntary sexual servitude of a
10 minor, or trafficking in persons as defined in Section 10-9
11 of the Criminal Code of 1961 or the Criminal Code of 2012,
12 upon such minor; or

13 (vii) allows, encourages or requires a minor to commit
14 any act of prostitution, as defined in the Criminal Code of
15 1961 or the Criminal Code of 2012, and extending those
16 definitions to include minors under 18 years of age.

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

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

24 (Source: P.A. 99-143, eff. 7-27-15.)

25 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)

1 Sec. 2-18. Evidence.

2 (1) At the adjudicatory hearing, the court shall first
3 consider only the question whether the minor is abused,
4 neglected or dependent. The standard of proof and the rules of
5 evidence in the nature of civil proceedings in this State are
6 applicable to proceedings under this Article. If the petition
7 also seeks the appointment of a guardian of the person with
8 power to consent to adoption of the minor under Section 2-29,
9 the court may also consider legally admissible evidence at the
10 adjudicatory hearing that one or more grounds of unfitness
11 exists under subdivision D of Section 1 of the Adoption Act.

12 (2) In any hearing under this Act, the following shall
13 constitute prima facie evidence of abuse or neglect, as the
14 case may be:

15 (a) proof that a minor has a medical diagnosis of
16 battered child syndrome is prima facie evidence of abuse;

17 (b) proof that a minor has a medical diagnosis of
18 failure to thrive syndrome is prima facie evidence of
19 neglect;

20 (c) proof that a minor has a medical diagnosis of fetal
21 alcohol syndrome is prima facie evidence of neglect;

22 (d) proof that a minor has a medical diagnosis at birth
23 of withdrawal symptoms from narcotics or barbiturates is
24 prima facie evidence of neglect;

25 (e) proof of injuries sustained by a minor or of the
26 condition of a minor of such a nature as would ordinarily

1 not be sustained or exist except by reason of the acts or
2 omissions of the parent, custodian or guardian of such
3 minor shall be prima facie evidence of abuse or neglect, as
4 the case may be;

5 (f) proof that a parent, custodian or guardian of a
6 minor repeatedly used a drug, to the extent that it has or
7 would ordinarily have the effect of producing in the user a
8 substantial state of stupor, unconsciousness,
9 intoxication, hallucination, disorientation or
10 incompetence, or a substantial impairment of judgment, or a
11 substantial manifestation of irrationality, shall be prima
12 facie evidence of neglect;

13 (g) proof that a parent, custodian, or guardian of a
14 minor repeatedly used a controlled substance, as defined in
15 subsection (f) of Section 102 of the Illinois Controlled
16 Substances Act, in the presence of the minor or a sibling
17 of the minor is prima facie evidence of neglect. "Repeated
18 use", for the purpose of this subsection, means more than
19 one use of a controlled substance as defined in subsection
20 (f) of Section 102 of the Illinois Controlled Substances
21 Act;

22 (h) (blank); ~~proof that a newborn infant's blood,~~
23 ~~urine, or meconium contains any amount of a controlled~~
24 ~~substance as defined in subsection (f) of Section 102 of~~
25 ~~the Illinois Controlled Substances Act, or a metabolite of~~
26 ~~a controlled substance, with the exception of controlled~~

1 ~~substances or metabolites of those substances, the~~
2 ~~presence of which is the result of medical treatment~~
3 ~~administered to the mother or the newborn, is prime facie~~
4 ~~evidence of neglect;~~

5 (i) proof that a minor was present in a structure or
6 vehicle in which the minor's parent, custodian, or guardian
7 was involved in the manufacture of methamphetamine
8 constitutes prima facie evidence of abuse and neglect;

9 (j) proof that a parent, custodian, or guardian of a
10 minor allows, encourages, or requires a minor to perform,
11 offer, or agree to perform any act of sexual penetration as
12 defined in Section 11-0.1 of the Criminal Code of 2012 for
13 any money, property, token, object, or article or anything
14 of value, or any touching or fondling of the sex organs of
15 one person by another person, for any money, property,
16 token, object, or article or anything of value, for the
17 purpose of sexual arousal or gratification, constitutes
18 prima facie evidence of abuse and neglect;

19 (k) proof that a parent, custodian, or guardian of a
20 minor commits or allows to be committed the offense of
21 involuntary servitude, involuntary sexual servitude of a
22 minor, or trafficking in persons as defined in Section 10-9
23 of the Criminal Code of 1961 or the Criminal Code of 2012,
24 upon such minor, constitutes prima facie evidence of abuse
25 and neglect.

26 (3) In any hearing under this Act, proof of the abuse,

1 neglect or dependency of one minor shall be admissible evidence
2 on the issue of the abuse, neglect or dependency of any other
3 minor for whom the respondent is responsible.

4 (4) (a) Any writing, record, photograph or x-ray of any
5 hospital or public or private agency, whether in the form of an
6 entry in a book or otherwise, made as a memorandum or record of
7 any condition, act, transaction, occurrence or event relating
8 to a minor in an abuse, neglect or dependency proceeding, shall
9 be admissible in evidence as proof of that condition, act,
10 transaction, occurrence or event, if the court finds that the
11 document was made in the regular course of the business of the
12 hospital or agency and that it was in the regular course of
13 such business to make it, at the time of the act, transaction,
14 occurrence or event, or within a reasonable time thereafter. A
15 certification by the head or responsible employee of the
16 hospital or agency that the writing, record, photograph or
17 x-ray is the full and complete record of the condition, act,
18 transaction, occurrence or event and that it satisfies the
19 conditions of this paragraph shall be prima facie evidence of
20 the facts contained in such certification. A certification by
21 someone other than the head of the hospital or agency shall be
22 accompanied by a photocopy of a delegation of authority signed
23 by both the head of the hospital or agency and by such other
24 employee. All other circumstances of the making of the
25 memorandum, record, photograph or x-ray, including lack of
26 personal knowledge of the maker, may be proved to affect the

1 weight to be accorded such evidence, but shall not affect its
2 admissibility.

3 (b) Any indicated report filed pursuant to the Abused and
4 Neglected Child Reporting Act shall be admissible in evidence.

5 (c) Previous statements made by the minor relating to any
6 allegations of abuse or neglect shall be admissible in
7 evidence. However, no such statement, if uncorroborated and not
8 subject to cross-examination, shall be sufficient in itself to
9 support a finding of abuse or neglect.

10 (d) There shall be a rebuttable presumption that a minor is
11 competent to testify in abuse or neglect proceedings. The court
12 shall determine how much weight to give to the minor's
13 testimony, and may allow the minor to testify in chambers with
14 only the court, the court reporter and attorneys for the
15 parties present.

16 (e) The privileged character of communication between any
17 professional person and patient or client, except privilege
18 between attorney and client, shall not apply to proceedings
19 subject to this Article.

20 (f) Proof of the impairment of emotional health or
21 impairment of mental or emotional condition as a result of the
22 failure of the respondent to exercise a minimum degree of care
23 toward a minor may include competent opinion or expert
24 testimony, and may include proof that such impairment lessened
25 during a period when the minor was in the care, custody or
26 supervision of a person or agency other than the respondent.

1 (5) In any hearing under this Act alleging neglect for
2 failure to provide education as required by law under
3 subsection (1) of Section 2-3, proof that a minor under 13
4 years of age who is subject to compulsory school attendance
5 under the School Code is a chronic truant as defined under the
6 School Code shall be prima facie evidence of neglect by the
7 parent or guardian in any hearing under this Act and proof that
8 a minor who is 13 years of age or older who is subject to
9 compulsory school attendance under the School Code is a chronic
10 truant shall raise a rebuttable presumption of neglect by the
11 parent or guardian. This subsection (5) shall not apply in
12 counties with 2,000,000 or more inhabitants.

13 (6) In any hearing under this Act, the court may take
14 judicial notice of prior sworn testimony or evidence admitted
15 in prior proceedings involving the same minor if (a) the
16 parties were either represented by counsel at such prior
17 proceedings or the right to counsel was knowingly waived and
18 (b) the taking of judicial notice would not result in admitting
19 hearsay evidence at a hearing where it would otherwise be
20 prohibited.

21 (Source: P.A. 96-1464, eff. 8-20-10; 97-897, eff. 1-1-13;
22 97-1150, eff. 1-25-13.)

23 Section 65. The Adoption Act is amended by changing Section
24 1 as follows:

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

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

4 A. "Child" means a person under legal age subject to
5 adoption under this Act.

6 B. "Related child" means a child subject to adoption where
7 either or both of the adopting parents stands in any of the
8 following relationships to the child by blood, marriage,
9 adoption, or civil union: parent, grand-parent,
10 great-grandparent, brother, sister, step-parent,
11 step-grandparent, step-brother, step-sister, uncle, aunt,
12 great-uncle, great-aunt, first cousin, or second cousin. A
13 person is related to the child as a first cousin or second
14 cousin if they are both related to the same ancestor as either
15 grandchild or great-grandchild. A child whose parent has
16 executed a consent to adoption, a surrender, or a waiver
17 pursuant to Section 10 of this Act or whose parent has signed a
18 denial of paternity pursuant to Section 12 of the Vital Records
19 Act or Section 12a of this Act, or whose parent has had his or
20 her parental rights terminated, is not a related child to that
21 person, unless (1) the consent is determined to be void or is
22 void pursuant to subsection O of Section 10 of this Act; or (2)
23 the parent of the child executed a consent to adoption by a
24 specified person or persons pursuant to subsection A-1 of
25 Section 10 of this Act and a court of competent jurisdiction
26 finds that such consent is void; or (3) the order terminating

1 the parental rights of the parent is vacated by a court of
2 competent jurisdiction.

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

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

12 (a) Abandonment of the child.

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

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

17 (b) Failure to maintain a reasonable degree of
18 interest, concern or responsibility as to the child's
19 welfare.

20 (c) Desertion of the child for more than 3 months next
21 preceding the commencement of the Adoption proceeding.

22 (d) Substantial neglect of the child if continuous or
23 repeated.

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

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

2 (f) There is a rebuttable presumption, which can be
3 overcome only by clear and convincing evidence, that a
4 parent is unfit if:

5 (1) Two or more findings of physical abuse have
6 been entered regarding any children under Section 2-21
7 of the Juvenile Court Act of 1987, the most recent of
8 which was determined by the juvenile court hearing the
9 matter to be supported by clear and convincing
10 evidence; or

11 (2) The parent has been convicted or found not
12 guilty by reason of insanity and the conviction or
13 finding resulted from the death of any child by
14 physical abuse; or

15 (3) There is a finding of physical child abuse
16 resulting from the death of any child under Section
17 2-21 of the Juvenile Court Act of 1987.

18 No conviction or finding of delinquency pursuant to
19 Article V of the Juvenile Court Act of 1987 shall be
20 considered a criminal conviction for the purpose of
21 applying any presumption under this item (f).

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

24 (h) Other neglect of, or misconduct toward the child;
25 provided that in making a finding of unfitness the court
26 hearing the adoption proceeding shall not be bound by any

1 previous finding, order or judgment affecting or
2 determining the rights of the parents toward the child
3 sought to be adopted in any other proceeding except such
4 proceedings terminating parental rights as shall be had
5 under either this Act, the Juvenile Court Act or the
6 Juvenile Court Act of 1987.

7 (i) Depravity. Conviction of any one of the following
8 crimes shall create a presumption that a parent is deprived
9 which can be overcome only by clear and convincing
10 evidence: (1) first degree murder in violation of paragraph
11 1 or 2 of subsection (a) of Section 9-1 of the Criminal
12 Code of 1961 or the Criminal Code of 2012 or conviction of
13 second degree murder in violation of subsection (a) of
14 Section 9-2 of the Criminal Code of 1961 or the Criminal
15 Code of 2012 of a parent of the child to be adopted; (2)
16 first degree murder or second degree murder of any child in
17 violation of the Criminal Code of 1961 or the Criminal Code
18 of 2012; (3) attempt or conspiracy to commit first degree
19 murder or second degree murder of any child in violation of
20 the Criminal Code of 1961 or the Criminal Code of 2012; (4)
21 solicitation to commit murder of any child, solicitation to
22 commit murder of any child for hire, or solicitation to
23 commit second degree murder of any child in violation of
24 the Criminal Code of 1961 or the Criminal Code of 2012; (5)
25 predatory criminal sexual assault of a child in violation
26 of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961

1 or the Criminal Code of 2012; (6) heinous battery of any
2 child in violation of the Criminal Code of 1961; or (7)
3 aggravated battery of any child in violation of the
4 Criminal Code of 1961 or the Criminal Code of 2012.

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

12 There is a rebuttable presumption that a parent is
13 deprived if that parent has been criminally convicted of
14 either first or second degree murder of any person as
15 defined in the Criminal Code of 1961 or the Criminal Code
16 of 2012 within 10 years of the filing date of the petition
17 or motion to terminate parental rights.

18 No conviction or finding of delinquency pursuant to
19 Article 5 of the Juvenile Court Act of 1987 shall be
20 considered a criminal conviction for the purpose of
21 applying any presumption under this item (i).

22 (j) Open and notorious adultery or fornication.

23 (j-1) (Blank).

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

1 proceeding.

2 ~~There is a rebuttable presumption that a parent is~~
3 ~~unfit under this subsection with respect to any child to~~
4 ~~whom that parent gives birth where there is a confirmed~~
5 ~~test result that at birth the child's blood, urine, or~~
6 ~~meconium contained any amount of a controlled substance as~~
7 ~~defined in subsection (f) of Section 102 of the Illinois~~
8 ~~Controlled Substances Act or metabolites of such~~
9 ~~substances, the presence of which in the newborn infant was~~
10 ~~not the result of medical treatment administered to the~~
11 ~~mother or the newborn infant; and the biological mother of~~
12 ~~this child is the biological mother of at least one other~~
13 ~~child who was adjudicated a neglected minor under~~
14 ~~subsection (c) of Section 2-3 of the Juvenile Court Act of~~
15 ~~1987.~~

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

19 (m) Failure by a parent (i) to make reasonable efforts
20 to correct the conditions that were the basis for the
21 removal of the child from the parent during any 9-month
22 period following the adjudication of neglected or abused
23 minor under Section 2-3 of the Juvenile Court Act of 1987
24 or dependent minor under Section 2-4 of that Act, or (ii)
25 to make reasonable progress toward the return of the child
26 to the parent during any 9-month period following the

1 adjudication of neglected or abused minor under Section 2-3
2 of the Juvenile Court Act of 1987 or dependent minor under
3 Section 2-4 of that Act. If a service plan has been
4 established as required under Section 8.2 of the Abused and
5 Neglected Child Reporting Act to correct the conditions
6 that were the basis for the removal of the child from the
7 parent and if those services were available, then, for
8 purposes of this Act, "failure to make reasonable progress
9 toward the return of the child to the parent" includes the
10 parent's failure to substantially fulfill his or her
11 obligations under the service plan and correct the
12 conditions that brought the child into care during any
13 9-month period following the adjudication under Section
14 2-3 or 2-4 of the Juvenile Court Act of 1987.
15 Notwithstanding any other provision, when a petition or
16 motion seeks to terminate parental rights on the basis of
17 item (ii) of this subsection (m), the petitioner shall file
18 with the court and serve on the parties a pleading that
19 specifies the 9-month period or periods relied on. The
20 pleading shall be filed and served on the parties no later
21 than 3 weeks before the date set by the court for closure
22 of discovery, and the allegations in the pleading shall be
23 treated as incorporated into the petition or motion.
24 Failure of a respondent to file a written denial of the
25 allegations in the pleading shall not be treated as an
26 admission that the allegations are true.

1 (m-1) (Blank).

2 (n) Evidence of intent to forgo his or her parental
3 rights, whether or not the child is a ward of the court,
4 (1) as manifested by his or her failure for a period of 12
5 months: (i) to visit the child, (ii) to communicate with
6 the child or agency, although able to do so and not
7 prevented from doing so by an agency or by court order, or
8 (iii) to maintain contact with or plan for the future of
9 the child, although physically able to do so, or (2) as
10 manifested by the father's failure, where he and the mother
11 of the child were unmarried to each other at the time of
12 the child's birth, (i) to commence legal proceedings to
13 establish his paternity under the Illinois Parentage Act of
14 1984, the Illinois Parentage Act of 2015, or the law of the
15 jurisdiction of the child's birth within 30 days of being
16 informed, pursuant to Section 12a of this Act, that he is
17 the father or the likely father of the child or, after
18 being so informed where the child is not yet born, within
19 30 days of the child's birth, or (ii) to make a good faith
20 effort to pay a reasonable amount of the expenses related
21 to the birth of the child and to provide a reasonable
22 amount for the financial support of the child, the court to
23 consider in its determination all relevant circumstances,
24 including the financial condition of both parents;
25 provided that the ground for termination provided in this
26 subparagraph (n)(2)(ii) shall only be available where the

1 petition is brought by the mother or the husband of the
2 mother.

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

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

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

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

15 (q) (Blank).

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

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

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

24 E. "Parent" means a person who is the legal mother or legal
25 father of the child as defined in subsection X or Y of this
26 Section. For the purpose of this Act, a parent who has executed

1 a consent to adoption, a surrender, or a waiver pursuant to
2 Section 10 of this Act, who has signed a Denial of Paternity
3 pursuant to Section 12 of the Vital Records Act or Section 12a
4 of this Act, or whose parental rights have been terminated by a
5 court, is not a parent of the child who was the subject of the
6 consent, surrender, waiver, or denial unless (1) the consent is
7 void pursuant to subsection O of Section 10 of this Act; or (2)
8 the person executed a consent to adoption by a specified person
9 or persons pursuant to subsection A-1 of Section 10 of this Act
10 and a court of competent jurisdiction finds that the consent is
11 void; or (3) the order terminating the parental rights of the
12 person is vacated by a court of competent jurisdiction.

13 F. A person is available for adoption when the person is:

14 (a) a child who has been surrendered for adoption to an
15 agency and to whose adoption the agency has thereafter
16 consented;

17 (b) a child to whose adoption a person authorized by
18 law, other than his parents, has consented, or to whose
19 adoption no consent is required pursuant to Section 8 of
20 this Act;

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

23 (c-1) a child for whom a parent has signed a specific
24 consent pursuant to subsection O of Section 10;

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

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

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

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

9 H. (Blank).

10 I. "Habitual residence" has the meaning ascribed to it in
11 the federal Intercountry Adoption Act of 2000 and regulations
12 promulgated thereunder.

13 J. "Immediate relatives" means the biological parents, the
14 parents of the biological parents and siblings of the
15 biological parents.

16 K. "Intercountry adoption" is a process by which a child
17 from a country other than the United States is adopted by
18 persons who are habitual residents of the United States, or the
19 child is a habitual resident of the United States who is
20 adopted by persons who are habitual residents of a country
21 other than the United States.

22 L. (Blank).

23 M. "Interstate Compact on the Placement of Children" is a
24 law enacted by all states and certain territories for the
25 purpose of establishing uniform procedures for handling the
26 interstate placement of children in foster homes, adoptive

1 homes, or other child care facilities.

2 N. (Blank).

3 O. "Preadoption requirements" means any conditions or
4 standards established by the laws or administrative rules of
5 this State that must be met by a prospective adoptive parent
6 prior to the placement of a child in an adoptive home.

7 P. "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 be
12 inflicted upon the child physical injury, by other than
13 accidental means, that 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 the 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 any
20 bodily function;

21 (c) commits or allows to be committed any sex offense
22 against the child, as sex offenses are defined in the
23 Criminal Code of 2012 and extending those definitions of
24 sex offenses to include children under 18 years of age;

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

1 (e) inflicts excessive corporal punishment.

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

15 A child shall not be considered neglected or abused for the
16 sole reason that the child's parent or other person responsible
17 for his or her welfare depends upon spiritual means through
18 prayer alone for the treatment or cure of disease or remedial
19 care as provided under Section 4 of the Abused and Neglected
20 Child Reporting Act. A child shall not be considered neglected
21 or abused for the sole reason that the child's parent or other
22 person responsible for the child's welfare failed to vaccinate,
23 delayed vaccination, or refused vaccination for the child due
24 to a waiver on religious or medical grounds as permitted by
25 law.

26 R. "Putative father" means a man who may be a child's

1 father, but who (1) is not married to the child's mother on or
2 before the date that the child was or is to be born and (2) has
3 not established paternity of the child in a court proceeding
4 before the filing of a petition for the adoption of the child.
5 The term includes a male who is less than 18 years of age.
6 "Putative father" does not mean a man who is the child's father
7 as a result of criminal sexual abuse or assault as defined
8 under Article 11 of the Criminal Code of 2012.

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

14 T. (Blank).

15 T-5. "Biological parent", "birth parent", or "natural
16 parent" of a child are interchangeable terms that mean a person
17 who is biologically or genetically related to that child as a
18 parent.

19 U. "Interstate adoption" means the placement of a minor
20 child with a prospective adoptive parent for the purpose of
21 pursuing an adoption for that child that is subject to the
22 provisions of the Interstate Compact on Placement of Children.

23 V. (Blank).

24 W. (Blank).

25 X. "Legal father" of a child means a man who is recognized
26 as or presumed to be that child's father:

1 (1) because of his marriage to or civil union with the
2 child's parent at the time of the child's birth or within
3 300 days prior to that child's birth, unless he signed a
4 denial of paternity pursuant to Section 12 of the Vital
5 Records Act or a waiver pursuant to Section 10 of this Act;
6 or

7 (2) because his paternity of the child has been
8 established pursuant to the Illinois Parentage Act, the
9 Illinois Parentage Act of 1984, or the Gestational
10 Surrogacy Act; or

11 (3) because he is listed as the child's father or
12 parent on the child's birth certificate, unless he is
13 otherwise determined by an administrative or judicial
14 proceeding not to be the parent of the child or unless he
15 rescinds his acknowledgment of paternity pursuant to the
16 Illinois Parentage Act of 1984; or

17 (4) because his paternity or adoption of the child has
18 been established by a court of competent jurisdiction.

19 The definition in this subsection X shall not be construed
20 to provide greater or lesser rights as to the number of parents
21 who can be named on a final judgment order of adoption or
22 Illinois birth certificate that otherwise exist under Illinois
23 law.

24 Y. "Legal mother" of a child means a woman who is
25 recognized as or presumed to be that child's mother:

26 (1) because she gave birth to the child except as

1 provided in the Gestational Surrogacy Act; or

2 (2) because her maternity of the child has been
3 established pursuant to the Illinois Parentage Act of 1984
4 or the Gestational Surrogacy Act; or

5 (3) because her maternity or adoption of the child has
6 been established by a court of competent jurisdiction; or

7 (4) because of her marriage to or civil union with the
8 child's other parent at the time of the child's birth or
9 within 300 days prior to the time of birth; or

10 (5) because she is listed as the child's mother or
11 parent on the child's birth certificate unless she is
12 otherwise determined by an administrative or judicial
13 proceeding not to be the parent of the child.

14 The definition in this subsection Y shall not be construed
15 to provide greater or lesser rights as to the number of parents
16 who can be named on a final judgment order of adoption or
17 Illinois birth certificate that otherwise exist under Illinois
18 law.

19 Z. "Department" means the Illinois Department of Children
20 and Family Services.

21 AA. "Placement disruption" means a circumstance where the
22 child is removed from an adoptive placement before the adoption
23 is finalized.

24 BB. "Secondary placement" means a placement, including but
25 not limited to the placement of a youth in care as defined in
26 Section 4d of the Children and Family Services Act, that occurs

1 after a placement disruption or an adoption dissolution.
2 "Secondary placement" does not mean secondary placements
3 arising due to the death of the adoptive parent of the child.

4 CC. "Adoption dissolution" means a circumstance where the
5 child is removed from an adoptive placement after the adoption
6 is finalized.

7 DD. "Unregulated placement" means the secondary placement
8 of a child that occurs without the oversight of the courts, the
9 Department, or a licensed child welfare agency.

10 EE. "Post-placement and post-adoption support services"
11 means support services for placed or adopted children and
12 families that include, but are not limited to, counseling for
13 emotional, behavioral, or developmental needs.

14 (Source: P.A. 99-49, eff. 7-15-15; 99-85, eff. 1-1-16; 99-642,
15 eff. 7-28-16; 99-836, eff. 1-1-17; 100-159, eff. 8-18-17.)

16 Section 95. No acceleration or delay. Where this Act makes
17 changes in a statute that is represented in this Act by text
18 that is not yet or no longer in effect (for example, a Section
19 represented by multiple versions), the use of that text does
20 not accelerate or delay the taking effect of (i) the changes
21 made by this Act or (ii) provisions derived from any other
22 Public Act.

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

1	INDEX	
2	Statutes amended in order of appearance	
3	5 ILCS 375/6.11	
4	20 ILCS 1305/10-24 new	
5	20 ILCS 2310/2310-455 new	
6	55 ILCS 5/5-1069.3	
7	65 ILCS 5/10-4-2.3	
8	105 ILCS 5/10-22.3f	
9	215 ILCS 5/356z.33 new	
10	215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
11	215 ILCS 165/10	from Ch. 32, par. 604
12	305 ILCS 5/5-2	from Ch. 23, par. 5-2
13	305 ILCS 5/5-5	from Ch. 23, par. 5-5
14	305 ILCS 5/5-5.24	
15	325 ILCS 5/3	from Ch. 23, par. 2053
16	705 ILCS 405/2-3	from Ch. 37, par. 802-3
17	705 ILCS 405/2-18	from Ch. 37, par. 802-18
18	750 ILCS 50/1	from Ch. 40, par. 1501