



Sen. Darin M. LaHood

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LRB097 18018 AJ0 67041 a

1 AMENDMENT TO SENATE BILL 3666

2 AMENDMENT NO. _____. Amend Senate Bill 3666 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Adoption Act is amended by changing Section
5 1 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. "Child" means a person under legal age subject to
10 adoption under this Act.

11 B. "Related child" means a child subject to adoption where
12 either or both of the adopting parents stands in any of the
13 following relationships to the child by blood or marriage:
14 parent, grand-parent, brother, sister, step-parent,
15 step-grandparent, step-brother, step-sister, uncle, aunt,
16 great-uncle, great-aunt, or cousin of first degree. A child

1 whose parent has executed a final irrevocable consent to
2 adoption or a final irrevocable surrender for purposes of
3 adoption, or whose parent has had his or her parental rights
4 terminated, is not a related child to that person, unless the
5 consent is determined to be void or is void pursuant to
6 subsection O of Section 10.

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

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

16 (a) Abandonment of the child.

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

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

21 (b) Failure to maintain a reasonable degree of
22 interest, concern or responsibility as to the child's
23 welfare.

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

26 (d) Substantial neglect of the child if continuous or

1 repeated.

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

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

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

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

15 (2) The parent has been convicted or found not
16 guilty by reason of insanity and the conviction or
17 finding resulted from the death of any child by
18 physical abuse; or

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

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

26 (g) Failure to protect the child from conditions within

1 his environment injurious to the child's welfare.

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

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

1 criminal sexual assault of a child in violation of Section
2 11-1.40 or 12-14.1 of the Criminal Code of 1961; (6)
3 heinous battery of any child in violation of the Criminal
4 Code of 1961; or (7) aggravated battery of any child in
5 violation of the Criminal Code of 1961.

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

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

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

23 (j) Open and notorious adultery or fornication.

24 (j-1) (Blank).

25 (k) Habitual drunkenness or addiction to drugs, other
26 than those prescribed by a physician, for at least one year

1 immediately prior to the commencement of the unfitness
2 proceeding.

3 There is a rebuttable presumption that a parent is
4 unfit under this subsection with respect to any child to
5 which that parent gives birth where there is a confirmed
6 test result that at birth the child's blood, urine, or
7 meconium contained any amount of a controlled substance as
8 defined in subsection (f) of Section 102 of the Illinois
9 Controlled Substances Act or metabolites of such
10 substances, the presence of which in the newborn infant was
11 not the result of medical treatment administered to the
12 mother or the newborn infant; and the biological mother of
13 this child is the biological mother of at least one other
14 child who was adjudicated a neglected minor under
15 subsection (c) of Section 2-3 of the Juvenile Court Act of
16 1987.

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

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

1 ~~that Act,~~ or (iii) to make reasonable progress toward the
2 return of the child to the parent during any 9-month period
3 ~~after the end of the initial 9-month period~~ following the
4 adjudication of neglected or abused minor under Section 2-3
5 of the Juvenile Court Act of 1987 or dependent minor under
6 Section 2-4 of that Act. If a service plan has been
7 established as required under Section 8.2 of the Abused and
8 Neglected Child Reporting Act to correct the conditions
9 that were the basis for the removal of the child from the
10 parent and if those services were available, then, for
11 purposes of this Act, "failure to make reasonable progress
12 toward the return of the child to the parent" includes ~~(I)~~
13 ~~the parent's failure to substantially fulfill his or her~~
14 ~~obligations under the service plan and correct the~~
15 ~~conditions that brought the child into care within 9 months~~
16 ~~after the adjudication under Section 2-3 or 2-4 of the~~
17 ~~Juvenile Court Act of 1987 and (II)~~ the parent's failure to
18 substantially fulfill his or her obligations under the
19 service plan and correct the conditions that brought the
20 child into care during any 9-month period ~~after the end of~~
21 ~~the initial 9-month period~~ following the adjudication
22 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.
23 Notwithstanding any other provision, when a petition or
24 motion seeks to terminate parental rights on the basis of
25 item (iii) of this subsection (m), the petitioner shall
26 file with the court and serve on the parties a pleading

1 that specifies the 9-month period or periods relied on. The
2 pleading shall be filed and served on the parties no later
3 than 3 weeks before the date set by the court for closure
4 of discovery, and the allegations in the pleading shall be
5 treated as incorporated into the petition or motion.
6 Failure of a respondent to file a written denial of the
7 allegations in the pleading shall not be treated as an
8 admission that the allegations are true.

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

1 (m-1), the date of entering foster care is the earlier of:
2 (i) the date of a judicial finding at an adjudicatory
3 hearing that the child is an abused, neglected, or
4 dependent minor; or (ii) 60 days after the date on which
5 the child is removed from his or her parent, guardian, or
6 legal custodian.

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

1 the child, the court to consider in its determination all
2 relevant circumstances, including the financial condition
3 of both parents; provided that the ground for termination
4 provided in this subparagraph (n)(2)(ii) shall only be
5 available where the petition is brought by the mother or
6 the husband of the mother.

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

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

1 preponderance of the evidence.

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

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

19 (q) (Blank).

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

1 the parent's incarceration will prevent the parent from
2 discharging his or her parental responsibilities for the
3 child for a period in excess of 2 years after the filing of
4 the petition or motion for termination of parental rights.

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

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

1 treatment, and rehabilitation program.

2 E. "Parent" means the father or mother of a lawful child of
3 the parties or child born out of wedlock. For the purpose of
4 this Act, a person who has executed a final and irrevocable
5 consent to adoption or a final and irrevocable surrender for
6 purposes of adoption, or whose parental rights have been
7 terminated by a court, is not a parent of the child who was the
8 subject of the consent or surrender, unless the consent is void
9 pursuant to subsection O of Section 10.

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

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

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

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

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

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

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

26 A person who would otherwise be available for adoption

1 shall not be deemed unavailable for adoption solely by reason
2 of his or her death.

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

6 H. "Adoption disruption" occurs when an adoptive placement
7 does not prove successful and it becomes necessary for the
8 child to be removed from placement before the adoption is
9 finalized.

10 I. "Foreign placing agency" is an agency or individual
11 operating in a country or territory outside the United States
12 that is authorized by its country to place children for
13 adoption either directly with families in the United States or
14 through United States based international agencies.

15 J. "Immediate relatives" means the biological parents, the
16 parents of the biological parents and siblings of the
17 biological parents.

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

20 L. "Intercountry Adoption Coordinator" is a staff person of
21 the Department of Children and Family Services appointed by the
22 Director to coordinate the provision of services by the public
23 and private sector to prospective parents of foreign-born
24 children.

25 M. "Interstate Compact on the Placement of Children" is a
26 law enacted by most states for the purpose of establishing

1 uniform procedures for handling the interstate placement of
2 children in foster homes, adoptive homes, or other child care
3 facilities.

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

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

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

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

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

24 (c) commits or allows to be committed any sex offense
25 against the child, as sex offenses are defined in the
26 Criminal Code of 1961 and extending those definitions of

1 sex offenses to include children under 18 years of age;

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

4 (e) inflicts excessive corporal punishment.

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

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

1 to a waiver on religious or medical grounds as permitted by
2 law.

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

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

17 T. (Blank).

18 (Source: P.A. 96-1551, eff. 7-1-11; 97-227, eff. 1-1-12;
19 revised 9-15-11.)".