



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1870

Introduced 2/9/2017, by Sen. Omar Aquino

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/2-18	from Ch. 37, par. 802-18
750 ILCS 50/1	from Ch. 40, par. 1501

Amends the Abused and Neglected Child Reporting Act and the Juvenile Court Act of 1987. Expands the definition of "neglected child" under both Acts to include a child whose umbilical cord tissue contains any amount of a controlled substance as defined in a specified provision of the Illinois Controlled Substances Act or a metabolite thereof. Provides that nothing in the new provisions is intended to limit the type of medically reliable testing that can establish that a controlled substance or metabolite thereof is present in a newborn infant. Further amends the Juvenile Court Act of 1987 by providing that proof that a newborn infant's umbilical cord tissue contains any amount of a controlled substance as defined under the Illinois Controlled Substances Act, or a metabolite of a controlled substance, constitutes prima facie evidence of abuse or neglect. Amends the Adoption Act. Includes as a ground of unfitness under the definition of "unfit person" a finding that at birth the child's umbilical cord tissue contained any amount of a controlled substance as defined under the Illinois Controlled Substances Act or a metabolite thereof. Provides that nothing in the new provision is intended to limit the type of medically reliable testing that can establish that a controlled substance or metabolite thereof is present in a newborn infant. Effective immediately.

LRB100 08013 KTG 18095 b

1 AN ACT concerning children.

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

4 Section 5. The Abused and Neglected Child Reporting Act is
5 amended by changing Section 3 as follows:

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

7 Sec. 3. As used in this Act unless the context otherwise
8 requires:

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

15 "Agency" means a child care facility licensed under Section
16 2.05 or Section 2.06 of the Child Care Act of 1969 and includes
17 a transitional living program that accepts children and adult
18 residents for placement who are in the guardianship of the
19 Department.

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

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

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

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

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

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

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

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

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

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

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

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

26 (g) causes to be sold, transferred, distributed, or

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

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

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

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

1 who is subjected to an environment which is injurious insofar
2 as (i) the child's environment creates a likelihood of harm to
3 the child's health, physical well-being, or welfare and (ii)
4 the likely harm to the child is the result of a blatant
5 disregard of parent, caretaker, or agency responsibilities; or
6 who is abandoned by his or her parents or other person
7 responsible for the child's welfare without a proper plan of
8 care; or who has been provided with interim crisis intervention
9 services under Section 3-5 of the Juvenile Court Act of 1987
10 and whose parent, guardian, or custodian refuses to permit the
11 child to return home and no other living arrangement agreeable
12 to the parent, guardian, or custodian can be made, and the
13 parent, guardian, or custodian has not made any other
14 appropriate living arrangement for the child; or who is a
15 newborn infant whose umbilical cord tissue, blood, urine, or
16 meconium contains any amount of a controlled substance as
17 defined in subsection (f) of Section 102 of the Illinois
18 Controlled Substances Act or a metabolite thereof, with the
19 exception of a controlled substance or metabolite thereof whose
20 presence in the newborn infant is the result of medical
21 treatment administered to the mother or the newborn infant.
22 Nothing in the preceding sentence is intended to limit the type
23 of medically reliable testing that can establish that a
24 controlled substance or metabolite thereof is present in a
25 newborn infant. A child shall not be considered neglected for
26 the sole reason that the child's parent or other person

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

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

18 "Person responsible for the child's welfare" means the
19 child's parent; guardian; foster parent; relative caregiver;
20 any person responsible for the child's welfare in a public or
21 private residential agency or institution; any person
22 responsible for the child's welfare within a public or private
23 profit or not for profit child care facility; or any other
24 person responsible for the child's welfare at the time of the
25 alleged abuse or neglect, including any person that is the
26 custodian of a child under 18 years of age who commits or

1 allows to be committed, against the child, the offense of
2 involuntary servitude, involuntary sexual servitude of a
3 minor, or trafficking in persons for forced labor or services,
4 as provided in Section 10-9 of the Criminal Code of 2012, or
5 any person who came to know the child through an official
6 capacity or position of trust, including but not limited to
7 health care professionals, educational personnel, recreational
8 supervisors, members of the clergy, and volunteers or support
9 personnel in any setting where children may be subject to abuse
10 or neglect.

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

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

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

24 "An undetermined report" means any report made under this
25 Act in which it was not possible to initiate or complete an
26 investigation on the basis of information provided to the

1 Department.

2 "Subject of report" means any child reported to the central
3 register of child abuse and neglect established under Section
4 7.7 of this Act as an alleged victim of child abuse or neglect
5 and the parent or guardian of the alleged victim or other
6 person responsible for the alleged victim's welfare who is
7 named in the report or added to the report as an alleged
8 perpetrator of child abuse or neglect.

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

12 "Member of the clergy" means a clergyman or practitioner of
13 any religious denomination accredited by the religious body to
14 which he or she belongs.

15 (Source: P.A. 99-350, eff. 6-1-16.)

16 Section 10. The Juvenile Court Act of 1987 is amended by
17 changing Sections 2-3 and 2-18 as follows:

18 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

20 (1) Those who are neglected include:

21 (a) any minor under 18 years of age who is not
22 receiving the proper or necessary support, education as
23 required by law, or medical or other remedial care
24 recognized under State law as necessary for a minor's

1 well-being, or other care necessary for his or her
2 well-being, including adequate food, clothing and shelter,
3 or who is abandoned by his or her parent or parents or
4 other person or persons responsible for the minor's
5 welfare, except that a minor shall not be considered
6 neglected for the sole reason that the minor's parent or
7 parents or other person or persons responsible for the
8 minor's welfare have left the minor in the care of an adult
9 relative for any period of time, who the parent or parents
10 or other person responsible for the minor's welfare know is
11 both a mentally capable adult relative and physically
12 capable adult relative, as defined by this Act; or

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

15 (c) any newborn infant whose umbilical cord tissue,
16 blood, urine, or meconium contains any amount of a
17 controlled substance as defined in subsection (f) of
18 Section 102 of the Illinois Controlled Substances Act, as
19 now or hereafter amended, or a metabolite of a controlled
20 substance, with the exception of controlled substances or
21 metabolites of such substances, the presence of which in
22 the newborn infant is the result of medical treatment
23 administered to the mother or the newborn infant; nothing
24 in this paragraph (c) is intended to limit the type of
25 medically reliable testing that can establish that a
26 controlled substance or metabolite thereof is present in a

1 newborn infant; or

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

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

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

17 (1) the age of the minor;

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

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

23 (4) the duration of time in which the minor was left
24 without supervision;

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

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

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

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

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

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

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

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

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

26 (14) whether the minor was left under the supervision

1 of another person;

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

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

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

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

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

23 (iii) commits or allows to be committed any sex offense
24 against such minor, as such sex offenses are defined in the
25 Criminal Code of 1961 or the Criminal Code of 2012, or in
26 the Wrongs to Children Act, and extending those definitions

1 of sex offenses to include minors under 18 years of age;
2 (iv) commits or allows to be committed an act or acts
3 of torture upon such minor;
4 (v) inflicts excessive corporal punishment;
5 (vi) commits or allows to be committed the offense of
6 involuntary servitude, involuntary sexual servitude of a
7 minor, or trafficking in persons as defined in Section 10-9
8 of the Criminal Code of 1961 or the Criminal Code of 2012,
9 upon such minor; or
10 (vii) allows, encourages or requires a minor to commit
11 any act of prostitution, as defined in the Criminal Code of
12 1961 or the Criminal Code of 2012, and extending those
13 definitions to include minors under 18 years of age.

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

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

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

22 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)
23 Sec. 2-18. Evidence.

24 (1) At the adjudicatory hearing, the court shall first
25 consider only the question whether the minor is abused,

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

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

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

14 (b) proof that a minor has a medical diagnosis of
15 failure to thrive syndrome is prima facie evidence of
16 neglect;

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

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

22 (e) proof of injuries sustained by a minor or of the
23 condition of a minor of such a nature as would ordinarily
24 not be sustained or exist except by reason of the acts or
25 omissions of the parent, custodian or guardian of such
26 minor shall be prima facie evidence of abuse or neglect, as

1 the case may be;

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

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

19 (h) proof that a newborn infant's umbilical cord
20 tissue, blood, urine, or meconium contains any amount of a
21 controlled substance as defined in subsection (f) of
22 Section 102 of the Illinois Controlled Substances Act, or a
23 metabolite of a controlled substance, with the exception of
24 controlled substances or metabolites of those substances,
25 the presence of which is the result of medical treatment
26 administered to the mother or the newborn, is prime facie

1 evidence of neglect; nothing in this paragraph (h) is
2 intended to limit the type of medically reliable testing
3 that can establish that a controlled substance or
4 metabolite thereof is present in a newborn infant;

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 15. 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 which 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 umbilical cord
10 tissue, blood, urine, or meconium contained any amount of a
11 controlled substance as defined in subsection (f) of
12 Section 102 of the Illinois Controlled Substances Act, or a
13 metabolite of a controlled substance, with the exception of
14 controlled substances or metabolites of such substances,
15 the presence of which in the newborn infant was the result
16 of medical treatment administered to the mother or the
17 newborn infant, and that the biological mother of this
18 child is the biological mother of at least one other child
19 who was adjudicated a neglected minor under subsection (c)
20 of Section 2-3 of the Juvenile Court Act of 1987, after
21 which the biological mother had the opportunity to enroll
22 in and participate in a clinically appropriate substance
23 abuse counseling, treatment, and rehabilitation program.
24 Nothing in the preceding sentence is intended to limit the
25 type of medically reliable testing that can establish that
26 a controlled substance or metabolite thereof is present in

1 a newborn infant.

2 E. "Parent" means a person who is the legal mother or legal
3 father of the child as defined in subsection X or Y of this
4 Section. For the purpose of this Act, a parent who has executed
5 a consent to adoption, a surrender, or a waiver pursuant to
6 Section 10 of this Act, who has signed a Denial of Paternity
7 pursuant to Section 12 of the Vital Records Act or Section 12a
8 of this Act, or whose parental rights have been terminated by a
9 court, is not a parent of the child who was the subject of the
10 consent, surrender, waiver, or denial unless (1) the consent is
11 void pursuant to subsection O of Section 10 of this Act; or (2)
12 the person executed a consent to adoption by a specified person
13 or persons pursuant to subsection A-1 of Section 10 of this Act
14 and a court of competent jurisdiction finds that the consent is
15 void; or (3) the order terminating the parental rights of the
16 person is vacated by a court of competent jurisdiction.

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

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

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

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

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

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

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

7 A person who would otherwise be available for adoption
8 shall not be deemed unavailable for adoption solely by reason
9 of his or her death.

10 G. The singular includes the plural and the plural includes
11 the singular and the "male" includes the "female", as the
12 context of this Act may require.

13 H. (Blank).

14 I. "Habitual residence" has the meaning ascribed to it in
15 the federal Intercountry Adoption Act of 2000 and regulations
16 promulgated thereunder.

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

20 K. "Intercountry adoption" is a process by which a child
21 from a country other than the United States is adopted by
22 persons who are habitual residents of the United States, or the
23 child is a habitual resident of the United States who is
24 adopted by persons who are habitual residents of a country
25 other than the United States.

26 L. (Blank).

1 M. "Interstate Compact on the Placement of Children" is a
2 law enacted by all states and certain territories for the
3 purpose of establishing uniform procedures for handling the
4 interstate placement of children in foster homes, adoptive
5 homes, or other child care facilities.

6 N. (Blank).

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

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

15 (a) inflicts, causes to be inflicted, or allows to be
16 inflicted upon the child physical injury, by other than
17 accidental means, that causes death, disfigurement,
18 impairment of physical or emotional health, or loss or
19 impairment of any bodily function;

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

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

1 Criminal Code of 2012 and extending those definitions of
2 sex offenses to include children under 18 years of age;

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

5 (e) inflicts excessive corporal punishment.

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

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

1 delayed vaccination, or refused vaccination for the child due
2 to a waiver on religious or medical grounds as permitted by
3 law.

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

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

18 T. (Blank).

19 T-5. "Biological parent", "birth parent", or "natural
20 parent" of a child are interchangeable terms that mean a person
21 who is biologically or genetically related to that child as a
22 parent.

23 U. "Interstate adoption" means the placement of a minor
24 child with a prospective adoptive parent for the purpose of
25 pursuing an adoption for that child that is subject to the
26 provisions of the Interstate Compact on Placement of Children.

1 V. (Blank).

2 W. (Blank).

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

5 (1) because of his marriage to or civil union with the
6 child's parent at the time of the child's birth or within
7 300 days prior to that child's birth, unless he signed a
8 denial of paternity pursuant to Section 12 of the Vital
9 Records Act or a waiver pursuant to Section 10 of this Act;
10 or

11 (2) because his paternity of the child has been
12 established pursuant to the Illinois Parentage Act, the
13 Illinois Parentage Act of 1984, or the Gestational
14 Surrogacy Act; or

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

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

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

1 law.

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

4 (1) because she gave birth to the child except as
5 provided in the Gestational Surrogacy Act; or

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

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

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

14 (5) because she is listed as the child's mother or
15 parent on the child's birth certificate unless she is
16 otherwise determined by an administrative or judicial
17 proceeding not to be the parent of the child.

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

23 Z. "Department" means the Illinois Department of Children
24 and Family Services.

25 AA. "Placement disruption" means a circumstance where the
26 child is removed from an adoptive placement before the adoption

1 is finalized.

2 BB. "Secondary placement" means a placement, including but
3 not limited to the placement of a ward of the Department, that
4 occurs after a placement disruption or an adoption dissolution.
5 "Secondary placement" does not mean secondary placements
6 arising due to the death of the adoptive parent of the child.

7 CC. "Adoption dissolution" means a circumstance where the
8 child is removed from an adoptive placement after the adoption
9 is finalized.

10 DD. "Unregulated placement" means the secondary placement
11 of a child that occurs without the oversight of the courts, the
12 Department, or a licensed child welfare agency.

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

17 (Source: P.A. 98-455, eff. 1-1-14; 98-532, eff. 1-1-14; 98-804,
18 eff. 1-1-15; 99-49, eff. 7-15-15; 99-85, eff. 1-1-16; 99-642,
19 eff. 7-28-16; 99-836, eff. 1-1-17.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.