

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 Illinois Pension Code is amended by changing
5 Sections 1-104.2 and 15-129 as follows:

6 (40 ILCS 5/1-104.2) (from Ch. 108 1/2, par. 1-104.2)

7 Sec. 1-104.2. Beginning January 1, 1986, children not
8 conceived in lawful wedlock shall be entitled to the same
9 benefits as other children, and no child's or survivor's
10 benefit shall be disallowed because of the fact that
11 ~~illegitimacy of~~ the child was born out of wedlock; however, in
12 cases where the father is the employee parent, paternity must
13 first be established. Paternity may be established by any one
14 of the following means: (1) acknowledgment by the father, or
15 (2) adjudication before or after the death of the father, or
16 (3) any other means acceptable to the board of trustees of the
17 pension fund or retirement system.

18 (Source: P.A. 84-1028.)

19 (40 ILCS 5/15-129) (from Ch. 108 1/2, par. 15-129)

20 Sec. 15-129. Child.

21 "Child": The child of a participant or an annuitant,
22 including a child born out of wedlock ~~an illegitimate child~~, a
23 stepchild who has been such for not less than 1 year
24 immediately preceding the death of the participant or
25 annuitant, and an adopted child, if the proceedings for
26 adoption were initiated at least 1 year before the death or
27 retirement of the participant or annuitant.

28 (Source: P.A. 78-474.)

29 Section 10. The Crime Victims Compensation Act is amended
30 by changing Section 2 as follows:

1 (740 ILCS 45/2) (from Ch. 70, par. 72)

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

4 (a) "Applicant" means any person who applies for
5 compensation under this Act or any person the Court of Claims
6 finds is entitled to compensation, including the guardian of a
7 minor or of a person under legal disability. It includes any
8 person who was a dependent of a deceased victim of a crime of
9 violence for his or her support at the time of the death of
10 that victim.

11 (b) "Court of Claims" means the Court of Claims created by
12 the Court of Claims Act.

13 (c) "Crime of violence" means and includes any offense
14 defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2,
15 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1,
16 12-4.2, 12-4.3, 12-5, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1,
17 12-15, 12-16, 12-30, 20-1 or 20-1.1 of the Criminal Code of
18 1961, and driving under the influence of intoxicating liquor or
19 narcotic drugs as defined in Section 11-501 of the Illinois
20 Vehicle Code, if none of the said offenses occurred during a
21 civil riot, insurrection or rebellion. "Crime of violence" does
22 not include any other offense or accident involving a motor
23 vehicle except those vehicle offenses specifically provided
24 for in this paragraph. "Crime of violence" does include all of
25 the offenses specifically provided for in this paragraph that
26 occur within this State but are subject to federal jurisdiction
27 and crimes involving terrorism as defined in 18 U.S.C. 2331.

28 (d) "Victim" means (1) a person killed or injured in this
29 State as a result of a crime of violence perpetrated or
30 attempted against him or her, (2) the parent of a child killed
31 or injured in this State as a result of a crime of violence
32 perpetrated or attempted against the child, (3) a person killed
33 or injured in this State while attempting to assist a person
34 against whom a crime of violence is being perpetrated or
35 attempted, if that attempt of assistance would be expected of a

1 reasonable man under the circumstances, (4) a person killed or
2 injured in this State while assisting a law enforcement
3 official apprehend a person who has perpetrated a crime of
4 violence or prevent the perpetration of any such crime if that
5 assistance was in response to the express request of the law
6 enforcement official, (5) a person who personally witnessed a
7 violent crime, (5.1) solely for the purpose of compensating for
8 pecuniary loss incurred for psychological treatment of a mental
9 or emotional condition caused or aggravated by the crime, any
10 other person under the age of 18 who is the brother, sister,
11 half brother, half sister, child, or stepchild of a person
12 killed or injured in this State as a result of a crime of
13 violence, or (6) an Illinois resident who is a victim of a
14 "crime of violence" as defined in this Act except, if the crime
15 occurred outside this State, the resident has the same rights
16 under this Act as if the crime had occurred in this State upon
17 a showing that the state, territory, country, or political
18 subdivision of a country in which the crime occurred does not
19 have a compensation of victims of crimes law for which that
20 Illinois resident is eligible.

21 (e) "Dependent" means a relative of a deceased victim who
22 was wholly or partially dependent upon the victim's income at
23 the time of his or her death and shall include the child of a
24 victim born after his or her death.

25 (f) "Relative" means a spouse, parent, grandparent,
26 stepfather, stepmother, child, grandchild, brother,
27 brother-in-law, sister, sister-in-law, half brother, half
28 sister, spouse's parent, nephew, niece, uncle or aunt.

29 (g) "Child" means an unmarried son or daughter who is under
30 18 years of age and includes a stepchild, an adopted child or a
31 child born out of wedlock ~~an illegitimate child~~.

32 (h) "Pecuniary loss" means, in the case of injury,
33 appropriate medical expenses and hospital expenses including
34 expenses of medical examinations, rehabilitation, medically
35 required nursing care expenses, appropriate psychiatric care
36 or psychiatric counseling expenses, expenses for care or

1 counseling by a licensed clinical psychologist or licensed
2 clinical social worker and expenses for treatment by Christian
3 Science practitioners and nursing care appropriate thereto;
4 prosthetic appliances, eyeglasses, and hearing aids necessary
5 or damaged as a result of the crime; replacement costs for
6 clothing and bedding used as evidence; costs associated with
7 temporary lodging or relocation necessary as a result of the
8 crime; locks or windows necessary or damaged as a result of the
9 crime; the purchase, lease, or rental of equipment necessary to
10 create usability of and accessibility to the victim's real and
11 personal property, or the real and personal property which is
12 used by the victim, necessary as a result of the crime; the
13 costs of appropriate crime scene clean-up; replacement
14 services loss, to a maximum of \$1000 per month; dependents
15 replacement services loss, to a maximum of \$1000 per month;
16 loss of tuition paid to attend grammar school or high school
17 when the victim had been enrolled as a full-time student prior
18 to the injury, or college or graduate school when the victim
19 had been enrolled as a full-time day or night student prior to
20 the injury when the victim becomes unable to continue
21 attendance at school as a result of the crime of violence
22 perpetrated against him or her; loss of earnings, loss of
23 future earnings because of disability resulting from the
24 injury, and, in addition, in the case of death, expenses for
25 funeral, burial, and travel and transport for survivors of
26 homicide victims to secure bodies of deceased victims and to
27 transport bodies for burial all of which may not exceed a
28 maximum of \$5,000 and loss of support of the dependents of the
29 victim. Loss of future earnings shall be reduced by any income
30 from substitute work actually performed by the victim or by
31 income he or she would have earned in available appropriate
32 substitute work he or she was capable of performing but
33 unreasonably failed to undertake. Loss of earnings, loss of
34 future earnings and loss of support shall be determined on the
35 basis of the victim's average net monthly earnings for the 6
36 months immediately preceding the date of the injury or on \$1000

1 per month, whichever is less. If a divorced or legally
2 separated applicant is claiming loss of support for a minor
3 child of the deceased, the amount of support for each child
4 shall be based either on the amount of support pursuant to the
5 judgment prior to the date of the deceased victim's injury or
6 death, or, if the subject of pending litigation filed by or on
7 behalf of the divorced or legally separated applicant prior to
8 the injury or death, on the result of that litigation. Real and
9 personal property includes, but is not limited to, vehicles,
10 houses, apartments, town houses, or condominiums. Pecuniary
11 loss does not include pain and suffering or property loss or
12 damage.

13 (i) "Replacement services loss" means expenses reasonably
14 incurred in obtaining ordinary and necessary services in lieu
15 of those the permanently injured person would have performed,
16 not for income, but for the benefit of himself or herself or
17 his or her family, if he or she had not been permanently
18 injured.

19 (j) "Dependents replacement services loss" means loss
20 reasonably incurred by dependents after a victim's death in
21 obtaining ordinary and necessary services in lieu of those the
22 victim would have performed, not for income, but for their
23 benefit, if he or she had not been fatally injured.

24 (k) "Survivor" means immediate family including a parent,
25 step-father, step-mother, child, brother, sister, or spouse.

26 (Source: P.A. 91-258, eff. 1-1-00; 91-445, eff. 1-1-00; 91-892,
27 eff. 7-6-00; 92-427, eff. 1-1-02.)

28 Section 15. The Illinois Marriage and Dissolution of
29 Marriage Act is amended by changing Sections 205, 212, 303, and
30 607 as follows:

31 (750 ILCS 5/205) (from Ch. 40, par. 205)

32 Sec. 205. Exceptions.

33 (1) Irrespective of the results of laboratory tests and
34 clinical examination relative to sexually transmitted

1 diseases, the clerks of the respective counties shall issue a
2 marriage license to parties to a proposed marriage (a) when a
3 woman is pregnant at the time of such application, or (b) when
4 a woman has, prior to the time of application, given birth to a
5 child born out of wedlock ~~an illegitimate child~~ which is living
6 at the time of such application and the man making such
7 application makes affidavit that he is the father of such child
8 born out of wedlock ~~illegitimate child~~. The county clerk shall,
9 in lieu of the health certificate required hereunder, accept,
10 as the case may be, either an affidavit on a form prescribed by
11 the State Department of Public Health, signed by a physician
12 duly licensed in this State, stating that the woman is
13 pregnant, or a copy of the birth record of the child born out
14 of wedlock ~~illegitimate child~~, if one is available in this
15 State, or if such birth record is not available, an affidavit
16 signed by the woman that she is the mother of such child.

17 (2) Any judge of the circuit court within the county in
18 which the license is to be issued is authorized and empowered
19 on joint application by both applicants for a marriage license
20 to waive the requirements as to medical examination, laboratory
21 tests, and certificates, except the requirements of paragraph
22 (4) of subsection (a) of Section 212 of this Act which shall
23 not be waived; and to authorize the county clerk to issue the
24 license if all other requirements of law have been complied
25 with and the judge is satisfied, by affidavit, or other proof,
26 that the examination or tests are contrary to the tenets or
27 practices of the religious creed of which the applicant is an
28 adherent, and that the public health and welfare will not be
29 injuriously affected thereby.

30 (Source: P.A. 89-187, eff. 7-19-95.)

31 (750 ILCS 5/212) (from Ch. 40, par. 212)

32 Sec. 212. Prohibited Marriages.

33 (a) The following marriages are prohibited:

34 (1) a marriage entered into prior to the dissolution of
35 an earlier marriage of one of the parties;

1 (2) a marriage between an ancestor and a descendant or
2 between a brother and a sister, whether the relationship is
3 by the half or the whole blood or by adoption;

4 (3) a marriage between an uncle and a niece or between
5 an aunt and a nephew, whether the relationship is by the
6 half or the whole blood;

7 (4) a marriage between cousins of the first degree;
8 however, a marriage between first cousins is not prohibited
9 if:

10 (i) both parties are 50 years of age or older; or

11 (ii) either party, at the time of application for a
12 marriage license, presents for filing with the county
13 clerk of the county in which the marriage is to be
14 solemnized, a certificate signed by a licensed
15 physician stating that the party to the proposed
16 marriage is permanently and irreversibly sterile;

17 (5) a marriage between 2 individuals of the same sex.

18 (b) Parties to a marriage prohibited under subsection (a)
19 of this Section who cohabit after removal of the impediment are
20 lawfully married as of the date of the removal of the
21 impediment.

22 (c) Children born or adopted of a prohibited or common law
23 marriage are the lawful children of the parties ~~legitimate~~.

24 (Source: P.A. 89-459, eff. 5-24-96.)

25 (750 ILCS 5/303) (from Ch. 40, par. 303)

26 Sec. 303. Legitimacy of Children.) Children born or adopted
27 of a marriage declared invalid are the lawful children of the
28 parties ~~legitimate~~. Children whose parents marry after their
29 birth are the lawful children of the parties ~~legitimate~~.

30 (Source: P.A. 82-566.)

31 (750 ILCS 5/607) (from Ch. 40, par. 607)

32 Sec. 607. Visitation.

33 (a) A parent not granted custody of the child is entitled
34 to reasonable visitation rights unless the court finds, after a

1 hearing, that visitation would endanger seriously the child's
2 physical, mental, moral or emotional health. If the custodian's
3 street address is not identified, pursuant to Section 708, the
4 court shall require the parties to identify reasonable
5 alternative arrangements for visitation by a non-custodial
6 parent, including but not limited to visitation of the minor
7 child at the residence of another person or at a local public
8 or private facility.

9 (a-3) Nothing in subsection (a-5) of this Section shall
10 apply to a child in whose interests a petition under Section
11 2-13 of the Juvenile Court Act of 1987 is pending.

12 (a-5) (1) Except as otherwise provided in this subsection
13 (a-5), any grandparent, great-grandparent, or sibling may file
14 a petition for visitation rights to a minor child if there is
15 an unreasonable denial of visitation by a parent and at least
16 one of the following conditions exists:

17 (A) one parent of the child is incompetent as a matter
18 of law or deceased or has been sentenced to a period of
19 imprisonment for more than 1 year;

20 (B) the child's mother and father are divorced or have
21 been legally separated from each other during the 3 month
22 period prior to the filing of the petition and at least one
23 parent does not object to the grandparent,
24 great-grandparent, or sibling having visitation with the
25 child. The visitation of the grandparent,
26 great-grandparent, or sibling must not diminish the
27 visitation of the parent who is not related to the
28 grandparent, great-grandparent, or sibling seeking
29 visitation;

30 (C) the court, other than a Juvenile Court, has
31 terminated a parent-child relationship and the
32 grandparent, great-grandparent, or sibling is the parent
33 of the person whose parental rights have been terminated,
34 except in cases of adoption. The visitation must not be
35 used to allow the parent who lost parental rights to
36 unlawfully visit with the child;

1 (D) the child is born out of wedlock ~~illegitimate~~, the
2 parents are not living together, and the petitioner is a
3 maternal grandparent, great-grandparent, or sibling of the
4 child born out of wedlock ~~illegitimate child~~; or

5 (E) the child is born out of wedlock ~~illegitimate~~, the
6 parents are not living together, the petitioner is a
7 paternal grandparent, great-grandparent, or sibling, and
8 the paternity has been established by a court of competent
9 jurisdiction.

10 (2) The grandparent, great-grandparent, or sibling of a
11 parent whose parental rights have been terminated through an
12 adoption proceeding may not petition for visitation rights.

13 (3) In making a determination under this subsection (a-5),
14 there is a rebuttable presumption that a fit parent's actions
15 and decisions regarding grandparent, great-grandparent, or
16 sibling visitation are not harmful to the child's mental,
17 physical, or emotional health. The burden is on the party
18 filing a petition under this Section to prove that the parent's
19 actions and decisions regarding visitation times are harmful to
20 the child's mental, physical, or emotional health.

21 (4) In determining whether to grant visitation, the court
22 shall consider the following:

23 (A) the preference of the child if the child is
24 determined to be of sufficient maturity to express a
25 preference;

26 (B) the mental and physical health of the child;

27 (C) the mental and physical health of the grandparent,
28 great-grandparent, or sibling;

29 (D) the length and quality of the prior relationship
30 between the child and the grandparent, great-grandparent,
31 or sibling;

32 (E) the good faith of the party in filing the petition;

33 (F) the good faith of the person denying visitation;

34 (G) the quantity of the visitation time requested and
35 the potential adverse impact that visitation would have on
36 the child's customary activities;

1 (H) whether the child resided with the petitioner for
2 at least 6 consecutive months with or without the current
3 custodian present;

4 (I) whether the petitioner had frequent or regular
5 contact with the child for at least 12 consecutive months;
6 and

7 (J) any other fact that establishes that the loss of
8 the relationship between the petitioner and the child is
9 likely to harm the child's mental, physical, or emotional
10 health.

11 (5) The court may order visitation rights for the
12 grandparent, great-grandparent, or sibling that include
13 reasonable access without requiring overnight or possessory
14 visitation.

15 (a-7) (1) Unless by stipulation of the parties, no motion to
16 modify a grandparent, great-grandparent, or sibling visitation
17 order may be made earlier than 2 years after the date the order
18 was filed, unless the court permits it to be made on the basis
19 of affidavits that there is reason to believe the child's
20 present environment may endanger seriously the child's mental,
21 physical, or emotional health.

22 (2) The court shall not modify a prior grandparent,
23 great-grandparent, or sibling visitation order unless it finds
24 by clear and convincing evidence, upon the basis of facts that
25 have arisen since the prior visitation order or that were
26 unknown to the court at the time of entry of the prior
27 visitation, that a change has occurred in the circumstances of
28 the child or his or her custodian, and that the modification is
29 necessary to protect the mental, physical, or emotional health
30 of the child. The court shall state in its decision specific
31 findings of fact in support of its modification or termination
32 of the grandparent, great-grandparent, or sibling visitation.

33 (3) Attorney fees and costs shall be assessed against a
34 party seeking modification of the visitation order if the court
35 finds that the modification action is vexatious and constitutes
36 harassment.

1 (4) Notice under this subsection (a-7) shall be given as
2 provided in subsections (c) and (d) of Section 601.

3 (b) (1) (Blank.)

4 (1.5) The Court may grant reasonable visitation privileges
5 to a stepparent upon petition to the court by the stepparent,
6 with notice to the parties required to be notified under
7 Section 601 of this Act, if the court determines that it is in
8 the best interests and welfare of the child, and may issue any
9 necessary orders to enforce those visitation privileges. A
10 petition for visitation privileges may be filed under this
11 paragraph (1.5) whether or not a petition pursuant to this Act
12 has been previously filed or is currently pending if the
13 following circumstances are met:

14 (A) the child is at least 12 years old;

15 (B) the child resided continuously with the parent and
16 stepparent for at least 5 years;

17 (C) the parent is deceased or is disabled and is unable
18 to care for the child;

19 (D) the child wishes to have reasonable visitation with
20 the stepparent; and

21 (E) the stepparent was providing for the care, control,
22 and welfare to the child prior to the initiation of the
23 petition for visitation.

24 (2) (A) A petition for visitation privileges shall not be
25 filed pursuant to this subsection (b) by the parents or
26 grandparents of a putative father if the paternity of the
27 putative father has not been legally established.

28 (B) A petition for visitation privileges may not be filed
29 under this subsection (b) if the child who is the subject of
30 the grandparents' or great-grandparents' petition has been
31 voluntarily surrendered by the parent or parents, except for a
32 surrender to the Illinois Department of Children and Family
33 Services or a foster care facility, or has been previously
34 adopted by an individual or individuals who are not related to
35 the biological parents of the child or is the subject of a
36 pending adoption petition by an individual or individuals who

1 are not related to the biological parents of the child.

2 (3) (Blank).

3 (c) The court may modify an order granting or denying
4 visitation rights of a parent whenever modification would serve
5 the best interest of the child; but the court shall not
6 restrict a parent's visitation rights unless it finds that the
7 visitation would endanger seriously the child's physical,
8 mental, moral or emotional health. The court may modify an
9 order granting, denying, or limiting visitation rights of a
10 grandparent, great-grandparent, or sibling of any minor child
11 whenever a change of circumstances has occurred based on facts
12 occurring subsequent to the judgment and the court finds by
13 clear and convincing evidence that the modification is in the
14 best interest of the minor child.

15 (d) If any court has entered an order prohibiting a
16 non-custodial parent of a child from any contact with a child
17 or restricting the non-custodial parent's contact with the
18 child, the following provisions shall apply:

19 (1) If an order has been entered granting visitation
20 privileges with the child to a grandparent or
21 great-grandparent who is related to the child through the
22 non-custodial parent, the visitation privileges of the
23 grandparent or great-grandparent may be revoked if:

24 (i) a court has entered an order prohibiting the
25 non-custodial parent from any contact with the child,
26 and the grandparent or great-grandparent is found to
27 have used his or her visitation privileges to
28 facilitate contact between the child and the
29 non-custodial parent; or

30 (ii) a court has entered an order restricting the
31 non-custodial parent's contact with the child, and the
32 grandparent or great-grandparent is found to have used
33 his or her visitation privileges to facilitate contact
34 between the child and the non-custodial parent in a
35 manner that violates the terms of the order restricting
36 the non-custodial parent's contact with the child.

1 Nothing in this subdivision (1) limits the authority of
2 the court to enforce its orders in any manner permitted by
3 law.

4 (2) Any order granting visitation privileges with the
5 child to a grandparent or great-grandparent who is related
6 to the child through the non-custodial parent shall contain
7 the following provision:

8 "If the (grandparent or great-grandparent, whichever
9 is applicable) who has been granted visitation privileges
10 under this order uses the visitation privileges to
11 facilitate contact between the child and the child's
12 non-custodial parent, the visitation privileges granted
13 under this order shall be permanently revoked."

14 (e) No parent, not granted custody of the child, or
15 grandparent, or great-grandparent, or stepparent, or sibling
16 of any minor child, convicted of any offense involving an
17 illegal sex act perpetrated upon a victim less than 18 years of
18 age including but not limited to offenses for violations of
19 Article 12 of the Criminal Code of 1961, is entitled to
20 visitation rights while incarcerated or while on parole,
21 probation, conditional discharge, periodic imprisonment, or
22 mandatory supervised release for that offense, and upon
23 discharge from incarceration for a misdemeanor offense or upon
24 discharge from parole, probation, conditional discharge,
25 periodic imprisonment, or mandatory supervised release for a
26 felony offense, visitation shall be denied until the person
27 successfully completes a treatment program approved by the
28 court.

29 (f) Unless the court determines, after considering all
30 relevant factors, including but not limited to those set forth
31 in Section 602(a), that it would be in the best interests of
32 the child to allow visitation, the court shall not enter an
33 order providing visitation rights and pursuant to a motion to
34 modify visitation shall revoke visitation rights previously
35 granted to any person who would otherwise be entitled to
36 petition for visitation rights under this Section who has been

1 convicted of first degree murder of the parent, grandparent,
2 great-grandparent, or sibling of the child who is the subject
3 of the order. Until an order is entered pursuant to this
4 subsection, no person shall visit, with the child present, a
5 person who has been convicted of first degree murder of the
6 parent, grandparent, great-grandparent, or sibling of the
7 child without the consent of the child's parent, other than a
8 parent convicted of first degree murder as set forth herein, or
9 legal guardian.

10 (g) If an order has been entered limiting, for cause, a
11 minor child's contact or visitation with a grandparent,
12 great-grandparent, or sibling on the grounds that it was in the
13 best interest of the child to do so, that order may be modified
14 only upon a showing of a substantial change in circumstances
15 occurring subsequent to the entry of the order with proof by
16 clear and convincing evidence that modification is in the best
17 interest of the minor child.

18 (Source: P.A. 93-911, eff. 1-1-05.)

19 Section 20. The Emancipation of Minors Act is amended by
20 changing Section 3-3 as follows:

21 (750 ILCS 30/3-3) (from Ch. 40, par. 2203-3)

22 Sec. 3-3. Parents. "Parent" means the father or mother of a
23 lawful child of the parties ~~legitimate~~ or a child born out of
24 wedlock ~~illegitimate~~ child, and includes any adoptive parent.
25 It does not include a parent whose rights in respect to the
26 minor have been terminated in any manner provided by law.

27 (Source: P.A. 81-833.)

28 Section 25. The Adoption Act is amended by changing Section
29 1 as follows:

30 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

1 A. "Child" means a person under legal age subject to
2 adoption under this Act.

3 B. "Related child" means a child subject to adoption where
4 either or both of the adopting parents stands in any of the
5 following relationships to the child by blood or marriage:
6 parent, grand-parent, brother, sister, step-parent,
7 step-grandparent, step-brother, step-sister, uncle, aunt,
8 great-uncle, great-aunt, or cousin of first degree. A child
9 whose parent has executed a final irrevocable consent to
10 adoption or a final irrevocable surrender for purposes of
11 adoption, or whose parent has had his or her parental rights
12 terminated, is not a related child to that person, unless the
13 consent is determined to be void or is void pursuant to
14 subsection O of Section 10.

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

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

24 (a) Abandonment of the child.

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

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

29 (b) Failure to maintain a reasonable degree of
30 interest, concern or responsibility as to the child's
31 welfare.

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

34 (d) Substantial neglect of the child if continuous or
35 repeated.

36 (d-1) Substantial neglect, if continuous or repeated,

1 of any child residing in the household which resulted in
2 the death of that child.

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

4 (f) Two or more findings of physical abuse to any
5 children under Section 4-8 of the Juvenile Court Act or
6 Section 2-21 of the Juvenile Court Act of 1987, the most
7 recent of which was determined by the juvenile court
8 hearing the matter to be supported by clear and convincing
9 evidence; a criminal conviction or a finding of not guilty
10 by reason of insanity resulting from the death of any child
11 by physical child abuse; or a finding of physical child
12 abuse resulting from the death of any child under Section
13 4-8 of the Juvenile Court Act or Section 2-21 of the
14 Juvenile Court Act of 1987.

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

17 (h) Other neglect of, or misconduct toward the child;
18 provided that in making a finding of unfitness the court
19 hearing the adoption proceeding shall not be bound by any
20 previous finding, order or judgment affecting or
21 determining the rights of the parents toward the child
22 sought to be adopted in any other proceeding except such
23 proceedings terminating parental rights as shall be had
24 under either this Act, the Juvenile Court Act or the
25 Juvenile Court Act of 1987.

26 (i) Depravity. Conviction of any one of the following
27 crimes shall create a presumption that a parent is depraved
28 which can be overcome only by clear and convincing
29 evidence: (1) first degree murder in violation of paragraph
30 1 or 2 of subsection (a) of Section 9-1 of the Criminal
31 Code of 1961 or conviction of second degree murder in
32 violation of subsection (a) of Section 9-2 of the Criminal
33 Code of 1961 of a parent of the child to be adopted; (2)
34 first degree murder or second degree murder of any child in
35 violation of the Criminal Code of 1961; (3) attempt or
36 conspiracy to commit first degree murder or second degree

1 murder of any child in violation of the Criminal Code of
2 1961; (4) solicitation to commit murder of any child,
3 solicitation to commit murder of any child for hire, or
4 solicitation to commit second degree murder of any child in
5 violation of the Criminal Code of 1961; or (5) aggravated
6 criminal sexual assault in violation of Section
7 12-14(b) (1) of the Criminal Code of 1961.

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

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

21 (j) Open and notorious adultery or fornication.

22 (j-1) (Blank).

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

27 There is a rebuttable presumption that a parent is
28 unfit under this subsection with respect to any child to
29 which that parent gives birth where there is a confirmed
30 test result that at birth the child's blood, urine, or
31 meconium contained any amount of a controlled substance as
32 defined in subsection (f) of Section 102 of the Illinois
33 Controlled Substances Act or metabolites of such
34 substances, the presence of which in the newborn infant was
35 not the result of medical treatment administered to the
36 mother or the newborn infant; and the biological mother of

1 this child is the biological mother of at least one other
2 child who was adjudicated a neglected minor under
3 subsection (c) of Section 2-3 of the Juvenile Court Act of
4 1987.

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

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

1 (m-1) Pursuant to the Juvenile Court Act of 1987, a
2 child has been in foster care for 15 months out of any 22
3 month period which begins on or after the effective date of
4 this amendatory Act of 1998 unless the child's parent can
5 prove by a preponderance of the evidence that it is more
6 likely than not that it will be in the best interests of
7 the child to be returned to the parent within 6 months of
8 the date on which a petition for termination of parental
9 rights is filed under the Juvenile Court Act of 1987. The
10 15 month time limit is tolled during any period for which
11 there is a court finding that the appointed custodian or
12 guardian failed to make reasonable efforts to reunify the
13 child with his or her family, provided that (i) the finding
14 of no reasonable efforts is made within 60 days of the
15 period when reasonable efforts were not made or (ii) the
16 parent filed a motion requesting a finding of no reasonable
17 efforts within 60 days of the period when reasonable
18 efforts were not made. For purposes of this subdivision
19 (m-1), the date of entering foster care is the earlier of:
20 (i) the date of a judicial finding at an adjudicatory
21 hearing that the child is an abused, neglected, or
22 dependent minor; or (ii) 60 days after the date on which
23 the child is removed from his or her parent, guardian, or
24 legal custodian.

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

1 1984 or the law of the jurisdiction of the child's birth
2 within 30 days of being informed, pursuant to Section 12a
3 of this Act, that he is the father or the likely father of
4 the child or, after being so informed where the child is
5 not yet born, within 30 days of the child's birth, or (ii)
6 to make a good faith effort to pay a reasonable amount of
7 the expenses related to the birth of the child and to
8 provide a reasonable amount for the financial support of
9 the child, the court to consider in its determination all
10 relevant circumstances, including the financial condition
11 of both parents; provided that the ground for termination
12 provided in this subparagraph (n)(2)(ii) shall only be
13 available where the petition is brought by the mother or
14 the husband of the mother.

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

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

36 (o) Repeated or continuous failure by the parents,

1 although physically and financially able, to provide the
2 child with adequate food, clothing, or shelter.

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

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

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

31 (s) The child is in the temporary custody or
32 guardianship of the Department of Children and Family
33 Services, the parent is incarcerated at the time the
34 petition or motion for termination of parental rights is
35 filed, the parent has been repeatedly incarcerated as a
36 result of criminal convictions, and the parent's repeated

1 incarceration has prevented the parent from discharging
2 his or her parental responsibilities for the child.

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

18 E. "Parent" means the father or mother of a lawful child of
19 the parties ~~legitimate~~ or ~~illegitimate~~ child born out of
20 wedlock. For the purpose of this Act, a person who has executed
21 a final and irrevocable consent to adoption or a final and
22 irrevocable surrender for purposes of adoption, or whose
23 parental rights have been terminated by a court, is not a
24 parent of the child who was the subject of the consent or
25 surrender, unless the consent is void pursuant to subsection 0
26 of Section 10.

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

28 (a) a child who has been surrendered for adoption to an
29 agency and to whose adoption the agency has thereafter
30 consented;

31 (b) a child to whose adoption a person authorized by
32 law, other than his parents, has consented, or to whose
33 adoption no consent is required pursuant to Section 8 of
34 this Act;

35 (c) a child who is in the custody of persons who intend
36 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. "Adoption disruption" occurs when an adoptive placement
14 does not prove successful and it becomes necessary for the
15 child to be removed from placement before the adoption is
16 finalized.

17 I. "Foreign placing agency" is an agency or individual
18 operating in a country or territory outside the United States
19 that is authorized by its country to place children for
20 adoption either directly with families in the United States or
21 through United States based international agencies.

22 J. "Immediate relatives" means the biological parents, the
23 parents of the biological parents and siblings of the
24 biological parents.

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

27 L. "Intercountry Adoption Coordinator" is a staff person of
28 the Department of Children and Family Services appointed by the
29 Director to coordinate the provision of services by the public
30 and private sector to prospective parents of foreign-born
31 children.

32 M. "Interstate Compact on the Placement of Children" is a
33 law enacted by most states for the purpose of establishing
34 uniform procedures for handling the interstate placement of
35 children in foster homes, adoptive homes, or other child care
36 facilities.

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

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

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

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

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

21 (c) commits or allows to be committed any sex offense
22 against the child, as sex offenses are defined in the
23 Criminal Code of 1961 and extending those definitions of
24 sex offenses to include children under 18 years of age;

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

27 (e) inflicts excessive corporal punishment.

28 Q. "Neglected child" means any child whose parent or other
29 person responsible for the child's welfare withholds or denies
30 nourishment or medically indicated treatment including food or
31 care denied solely on the basis of the present or anticipated
32 mental or physical impairment as determined by a physician
33 acting alone or in consultation with other physicians or
34 otherwise does not provide the proper or necessary support,
35 education as required by law, or medical or other remedial care
36 recognized under State law as necessary for a child's

1 well-being, or other care necessary for his or her well-being,
2 including adequate food, clothing and shelter; or who is
3 abandoned by his or her parents or other person responsible for
4 the child's welfare.

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

16 R. "Putative father" means a man who may be a child's
17 father, but who (1) is not married to the child's mother on or
18 before the date that the child was or is to be born and (2) has
19 not established paternity of the child in a court proceeding
20 before the filing of a petition for the adoption of the child.
21 The term includes a male who is less than 18 years of age.
22 "Putative father" does not mean a man who is the child's father
23 as a result of criminal sexual abuse or assault as defined
24 under Article 12 of the Criminal Code of 1961.

25 S. "Standby adoption" means an adoption in which a parent
26 consents to custody and termination of parental rights to
27 become effective upon the occurrence of a future event, which
28 is either the death of the parent or the request of the parent
29 for the entry of a final judgment of adoption.

30 T. (Blank).

31 (Source: P.A. 92-16, eff. 6-28-01; 92-375, eff. 1-1-02; 92-408,
32 eff. 8-17-01; 92-432, eff. 8-17-01; 92-651, eff. 7-11-02;
33 93-732, eff. 1-1-05.)

34 Section 30. The Probate Act of 1975 is amended by changing
35 Section 2-2 as follows:

1 (755 ILCS 5/2-2) (from Ch. 110 1/2, par. 2-2)

2 Sec. 2-2. Children born out of wedlock ~~Illegitimates~~. The
3 intestate real and personal estate of a resident decedent who
4 was a child born out of wedlock ~~illegitimate~~ at the time of
5 death and the intestate real estate in this State of a
6 nonresident decedent who was a child born out of wedlock
7 ~~illegitimate~~ at the time of death, after all just claims
8 against his estate are fully paid, descends and shall be
9 distributed as provided in Section 2-1, subject to Section
10 2-6.5 of this Act, if both parents are eligible parents. As
11 used in this Section, "eligible parent" means a parent of the
12 decedent who, during the decedent's lifetime, acknowledged the
13 decedent as the parent's child, established a parental
14 relationship with the decedent, and supported the decedent as
15 the parent's child. "Eligible parents" who are in arrears of in
16 excess of one year's child support obligations shall not
17 receive any property benefit or other interest of the decedent
18 unless and until a court of competent jurisdiction makes a
19 determination as to the effect on the deceased of the arrearage
20 and allows a reduced benefit. In no event shall the reduction
21 of the benefit or other interest be less than the amount of
22 child support owed for the support of the decedent at the time
23 of death. The court's considerations shall include but are not
24 limited to the considerations in subsections (1) through (3) of
25 Section 2-6.5 of this Act.

26 If neither parent is an eligible parent, the intestate real
27 and personal estate of a resident decedent who was a child born
28 out of wedlock ~~illegitimate~~ at the time of death and the
29 intestate real estate in this State of a nonresident decedent
30 who was a child born out of wedlock ~~illegitimate~~ at the time of
31 death, after all just claims against his or her estate are
32 fully paid, descends and shall be distributed as provided in
33 Section 2-1, but the parents of the decedent shall be treated
34 as having predeceased the decedent.

35 If only one parent is an eligible parent, the intestate

1 real and personal estate of a resident decedent who was a child
2 born out of wedlock ~~illegitimate~~ at the time of death and the
3 intestate real estate in this State of a nonresident decedent
4 who was a child born out of wedlock ~~illegitimate~~ at the time of
5 death, after all just claims against his or her estate are
6 fully paid, subject to Section 2-6.5 of this Act, descends and
7 shall be distributed as follows:

8 (a) If there is a surviving spouse and also a descendant of
9 the decedent: 1/2 of the entire estate to the surviving spouse
10 and 1/2 to the decedent's descendants per stirpes.

11 (b) If there is no surviving spouse but a descendant of the
12 decedent: the entire estate to the decedent's descendants per
13 stirpes.

14 (c) If there is a surviving spouse but no descendant of the
15 decedent: the entire estate to the surviving spouse.

16 (d) If there is no surviving spouse or descendant but the
17 eligible parent or a descendant of the eligible parent of the
18 decedent: the entire estate to the eligible parent and the
19 eligible parent's descendants, allowing 1/2 to the eligible
20 parent and 1/2 to the eligible parent's descendants per
21 stirpes.

22 (e) If there is no surviving spouse, descendant, eligible
23 parent, or descendant of the eligible parent of the decedent,
24 but a grandparent on the eligible parent's side of the family
25 or descendant of such grandparent of the decedent: the entire
26 estate to the decedent's grandparents on the eligible parent's
27 side of the family in equal parts, or to the survivor of them,
28 or if there is none surviving, to their descendants per
29 stirpes.

30 (f) If there is no surviving spouse, descendant, eligible
31 parent, descendant of the eligible parent, grandparent on the
32 eligible parent's side of the family, or descendant of such
33 grandparent of the decedent: the entire estate to the
34 decedent's great-grandparents on the eligible parent's side of
35 the family in equal parts or to the survivor of them, or if
36 there is none surviving, to their descendants per stirpes.

1 (g) If there is no surviving spouse, descendant, eligible
2 parent, descendant of the eligible parent, grandparent on the
3 eligible parent's side of the family, descendant of such
4 grandparent, great-grandparent on the eligible parent's side
5 of the family, or descendant of such great-grandparent of the
6 decedent: the entire estate in equal parts to the nearest
7 kindred of the eligible parent of the decedent in equal degree
8 (computing by the rules of the civil law) and without
9 representation.

10 (h) If there is no surviving spouse, descendant, or
11 eligible parent of the decedent and no known kindred of the
12 eligible parent of the decedent: the real estate escheats to
13 the county in which it is located; the personal estate
14 physically located within this State and the personal estate
15 physically located or held outside this State which is the
16 subject of ancillary administration within this State escheats
17 to the county of which the decedent was a resident or, if the
18 decedent was not a resident of this State, to the county in
19 which it is located; all other personal property of the
20 decedent of every class and character, wherever situate, or the
21 proceeds thereof, shall escheat to this State and be delivered
22 to the State Treasurer of this State pursuant to the Uniform
23 Disposition of Unclaimed Property Act.

24 For purposes of inheritance, the changes made by this
25 amendatory Act of 1998 apply to all decedents who die on or
26 after the effective date of this amendatory Act of 1998. For
27 the purpose of determining the property rights of any person
28 under any instrument, the changes made by this amendatory Act
29 of 1998 apply to all instruments executed on or after the
30 effective date of this amendatory Act of 1998.

31 A child born out of wedlock ~~An illegitimate person~~ is heir
32 of his mother and of any maternal ancestor and of any person
33 from whom his mother might have inherited, if living; and the
34 descendants of a person who was a child born out of wedlock ~~an~~
35 ~~illegitimate person~~ shall represent such person and take by
36 descent any estate which the parent would have taken, if

1 living. If a decedent has acknowledged paternity of a child
2 born out of wedlock ~~an illegitimate person~~ or if during his
3 lifetime or after his death a decedent has been adjudged to be
4 the father of a child born out of wedlock ~~an illegitimate~~
5 ~~person~~, that person is heir of his father and of any paternal
6 ancestor and of any person from whom his father might have
7 inherited, if living; and the descendants of a person who was a
8 child born out of wedlock ~~an illegitimate person~~ shall
9 represent that person and take by descent any estate which the
10 parent would have taken, if living. If during his lifetime the
11 decedent was adjudged to be the father of a child born out of
12 wedlock ~~an illegitimate person~~ by a court of competent
13 jurisdiction, an authenticated copy of the judgment is
14 sufficient proof of the paternity; but in all other cases
15 paternity must be proved by clear and convincing evidence. A
16 person who was a child born out of wedlock ~~illegitimate~~ whose
17 parents intermarry and who is acknowledged by the father as the
18 father's child is a lawful child of the father ~~legitimate~~.
19 After a child born out of wedlock ~~an illegitimate person~~ is
20 adopted, that person's relationship to his or her adopting and
21 natural parents shall be governed by Section 2-4 of this Act.
22 For purposes of inheritance, the changes made by this
23 amendatory Act of 1997 apply to all decedents who die on or
24 after January 1, 1998. For the purpose of determining the
25 property rights of any person under any instrument, the changes
26 made by this amendatory Act of 1997 apply to all instruments
27 executed on or after January 1, 1998.

28 (Source: P.A. 90-237, eff. 1-1-98; 90-803, eff. 12-15-98;
29 91-16, eff. 7-1-99.)