



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2282

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

750 ILCS 50/1	from Ch. 40, par. 1501
750 ILCS 50/2.1	from Ch. 40, par. 1503
750 ILCS 50/4.1	from Ch. 40, par. 1506
750 ILCS 50/6	from Ch. 40, par. 1508

Amends the Adoption Act. Defines "habitual residence" and deletes the definitions of "foreign placing agency" and "Intercountry Adoption Coordinator". Replaces language concerning the placement of children under the Act with provisions concerning: the placement of out-of-state children into Illinois; private placing agencies; and intercountry adoptions. Provides that if an office of the Interstate Compact on the Placement of Children of any state is presented with a complete interstate referral packet regarding Illinois residents or a child born or residing in Illinois, a court of competent jurisdiction is authorized to approve the placement if all applicable laws have been substantially complied with in the placement referral and the office: (i) refuses to process the interstate referral; (ii) fails to make a decision on the interstate referral within 3 business days of the receipt of the complete referral packet; or (iii) denies approval of the interstate referral for reasons contrary to the child's best interest. Provides that in the case of a child born outside the United States one of its territories, a post-placement investigation shall be conducted in accordance with the requirements of, among other Acts, the Intercountry Adoption Act of 2000 (instead of "regulations of the foreign placing agency and the supervising agency").

LRB098 04916 HEP 34946 b

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 Sections
5 1, 2.1, 4.1, and 6 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
17 whose parent has executed a final irrevocable consent to
18 adoption or a final irrevocable surrender for purposes of
19 adoption, or whose parent has had his or her parental rights
20 terminated, is not a related child to that person, unless the
21 consent is determined to be void or is void pursuant to
22 subsection O of Section 10.

23 C. "Agency" for the purpose of this Act means a public

1 child welfare agency or a licensed child welfare agency.

2 D. "Unfit person" means any person whom the court shall
3 find to be unfit to have a child, without regard to the
4 likelihood that the child will be placed for adoption. The
5 grounds of unfitness are any one or more of the following,
6 except that a person shall not be considered an unfit person
7 for the sole reason that the person has relinquished a child in
8 accordance with the Abandoned Newborn Infant Protection Act:

9 (a) Abandonment of the child.

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

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

14 (b) Failure to maintain a reasonable degree of
15 interest, concern or responsibility as to the child's
16 welfare.

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

19 (d) Substantial neglect of the child if continuous or
20 repeated.

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

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

25 (f) There is a rebuttable presumption, which can be
26 overcome only by clear and convincing evidence, that a

1 parent is unfit if:

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

8 (2) The parent has been convicted or found not
9 guilty by reason of insanity and the conviction or
10 finding resulted from the death of any child by
11 physical abuse; or

12 (3) There is a finding of physical child abuse
13 resulting from the death of any child under Section
14 2-21 of the Juvenile Court Act of 1987.

15 No conviction or finding of delinquency pursuant
16 to 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 (f).

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

21 (h) Other neglect of, or misconduct toward the child;
22 provided that in making a finding of unfitness the court
23 hearing the adoption proceeding shall not be bound by any
24 previous finding, order or judgment affecting or
25 determining the rights of the parents toward the child
26 sought to be adopted in any other proceeding except such

1 proceedings terminating parental rights as shall be had
2 under either this Act, the Juvenile Court Act or the
3 Juvenile Court Act of 1987.

4 (i) Depravity. Conviction of any one of the following
5 crimes shall create a presumption that a parent is deprived
6 which can be overcome only by clear and convincing
7 evidence: (1) first degree murder in violation of paragraph
8 1 or 2 of subsection (a) of Section 9-1 of the Criminal
9 Code of 1961 or conviction of second degree murder in
10 violation of subsection (a) of Section 9-2 of the Criminal
11 Code of 1961 of a parent of the child to be adopted; (2)
12 first degree murder or second degree murder of any child in
13 violation of the Criminal Code of 1961; (3) attempt or
14 conspiracy to commit first degree murder or second degree
15 murder of any child in violation of the Criminal Code of
16 1961; (4) solicitation to commit murder of any child,
17 solicitation to commit murder of any child for hire, or
18 solicitation to commit second degree murder of any child in
19 violation of the Criminal Code of 1961; (5) predatory
20 criminal sexual assault of a child in violation of Section
21 11-1.40 or 12-14.1 of the Criminal Code of 1961; (6)
22 heinous battery of any child in violation of the Criminal
23 Code of 1961; or (7) aggravated battery of any child in
24 violation of the Criminal Code of 1961.

25 There is a rebuttable presumption that a parent is
26 deprived if the parent has been criminally convicted of at

1 least 3 felonies under the laws of this State or any other
2 state, or under federal law, or the criminal laws of any
3 United States territory; and at least one of these
4 convictions took place within 5 years of the filing of the
5 petition or motion seeking termination of parental rights.

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

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

16 (j) Open and notorious adultery or fornication.

17 (j-1) (Blank).

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

22 There is a rebuttable presumption that a parent is
23 unfit under this subsection with respect to any child to
24 which that parent gives birth where there is a confirmed
25 test result that at birth the child's blood, urine, or
26 meconium contained any amount of a controlled substance as

1 defined in subsection (f) of Section 102 of the Illinois
2 Controlled Substances Act or metabolites of such
3 substances, the presence of which in the newborn infant was
4 not the result of medical treatment administered to the
5 mother or the newborn infant; and the biological mother of
6 this child is the biological mother of at least one other
7 child who was adjudicated a neglected minor under
8 subsection (c) of Section 2-3 of the Juvenile Court Act of
9 1987.

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

13 (m) Failure by a parent (i) to make reasonable efforts
14 to correct the conditions that were the basis for the
15 removal of the child from the parent, or (ii) to make
16 reasonable progress toward the return of the child to the
17 parent within 9 months after an adjudication of neglected
18 or abused minor under Section 2-3 of the Juvenile Court Act
19 of 1987 or dependent minor under Section 2-4 of that Act,
20 or (iii) to make reasonable progress toward the return of
21 the child to the parent during any 9-month period after the
22 end of the initial 9-month period following the
23 adjudication of neglected or abused minor under Section 2-3
24 of the Juvenile Court Act of 1987 or dependent minor under
25 Section 2-4 of that Act. If a service plan has been
26 established as required under Section 8.2 of the Abused and

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

1 admission that the allegations are true.

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

26 (n) Evidence of intent to forgo his or her parental

1 rights, whether or not the child is a ward of the court,
2 (1) as manifested by his or her failure for a period of 12
3 months: (i) to visit the child, (ii) to communicate with
4 the child or agency, although able to do so and not
5 prevented from doing so by an agency or by court order, or
6 (iii) to maintain contact with or plan for the future of
7 the child, although physically able to do so, or (2) as
8 manifested by the father's failure, where he and the mother
9 of the child were unmarried to each other at the time of
10 the child's birth, (i) to commence legal proceedings to
11 establish his paternity under the Illinois Parentage Act of
12 1984 or the law of the jurisdiction of the child's birth
13 within 30 days of being informed, pursuant to Section 12a
14 of this Act, that he is the father or the likely father of
15 the child or, after being so informed where the child is
16 not yet born, within 30 days of the child's birth, or (ii)
17 to make a good faith effort to pay a reasonable amount of
18 the expenses related to the birth of the child and to
19 provide a reasonable amount for the financial support of
20 the child, the court to consider in its determination all
21 relevant circumstances, including the financial condition
22 of both parents; provided that the ground for termination
23 provided in this subparagraph (n)(2)(ii) shall only be
24 available where the petition is brought by the mother or
25 the husband 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 require
12 a showing of diligent efforts by an authorized agency to
13 encourage the parent to perform the acts specified in
14 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 Health
3 and Developmental Disabilities Code, or developmental
4 disability as defined in Section 1-106 of that Code, and
5 there is sufficient justification to believe that the
6 inability to discharge parental responsibilities shall
7 extend beyond a reasonable time period. However, this
8 subdivision (p) shall not be construed so as to permit a
9 licensed clinical social worker to conduct any medical
10 diagnosis to determine mental illness or mental
11 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 Illinois
9 Controlled Substances Act, or a metabolite of a controlled
10 substance, with the exception of controlled substances or
11 metabolites of such substances, the presence of which in
12 the newborn infant was the result of medical treatment
13 administered to the mother or the newborn infant, and that
14 the biological mother of this child is the biological
15 mother of at least one other child who was adjudicated a
16 neglected minor under subsection (c) of Section 2-3 of the
17 Juvenile Court Act of 1987, after which the biological
18 mother had the opportunity to enroll in and participate in
19 a clinically appropriate substance abuse counseling,
20 treatment, and rehabilitation program.

21 E. "Parent" means the father or mother of a lawful child of
22 the parties or child born out of wedlock. For the purpose of
23 this Act, a person who has executed a final and irrevocable
24 consent to adoption or a final and irrevocable surrender for
25 purposes of adoption, or whose parental rights have been
26 terminated by a court, is not a parent of the child who was the

1 subject of the consent or surrender, unless the consent is void
2 pursuant to subsection O of Section 10.

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

4 (a) a child who has been surrendered for adoption to an
5 agency and to whose adoption the agency has thereafter
6 consented;

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

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

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

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

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

19 A person who would otherwise be available for adoption
20 shall not be deemed unavailable for adoption solely by reason
21 of his or her death.

22 G. The singular includes the plural and the plural includes
23 the singular and the "male" includes the "female", as the
24 context of this Act may require.

25 H. "Adoption disruption" occurs when an adoptive placement
26 does not prove successful and it becomes necessary for the

1 child to be removed from placement before the adoption is
2 finalized.

3 I. (Blank). ~~"Foreign placing agency" is an agency or~~
4 ~~individual operating in a country or territory outside the~~
5 ~~United States that is authorized by its country to place~~
6 ~~children for adoption either directly with families in the~~
7 ~~United States or through United States based international~~
8 ~~agencies.~~

9 I-5. "Habitual residence" has the meaning ascribed to it in
10 the federal Intercountry Adoption Act of 2000 and regulations
11 promulgated thereunder.

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

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

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

26 M. "Interstate Compact on the Placement of Children" is a

1 law enacted by most states for the purpose of establishing
2 uniform procedures for handling the interstate placement of
3 children in foster homes, adoptive homes, or other child care
4 facilities.

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

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

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

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

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

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

1 Criminal Code of 1961 and extending those definitions of
2 sex offenses to include children under 18 years of age;

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

5 (e) inflicts excessive corporal punishment.

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

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

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

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

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

18 T. (Blank).

19 (Source: P.A. 96-1551, eff. 7-1-11; 97-227, eff. 1-1-12;
20 97-1109, eff. 1-1-13.)

21 (750 ILCS 50/2.1) (from Ch. 40, par. 1503)

22 Sec. 2.1. This Act shall be construed in concert with the
23 Juvenile Court Act of 1987, the Child Care Act of 1969, ~~and~~ the
24 Interstate Compact on the Placement of Children, and the
25 Intercountry Adoption Act of 2000.

1 (Source: P.A. 85-1209.)

2 (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

3 Sec. 4.1. Adoption between multiple jurisdictions.

4 (a) Interstate Adoptions.

5 (1) Illinois residents who have had or seek to have an
6 out-of-state child placed with them for foster care or
7 adoption shall comply with the Child Care Act of 1969 and
8 the Interstate Compact on the Placement of Children.
9 Out-of-state residents who have had an Illinois child
10 placed with them for foster care or adoption shall comply
11 with the Child Care Act of 1969 and the Interstate Compact
12 on the Placement of Children. ~~Except for children placed~~
13 ~~with relatives by the Department of Children and Family~~
14 ~~Services pursuant to subsection (b) of Section 7 of the~~
15 ~~Children and Family Services Act, placements under this Act~~
16 ~~shall comply with the Child Care Act of 1969 and the~~
17 ~~Interstate Compact on the Placement of Children.~~
18 ~~Placements of children born outside the United States or a~~
19 ~~territory thereof shall comply with rules promulgated by~~
20 ~~the United States Department of Immigration and~~
21 ~~Naturalization.~~

22 Rules promulgated by the Department of Children and Family
23 Services shall include but not be limited to the following:

24 ~~(a) Any agency providing adoption services as defined in~~
25 ~~Section 2.24 of the Child Care Act of 1969 in this State:~~

1 ~~(i) Shall be licensed in this State as a child welfare~~
2 ~~agency as defined in Section 2.08 of the Child Care Act of~~
3 ~~1969; or~~

4 ~~(ii) Shall be licensed as a child placement agency in a~~
5 ~~state which is a party to the Interstate Compact on the~~
6 ~~Placement of Children and shall be approved by the~~
7 ~~Department to place children into Illinois in accordance~~
8 ~~with subsection (a 5) of this Section; or~~

9 ~~(iii) Shall be licensed as a child placement agency in~~
10 ~~a country other than the United States or, if located in~~
11 ~~such a country but not so licensed, shall provide~~
12 ~~information such as a license or court document which~~
13 ~~authorizes that agency to place children for adoption and~~
14 ~~to establish that such agency has legal authority to place~~
15 ~~children for adoption; or~~

16 ~~(iv) Shall be a child placement agency which is so~~
17 ~~licensed in a non compact state and shall be approved by~~
18 ~~the Department to place children into Illinois in~~
19 ~~accordance with subsection (a 5) of this Section, if such~~
20 ~~agency first files with the Department of Children and~~
21 ~~Family Services a bond with surety in the amount of \$5,000~~
22 ~~for each such child to ensure that such child shall not~~
23 ~~become a public charge upon this State. Such bond shall~~
24 ~~remain in effect until a judgment for adoption is entered~~
25 ~~with respect to such child pursuant to this Act. The~~
26 ~~Department of Children and Family Services may accept, in~~

1 ~~lieu of such bond, a written agreement with such agency~~
2 ~~which provides that such agency shall be liable for all~~
3 ~~costs associated with the placement of such child in the~~
4 ~~event a judgment of adoption is not entered, upon such~~
5 ~~terms and conditions as the Department deems appropriate.~~

6 ~~The rules shall also provide that any agency that places~~
7 ~~children for adoption in this State may not, in any policy or~~
8 ~~practice relating to the placement of children for adoption,~~
9 ~~discriminate against any child or prospective adoptive parent~~
10 ~~on the basis of race.~~

11 (2) Private placing agencies that seek to place
12 children for foster care or adoption into Illinois must be
13 approved by the Department to make such placements and the
14 Department shall promulgate rules concerning the
15 requirements for approval. All private placing agencies
16 shall comply with the Interstate Compact on the Placement
17 of Children, the Intercountry Adoption Act of 2000, the
18 Child Care Act of 1969, and this Act. ~~(a-5)~~ Out-of-state
19 private placing agencies that seek to place children into
20 Illinois for the purpose of foster care or adoption shall
21 provide all of the following to the Department:

22 (i) A copy of the agency's current license or other
23 form of authorization from the approving authority in
24 the agency's state. If no such license or authorization
25 is issued, the agency must provide a reference
26 statement from the approving authority stating the

1 agency is authorized to place children in foster care
2 or adoption or both in its jurisdiction.

3 (ii) A description of the program, including home
4 studies, placements, and supervisions that the child
5 placing agency conducts within its geographical area,
6 and, if applicable, adoptive placements and the
7 finalization of adoptions. The child placing agency
8 must accept continued responsibility for placement
9 planning and replacement if the placement fails.

10 (iii) Notification to the Department of any
11 significant child placing agency changes after
12 approval.

13 (iv) Any other information the Department may
14 require.

15 (3) Illinois residents who have had an out-of-state
16 child placed with them for foster care or adoption must
17 have a home study approved by the Department. Out-of-state
18 residents who have had an Illinois child placed with them
19 for foster care or adoption must have a home study approved
20 by the Department. Illinois residents who are seeking to
21 receive an out-of-state child for adoption are not required
22 to have a foster care license issued by the Department.

23 (4) If an ~~the~~ adoption is finalized prior to bringing
24 or sending a ~~the~~ child to Illinois, ~~Department approval of~~
25 ~~the out-of-state child placing agency involved is not~~
26 ~~required under this Section, nor is compliance with the~~

1 Interstate Compact on the Placement of Children is not
2 required.

3 (5) If an office of the Interstate Compact on the
4 Placement of Children of any state is presented with a
5 complete interstate referral packet regarding Illinois
6 residents or a child born or residing in Illinois, a court
7 of competent jurisdiction is authorized to approve the
8 placement if all requirements of the Department, this Act,
9 the Interstate Compact on the Placement of Children, and
10 the Child Care Act of 1969 have been substantially complied
11 with in the placement referral and the office:

12 (i) refuses to process the interstate referral;

13 (ii) fails to make a decision on the interstate
14 referral within 3 business days of the receipt of the
15 complete referral packet; or

16 (iii) denies approval of the interstate referral
17 for reasons contrary to the child's best interest.

18 (b) Intercountry Adoptions.

19 (1) The adoption of a child, if the child is a habitual
20 resident of a country other than the United States and the
21 petitioners are habitual residents of the United States,
22 or, if the child is a habitual resident of the United
23 States and the petitioners are habitual residents of a
24 country other than the United States, shall comply with the
25 Intercountry Adoption Act of 2000, as amended, and the
26 Immigration and Nationality Act, as amended.

1 (2) The Department shall not impose additional
2 preadoption requirements, including licensure as a foster
3 parent, upon an Illinois resident seeking to adopt a child
4 from a country other than the United States in accordance
5 with the law of that country, the Intercountry Adoption Act
6 of 2000, as amended, and the Immigration and Nationality
7 Act, as amended. ~~As an alternative to requiring the bond~~
8 ~~provided for in paragraph (a)(iv) of this Section, the~~
9 ~~Department of Children and Family Services may require the~~
10 ~~filing of such a bond by the individual or individuals~~
11 ~~seeking to adopt such a child through placement of such~~
12 ~~child by a child placement agency located in a state which~~
13 ~~is not a party to the Interstate Compact on the Placement~~
14 ~~of Children.~~

15 (c) (Blank). ~~In the case of any foreign born child brought~~
16 ~~to the United States for adoption in this State, the following~~
17 ~~preadoption requirements shall be met:~~

18 ~~(1) Documentation that the child is legally free for~~
19 ~~adoption prior to entry into the United States shall be~~
20 ~~submitted.~~

21 ~~(2) A medical report on the child, by authorized~~
22 ~~medical personnel in the country of the child's origin,~~
23 ~~shall be provided when such personnel are available.~~

24 ~~(3) Verification that the adoptive family has been~~
25 ~~licensed as a foster family home pursuant to the Child Care~~
26 ~~Act of 1969, as now or hereafter amended, shall be~~

1 ~~provided.~~

2 ~~(4) A valid home study conducted by a licensed child~~
3 ~~welfare agency that complies with guidelines established~~
4 ~~by the United States Immigration and Naturalization~~
5 ~~Service at 8 CFR 204.4(d)(2)(i), as now or hereafter~~
6 ~~amended, shall be submitted. A home study is considered~~
7 ~~valid if it contains:~~

8 ~~(i) A factual evaluation of the financial,~~
9 ~~physical, mental and moral capabilities of the~~
10 ~~prospective parent or parents to rear and educate the~~
11 ~~child properly.~~

12 ~~(ii) A detailed description of the living~~
13 ~~accommodations where the prospective parent or parents~~
14 ~~currently reside.~~

15 ~~(iii) A detailed description of the living~~
16 ~~accommodations in the United States where the child~~
17 ~~will reside, if known.~~

18 ~~(iv) A statement or attachment recommending the~~
19 ~~proposed adoption signed by an official of the child~~
20 ~~welfare agency which has conducted the home study.~~

21 ~~(5) The placing agency located in a non-compact state~~
22 ~~or a family desiring to adopt through an authorized~~
23 ~~placement party in a non-compact state or a foreign country~~
24 ~~shall file with the Department of Children and Family~~
25 ~~Services a bond with surety in the amount of \$5,000 as~~
26 ~~protection that a foreign born child accepted for care or~~

1 ~~supervision not become a public charge upon the State of~~
2 ~~Illinois.~~

3 ~~(6) In lieu of the \$5,000 bond, the placement agency~~
4 ~~may sign a binding agreement with the Department of~~
5 ~~Children and Family Services to assume full liability for~~
6 ~~all placements should, for any reason, the adoption be~~
7 ~~disrupted or not be completed, including financial and~~
8 ~~planning responsibility until the child is either returned~~
9 ~~to the country of its origin or placed with a new adoptive~~
10 ~~family in the United States and that adoption is finalized.~~

11 ~~(7) Compliance with the requirements of the Interstate~~
12 ~~Compact on the Placement of Children, when applicable,~~
13 ~~shall be demonstrated.~~

14 ~~(8) When a child is adopted in a foreign country and a~~
15 ~~final, complete and valid Order of Adoption is issued in~~
16 ~~that country, as determined by both the United States~~
17 ~~Department of State and the United States Department of~~
18 ~~Justice, this State shall not impose any additional~~
19 ~~preadoption requirements. The adoptive family, however,~~
20 ~~must comply with applicable requirements of the United~~
21 ~~States Department of Immigration and Naturalization as~~
22 ~~provided in 8 CFR 204.4 (d)(2)(ii), as now or hereafter~~
23 ~~amended.~~

24 (d) (Blank). ~~The Department of Children and Family Services~~
25 ~~shall maintain the office of Intercountry Adoption~~
26 ~~Coordinator, shall maintain and protect the rights of families~~

1 ~~and children participating in adoption of foreign born~~
2 ~~children, and shall develop ongoing programs of support and~~
3 ~~services to such families and children. The Intercountry~~
4 ~~Adoption Coordinator shall determine that all preadoption~~
5 ~~requirements have been met and report such information to the~~
6 ~~Department of Immigration and Naturalization.~~

7 (Source: P.A. 94-586, eff. 8-15-05.)

8 (750 ILCS 50/6) (from Ch. 40, par. 1508)

9 Sec. 6. A. Investigation; all cases. Within 10 days after
10 the filing of a petition for the adoption or standby adoption
11 of a child other than a related child, the court shall appoint
12 a child welfare agency approved by the Department of Children
13 and Family Services, or a person deemed competent by the court,
14 or in Cook County the Court Services Division of the Cook
15 County Department of Public Aid, or the Department of Children
16 and Family Services if the court determines that no child
17 welfare agency is available or that the petitioner is
18 financially unable to pay for the investigation, to investigate
19 accurately, fully and promptly, the allegations contained in
20 the petition; the character, reputation, health and general
21 standing in the community of the petitioners; the religious
22 faith of the petitioners and, if ascertainable, of the child
23 sought to be adopted; and whether the petitioners are proper
24 persons to adopt the child and whether the child is a proper
25 subject of adoption. The investigation required under this

1 Section shall include a fingerprint based criminal background
2 check with a review of fingerprints by the Illinois State
3 Police and Federal Bureau of Investigation. Each petitioner
4 subject to this investigation, shall submit his or her
5 fingerprints to the Department of State Police in the form and
6 manner prescribed by the Department of State Police. These
7 fingerprints shall be checked against the fingerprint records
8 now and hereafter filed in the Department of State Police and
9 Federal Bureau of Investigation criminal history records
10 databases. The Department of State Police shall charge a fee
11 for conducting the criminal history records check, which shall
12 be deposited in the State Police Services Fund and shall not
13 exceed the actual cost of the records check. The criminal
14 background check required by this Section shall include a
15 listing of when, where and by whom the criminal background
16 check was prepared. The criminal background check required by
17 this Section shall not be more than two years old.

18 Neither a clerk of the circuit court nor a judge may
19 require that a criminal background check or fingerprint review
20 be filed with, or at the same time as, an initial petition for
21 adoption.

22 B. Investigation; foreign-born child. In the case of a
23 child born outside the United States or a territory thereof, in
24 addition to the investigation required under subsection (A) of
25 this Section, a post-placement investigation shall be
26 conducted in accordance with the requirements of the Child Care

1 Act of 1969, the Interstate Compact on the Placement of
2 Children, and the Intercountry Adoption Act of 2000 ~~regulations~~
3 ~~of the foreign placing agency and the supervising agency.~~

4 The requirements of a post-placement investigation shall
5 be deemed to have been satisfied if a valid final order or
6 judgment of adoption has been entered by a court of competent
7 jurisdiction in a country other than the United States or a
8 territory thereof with respect to such child and the
9 petitioners.

10 C. Report of investigation. The court shall determine
11 whether the costs of the investigation shall be charged to the
12 petitioners. The information obtained as a result of such
13 investigation shall be presented to the court in a written
14 report. The results of the criminal background check required
15 under subsection (A) shall be provided to the court for its
16 review. The court may, in its discretion, weigh the
17 significance of the results of the criminal background check
18 against the entirety of the background of the petitioners. The
19 Court, in its discretion, may accept the report of the
20 investigation previously made by a licensed child welfare
21 agency, if made within one year prior to the entry of the
22 judgment. Such report shall be treated as confidential and
23 withheld from inspection unless findings adverse to the
24 petitioners or to the child sought to be adopted are contained
25 therein, and in that event the court shall inform the
26 petitioners of the relevant portions pertaining to the adverse

1 findings. In no event shall any facts set forth in the report
2 be considered at the hearing of the proceeding, unless
3 established by competent evidence. The report shall be filed
4 with the record of the proceeding. If the file relating to the
5 proceeding is not impounded, the report shall be impounded by
6 the clerk of the court and shall be made available for
7 inspection only upon order of the court.

8 D. Related adoption. Such investigation shall not be made
9 when the petition seeks to adopt a related child or an adult
10 unless the court, in its discretion, shall so order. In such an
11 event the court may appoint a person deemed competent by the
12 court.

13 (Source: P.A. 93-418, eff. 1-1-04.)