**Section 309.50 Identification of Children for Potential Adoption Planning**

a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.

b) When any of the grounds for parental unfitness, as defined in the Adoption Act, or expedited termination of parental rights are identified, the following actions shall be taken:

1) the parents shall explore the opportunity to voluntarily surrender their child for adoption or consent to the adoption of their child by specified person as described in Section 309.70(c) or (d); or

2) if the parents are unwilling to voluntarily surrender or consent to the adoption of the child, the case shall be referred for an internal legal screening in accordance with Section 309.80 (Termination of Parental Rights) to determine whether to seek involuntary termination of parental rights.

c) The following grounds of parental unfitness are defined in Section 1 of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:

1) *Abandonment of the child. Abandonment of a newborn infant in a hospital. Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.*

2) *Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.*

3) *Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.*

4) *Substantial neglect of the child if continuous or repeated. Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.*

5) *Extreme or repeated cruelty to the child.*

6) *Two or more findings of physical abuse to any children under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987* [705 ILCS 405]*, the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987.*

7) *Failure to protect the child from conditions within his environment injurious to the child's welfare.*

8) *Other neglect of, or misconduct toward, the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgement affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either* the Adoption Act*, the Juvenile Court Act or the Juvenile Court Act of 1987.*

9) *Depravity.*

A) *Conviction of any one of the following crimes shall create a presumption that a parent is depraved which can be overcome only by clear and convincing evidence:*

i) *first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted;*

ii) *first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*

iii) *attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*

iv) *solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or*

v) *aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961.*

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

C) *There is a rebuttable presumption that a parent is depraved if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 within 10 years of the filing date of the petition or motion to terminate parental rights.*

10) *Open and notorious adultery or fornication.*

11) *Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.* *There is a rebuttable presumption that a parent is unfit under this subsection (c) with respect to any child to which that parent gives birth where there is a confirmed test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances, the presence of which in the newborn infant was not the result of medical treatment administered to the mother or the newborn infant; and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.*

12) *Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.*

13) *Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor or dependent minor under the Juvenile Court Act or the Juvenile Court Act of 1987. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this* Part*, "failure to make reasonable progress toward the return of the child to the parent" includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.*

14) Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:

A) *as manifested by his or her failure for a period of 12 months:*

i) *to visit the child,*

ii) *to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or*

iii) *to maintain contact with or plan for the future of the child, although physically able to do so; or*

B) *as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth:*

i) *to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984* [750 ILCS 45] *or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of* the Adoption Act*, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or*

ii) *to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this* subsection (b) *shall only be available where the petition is brought by the mother or the husband of the mother.*

15) *Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.*

16) *Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code* [405 ILCS 5/1-116]*, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period.*

17) *The parent has been criminally convicted of aggravated battery, heinous battery, or attempted murder of any child*.

18) *A finding that at birth the child's blood*, urine *or meconium* *contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to* *enroll in and* *participate in a* *clinically appropriate substance abuse* *counseling, treatment, and rehabilitation program*.

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

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

d) Expedited Termination of Parental Rights

At any time between case opening and 30 days prior to an court adjudication, if it becomes known that one or more of the grounds for parental unfitness listed in subsection (d)(1) or (2) exist, the caseworker will seek immediate supervisory consultation to request that a legal screening be convened in accordance with Section 309.80 (Termination of Parental Rights). The purpose of the legal screening will be to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights.

1) Grounds for which expedited termination of parental rights must be sought are:

A) extreme or repeated cruelty to the child;

B) a finding of physical abuse and criminal conviction of aggravated battery of the child;

C) conviction of: first degree murder in violation of Section 9-1(a)(1) or (2) of the Criminal Code of 1961 or conviction of second degree murder in violation of Section 9-2(a) of the Criminal Code of 1961 of a parent of the child to be adopted; a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961;

D) abandonment of a newborn infant in a hospital;

E) abandonment of a newborn infant in a setting where the evidence suggests that the parent intended to relinquish parental rights;

F) incarceration of a parent as a result of a criminal conviction where prior to incarceration the parent had little or no contact with the child or provided little or no support of the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period of two years after the filing of the petition or motion for termination of parental rights.

2) Grounds for which expedited termination of parental rights shall be considered, and for which the casework supervisor must document the reason for not considering expedited termination of parental rights, are:

A) abandonment of the child (other than newborn infant);

B) desertion;

C) inability to discharge parental responsibility due to mental illness, mental impairment or developmental disability;

D) a finding that at birth the child's blood, urine or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substance Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

e) Other additional factors to be considered in identifying the possibility of adoption for a child are:

1) the parents have signed or indicated a desire to sign a consent or surrender for adoption;

2) the parents have previously signed a consent or surrender for adoption with regards to other children in the past and those children were the subjects of abuse, neglect or dependency petitions and/or parental rights have been terminated with regard to other children in the past, thus indicating that there may be risk of harm to other children in the parents' care; or

3) the parents have made unsatisfactory progress in correcting the conditions which led to the removal of his or her children, resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.

f) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:

1) when the Department first assumes custody of the child;

2) within 30 days after case opening;

3) at each administrative case review; and

4) at no less than quarterly reviews and supervisory meetings.

(Source: Amended at 26 Ill. Reg. 16449, effective October 23, 2002)