

1 AN ACT concerning civil law.

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

4 Section 5. The Adoption Act is amended by changing
5 Sections 1 and 17 as follows:

6 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

9 A. (1) "Child" means a person under legal age subject to
10 adoption under this Act.

11 (2) "Adult" when referring to a person who is the subject
12 of a petition for adoption under Section 3 of this Act means a
13 person who is 18 years old or older.

14 B. "Related child" means a child subject to adoption where
15 either or both of the adopting parents stands in any of the
16 following relationships to the child by blood, marriage,
17 adoption, or civil union: parent, grand-parent,
18 great-grandparent, brother, sister, step-parent,
19 step-grandparent, step-brother, step-sister, uncle, aunt,
20 great-uncle, great-aunt, first cousin, or second cousin. A
21 person is related to the child as a first cousin or second
22 cousin if they are both related to the same ancestor as either
23 grandchild or great-grandchild. A child whose parent has

1 executed a consent to adoption, a surrender, or a waiver
2 pursuant to Section 10 of this Act or whose parent has signed a
3 denial of paternity pursuant to Section 12 of the Vital
4 Records Act or Section 12a of this Act, or whose parent has had
5 his or her parental rights terminated, is not a related child
6 to that person, unless (1) the consent is determined to be void
7 or is void pursuant to subsection O of Section 10 of this Act;
8 or (2) the parent of the child executed a consent to adoption
9 by a specified person or persons pursuant to subsection A-1 of
10 Section 10 of this Act and a court of competent jurisdiction
11 finds that such consent is void; or (3) the order terminating
12 the parental rights of the parent is vacated by a court of
13 competent jurisdiction.

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

16 D. "Unfit person" means any person whom the court shall
17 find to be unfit to have a child, without regard to the
18 likelihood that the child will be placed for adoption. The
19 grounds of unfitness are any one or more of the following,
20 except that a person shall not be considered an unfit person
21 for the sole reason that the person has relinquished a child in
22 accordance with the Abandoned Newborn Infant Protection Act:

23 (a) Abandonment of the child.

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

25 (a-2) Abandonment of a newborn infant in any setting
26 where the evidence suggests that the parent intended to

1 relinquish his or her parental rights.

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

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

7 (d) Substantial neglect of the child if continuous or
8 repeated.

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

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

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

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

22 (2) The parent has been convicted or found not
23 guilty by reason of insanity and the conviction or
24 finding resulted from the death of any child by
25 physical abuse; or

26 (3) There is a finding of physical child abuse

1 resulting from the death of any child under Section
2 2-21 of the Juvenile Court Act of 1987.

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

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

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

18 (i) Depravity. Conviction of any one of the following
19 crimes shall create a presumption that a parent is
20 depraved which can be overcome only by clear and
21 convincing evidence: (1) first degree murder in violation
22 of paragraph (1) or (2) of subsection (a) of Section 9-1 of
23 the Criminal Code of 1961 or the Criminal Code of 2012 or
24 conviction of second degree murder in violation of
25 subsection (a) of Section 9-2 of the Criminal Code of 1961
26 or the Criminal Code of 2012 of a parent of the child to be

1 adopted; (2) first degree murder or second degree murder
2 of any child in violation of the Criminal Code of 1961 or
3 the Criminal Code of 2012; (3) attempt or conspiracy to
4 commit first degree murder or second degree murder of any
5 child in violation of the Criminal Code of 1961 or the
6 Criminal Code of 2012; (4) solicitation to commit murder
7 of any child, solicitation to commit murder of any child
8 for hire, or solicitation to commit second degree murder
9 of any child in violation of the Criminal Code of 1961 or
10 the Criminal Code of 2012; (5) predatory criminal sexual
11 assault of a child in violation of Section 11-1.40 or
12 12-14.1 of the Criminal Code of 1961 or the Criminal Code
13 of 2012; (6) heinous battery of any child in violation of
14 the Criminal Code of 1961; (7) aggravated battery of any
15 child in violation of the Criminal Code of 1961 or the
16 Criminal Code of 2012; (8) any violation of Section
17 11-1.20 or Section 12-13 of the Criminal Code of 1961 or
18 the Criminal Code of 2012; (9) any violation of subsection
19 (a) of Section 11-1.50 or Section 12-16 of the Criminal
20 Code of 1961 or the Criminal Code of 2012; (10) any
21 violation of Section 11-9.1 of the Criminal Code of 1961
22 or the Criminal Code of 2012; (11) any violation of
23 Section 11-9.1A of the Criminal Code of 1961 or the
24 Criminal Code of 2012; or (12) an offense in any other
25 state the elements of which are similar and bear a
26 substantial relationship to any of the enumerated offenses

1 in this subsection (i).

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

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

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

19 (j) Open and notorious adultery or fornication.

20 (j-1) (Blank).

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

25 There is a rebuttable presumption that a parent is
26 unfit under this subsection with respect to any child to

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

13 (1) Failure to demonstrate a reasonable degree of
14 interest, concern or responsibility as to the welfare of a
15 new born child during the first 30 days after its birth.

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

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

24 (m-1) (Blank).

25 (n) Evidence of intent to forgo his or her parental
26 rights, whether or not the child is a ward of the court,

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

26 Contact or communication by a parent with his or her

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

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

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

24 (p) Inability to discharge parental responsibilities
25 supported by competent evidence from a psychiatrist,
26 licensed clinical social worker, or clinical psychologist

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

12 (q) (Blank).

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

24 (s) The child is in the temporary custody or
25 guardianship of the Department of Children and Family
26 Services, the parent is incarcerated at the time the

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

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

21 E. "Parent" means a person who is the legal mother or legal
22 father of the child as defined in subsection X or Y of this
23 Section. For the purpose of this Act, a parent who has executed
24 a consent to adoption, a surrender, or a waiver pursuant to
25 Section 10 of this Act, who has signed a Denial of Paternity
26 pursuant to Section 12 of the Vital Records Act or Section 12a

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

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

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

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

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

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

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

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

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

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

7 H. (Blank).

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

11 J. "Immediate relatives" means the biological parents, the
12 parents of the biological parents and siblings of the
13 biological parents.

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

20 L. (Blank).

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

26 N. (Blank).

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

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

9 (a) inflicts, causes to be inflicted, or allows to be
10 inflicted upon the child physical injury, by other than
11 accidental means, that causes death, disfigurement,
12 impairment of physical or emotional health, or loss or
13 impairment of any bodily function;

14 (b) creates a substantial risk of physical injury to
15 the child by other than accidental means which would be
16 likely to cause death, disfigurement, impairment of
17 physical or emotional health, or loss or impairment of any
18 bodily function;

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

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

25 (e) inflicts excessive corporal punishment.

26 Q. "Neglected child" means any child whose parent or other

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

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

24 R. "Putative father" means a man who may be a child's
25 father, but who (1) is not married to the child's mother on or
26 before the date that the child was or is to be born and (2) has

1 not established paternity of the child in a court proceeding
2 before the filing of a petition for the adoption of the child.
3 The term includes a male who is less than 18 years of age.
4 "Putative father" does not mean a man who is the child's father
5 as a result of criminal sexual abuse or assault as defined
6 under Article 11 of the Criminal Code of 2012.

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

12 T. (Blank).

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

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

22 V. (Blank).

23 W. (Blank).

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

26 (1) because of his marriage to or civil union with the

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

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

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

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

18 The definition in this subsection X 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 Y. "Legal mother" of a child means a woman who is
24 recognized as or presumed to be that child's mother:

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

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

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

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

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

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

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

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

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

1 dissolution. "Secondary placement" does not mean secondary
2 placements arising due to the death of the adoptive parent of
3 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, mental health
13 treatment, including counseling and other support services for
14 emotional, behavioral, or developmental needs, and treatment
15 for substance abuse.

16 FF. "Youth in care" has the meaning provided in Section 4d
17 of the Children and Family Services Act.

18 (Source: P.A. 101-155, eff. 1-1-20; 101-529, eff. 1-1-20;
19 102-139, eff. 1-1-22; 102-558, eff. 8-20-21.)

20 (750 ILCS 50/17) (from Ch. 40, par. 1521)

21 Sec. 17. Effect of order terminating parental rights or
22 Judgment of Adoption. After either the entry of an order
23 terminating parental rights or the entry of a judgment of
24 adoption, the ~~natural~~ parents of a child or adult sought to be
25 adopted shall be relieved of all parental responsibility for

1 such child or adult and shall be deprived of all legal rights
2 as respects the child or adult, and the child or adult shall be
3 free from all obligations of maintenance and obedience as
4 respects such ~~natural~~ parents. A parent who is also a
5 petitioner in the adoption will retain all parental rights,
6 responsibilities, and obligations.

7 (Source: P.A. 91-357, eff. 7-29-99.)