



1           A public information campaign on this delicate issue  
2 shall be implemented to encourage parents considering  
3 abandonment of their newborn child to relinquish the child  
4 under the procedures outlined in this Act, to choose a  
5 traditional adoption plan, or to parent a child themselves  
6 rather than place the newborn infant in harm's way.

7           Section 10. Definitions. In this Act:

8           "Abandon" has the same meaning as in the Abused and  
9 Neglected Child Reporting Act.

10          "Abused child" has the same meaning as in the Abused and  
11 Neglected Child Reporting Act.

12          "Child-placing agency" means a licensed public or private  
13 agency that receives a child for the purpose of placing or  
14 arranging for the placement of the child in a foster family  
15 home or other facility for child care, apart from the custody  
16 of the child's parents.

17          "Department" or "DCFS" means the Illinois Department of  
18 Children and Family Services.

19          "Emergency medical facility" means a freestanding  
20 emergency center or trauma center, as defined in the  
21 Emergency Medical Services (EMS) Systems Act.

22          "Emergency medical professional" includes licensed  
23 physicians, and any emergency medical technician-basic,  
24 emergency medical technician-intermediate, emergency medical  
25 technician-paramedic, trauma nurse specialist, and  
26 pre-hospital RN, as defined in the Emergency Medical Services  
27 (EMS) Systems Act.

28          "Fire station" means a fire station within the State that  
29 is staffed with at least one full-time emergency medical  
30 professional.

31          "Hospital" has the same meaning as in the Hospital  
32 Licensing Act.

33          "Legal custody" means the relationship created by a court

1 order in the best interest of a newborn infant that imposes  
2 on the infant's custodian the responsibility of physical  
3 possession of the infant, the duty to protect, train, and  
4 discipline the infant, and the duty to provide the infant  
5 with food, shelter, education, and medical care, except as  
6 these are limited by parental rights and responsibilities.

7 "Neglected child" has the same meaning as in the Abused  
8 and Neglected Child Reporting Act.

9 "Newborn infant" means a child who a licensed physician  
10 reasonably believes is 72 hours old or less at the time the  
11 child is initially relinquished to a hospital, fire station,  
12 or emergency medical facility, and who is not an abused or a  
13 neglected child.

14 "Relinquish" means to bring a newborn infant, who a  
15 licensed physician reasonably believes is 72 hours old or  
16 less, to a hospital, fire station, or emergency medical  
17 facility and to leave the infant with personnel of the  
18 facility, if the person leaving the infant does not express  
19 an intent to return for the infant or states that he or she  
20 will not return for the infant. In the case of a mother who  
21 gives birth to an infant in a hospital, the mother's act of  
22 leaving that newborn infant at the hospital (i) without  
23 expressing an intent to return for the infant or (ii) stating  
24 that she will not return for the infant is not a  
25 "relinquishment" under this Act.

26 "Temporary protective custody" means the temporary  
27 placement of a newborn infant within a hospital or other  
28 medical facility out of the custody of the infant's parent.

29 Section 15. Presumptions.

30 (a) There is a presumption that by relinquishing a  
31 newborn infant in accordance with this Act, the infant's  
32 parent consents to the termination of his or her parental  
33 rights with respect to the infant.

1 (b) There is a presumption that a person relinquishing a  
2 newborn infant in accordance with this Act:

3 (1) is the newborn infant's biological parent; and

4 (2) either without expressing an intent to return  
5 for the infant or expressing an intent not to return for  
6 the infant, did intend to relinquish the infant to the  
7 hospital, fire station, or emergency medical facility to  
8 treat, care for, and provide for the infant in accordance  
9 with this Act.

10 (c) A parent of a relinquished newborn infant may rebut  
11 the presumption set forth in either subsection (a) or  
12 subsection (b) pursuant to Section 55, at any time before the  
13 termination of the parent's parental rights.

14 Section 20. Procedures with respect to relinquished  
15 newborn infants.

16 (a) Hospitals. Every hospital must accept and provide  
17 all necessary emergency services and care to a relinquished  
18 newborn infant, in accordance with this Act. The hospital  
19 shall examine a relinquished newborn infant and perform tests  
20 that, based on reasonable medical judgment, are appropriate  
21 in evaluating whether the relinquished newborn infant was  
22 abused or neglected.

23 The act of relinquishing a newborn infant serves as  
24 implied consent for the hospital and its medical personnel  
25 and physicians on staff to treat and provide care for the  
26 infant.

27 The hospital shall be deemed to have temporary protective  
28 custody of a relinquished newborn infant until the infant is  
29 discharged to the custody of a child-placing agency or the  
30 Department.

31 (b) Fire stations and emergency medical facilities.  
32 Every fire station and emergency medical facility must accept  
33 and provide all necessary emergency services and care to a

1 relinquished newborn infant, in accordance with this Act.

2 The act of relinquishing a newborn infant serves as  
3 implied consent for the fire station or emergency medical  
4 facility and its emergency medical professionals to treat and  
5 provide care for the infant, to the extent that those  
6 emergency medical professionals are trained to provide those  
7 services.

8 After the relinquishment of a newborn infant to a fire  
9 station or emergency medical facility, the fire station or  
10 emergency medical facility's personnel must arrange for the  
11 transportation of the infant to the nearest hospital as soon  
12 as transportation can be arranged.

13 If the parent of a newborn infant returns to reclaim the  
14 child within 72 hours after relinquishing the child to a fire  
15 station or emergency medical facility, the fire station or  
16 emergency medical facility must inform the parent of the name  
17 and location of the hospital to which the infant was  
18 transported.

19 Section 25. Immunity for relinquishing person.

20 (a) The act of relinquishing a newborn infant to a  
21 hospital, fire station, or emergency medical facility in  
22 accordance with this Act does not, by itself, constitute a  
23 basis for a finding of abuse, neglect, or abandonment of the  
24 infant pursuant to the laws of this State nor does it, by  
25 itself, constitute a violation of Section 12-21.5 or 12-21.6  
26 of the Criminal Code of 1961.

27 (b) If there is suspected child abuse or neglect that is  
28 not based solely on the newborn infant's relinquishment to a  
29 hospital, fire station, or emergency medical facility, the  
30 personnel of the hospital, fire station, or emergency medical  
31 facility who are mandated reporters under the Abused and  
32 Neglected Child Reporting Act must report the abuse or  
33 neglect pursuant to that Act.

1 (c) Neither a child protective investigation nor a  
2 criminal investigation may be initiated solely because a  
3 newborn infant is relinquished pursuant to this Act.

4 Section 27. Immunity of facility and personnel. A  
5 hospital, fire station, or emergency medical facility, and  
6 any personnel of a hospital, fire station, or emergency  
7 medical facility, are immune from criminal or civil liability  
8 for acting in good faith in accordance with this Act. Nothing  
9 in this Act limits liability for negligence for care and  
10 medical treatment.

11 Section 30. Anonymity of relinquishing person. If there  
12 is no evidence of abuse or neglect of a relinquished newborn  
13 infant, the relinquishing person has the right to remain  
14 anonymous and to leave the hospital, fire station, or  
15 emergency medical facility at any time and not be pursued or  
16 followed. Before the relinquishing person leaves the  
17 hospital, fire station, or emergency medical facility, the  
18 hospital, fire station, or emergency medical facility  
19 personnel shall i) verbally inform the relinquishing person  
20 that by relinquishing the child anonymously, he or she will  
21 have to petition the court if he or she desires to prevent  
22 the termination of parental rights and regain custody of the  
23 child and ii) shall offer the relinquishing person the  
24 information packet described in Section 35 of this Act.  
25 However, nothing in this Act shall be construed as precluding  
26 the relinquishing person from providing his or her identity  
27 or completing the application forms for the Illinois Adoption  
28 Registry and Medical Information Exchange and requesting that  
29 the hospital, fire station, or emergency medical facility  
30 forward those forms to the Illinois Adoption Registry and  
31 Medical information Exchange.

1           Section 35. Information for relinquishing person. A  
2 hospital, fire station, or emergency medical facility that  
3 receives a newborn infant relinquished in accordance with  
4 this Act must offer an information packet to the  
5 relinquishing person and, if possible, must clearly inform  
6 the relinquishing person that his or her acceptance of the  
7 information is completely voluntary, that registration with  
8 the Illinois Adoption Registry and Medical Information  
9 Exchange is voluntary, that the person will remain anonymous  
10 if he or she completes a Denial of Information Exchange, and  
11 that the person has the option to provide medical information  
12 only and still remain anonymous. The information packet must  
13 include all of the following:

14           (1) All Illinois Adoption Registry and Medical  
15 Information Exchange application forms, including the  
16 Medical Information Exchange Questionnaire and the web  
17 site address and toll free phone number of the Registry.

18           (2) Written notice of the following:

19           (A) No sooner than 60 days following the date  
20 of the initial relinquishment of the infant to a  
21 hospital, fire station, or emergency medical  
22 facility, the child-placing agency or the Department  
23 will commence proceedings for the termination of  
24 parental rights and placement of the infant for  
25 adoption.

26           (B) Failure of a parent of the infant to  
27 contact the Department and petition for the return  
28 of custody of the infant before termination of  
29 parental rights bars any future action asserting  
30 legal rights with respect to the infant.

31           (3) A resource list of providers of counseling  
32 services including grief counseling, pregnancy  
33 counseling, and counseling regarding adoption and other  
34 available options for placement of the infant.

1           Upon request, the Department of Public Health shall  
2 provide the application forms for the Illinois Adoption  
3 Registry and Medical Information Exchange to hospitals, fire  
4 stations, and emergency medical facilities.

5           Section 40. Reporting requirements.

6           (a) Within 12 hours after accepting a newborn infant  
7 from a relinquishing person or from a fire station or  
8 emergency medical facility in accordance with this Act, a  
9 hospital must report to the Department's State Central  
10 Registry for the purpose of transferring physical custody of  
11 the infant from the hospital to either a child-placing agency  
12 or the Department.

13           (b) Within 24 hours after receiving a report under  
14 subsection (a), the Department must request assistance from  
15 law enforcement officials to investigate the matter using the  
16 National Crime Information Center to ensure that the  
17 relinquished newborn infant is not a missing child.

18           (c) Once a hospital has made a report to the Department  
19 under subsection (a), the Department must arrange for a  
20 licensed child-placing agency to accept physical custody of  
21 the relinquished newborn infant.

22           (d) If a relinquished child is not a newborn infant as  
23 defined in this Act, the hospital and the Department must  
24 proceed as if the child is an abused or neglected child.

25           Section 45. Medical assistance. Notwithstanding any  
26 other provision of law, a newborn infant relinquished in  
27 accordance with this Act shall be deemed eligible for medical  
28 assistance under the Illinois Public Aid Code, and a hospital  
29 providing medical services to such an infant shall be  
30 reimbursed for those services in accordance with the payment  
31 methodologies authorized under that Code. In addition, for  
32 any day that a hospital has custody of a newborn infant



1 relinquished in accordance with this Act and the infant does  
2 not require medically necessary care, the hospital shall be  
3 reimbursed by the Illinois Department of Public Aid at the  
4 general acute care per diem rate, in accordance with 89 Ill.  
5 Adm. Code 148.270(c).

6 Section 50. Child-placing agency procedures.

7 (a) The Department's State Central Registry must  
8 maintain a list of licensed child-placing agencies willing to  
9 take legal custody of newborn infants relinquished in  
10 accordance with this Act. The child-placing agencies on the  
11 list must be contacted by the Department on a rotating basis  
12 upon notice from a hospital that a newborn infant has been  
13 relinquished in accordance with this Act.

14 (b) Upon notice from the Department that a newborn  
15 infant has been relinquished in accordance with this Act, a  
16 child-placing agency must accept the newborn infant if the  
17 agency has the accommodations to do so. The child-placing  
18 agency must seek an order for legal custody of the infant  
19 upon its acceptance of the infant.

20 (c) Within 3 business days after assuming physical  
21 custody of the infant, the child-placing agency shall file a  
22 petition in the division of the circuit court in which  
23 petitions for adoption would normally be heard. The petition  
24 shall allege that the newborn infant has been relinquished in  
25 accordance with this Act and shall state that the  
26 child-placing agency intends to place the infant in an  
27 adoptive home.

28 (d) If no licensed child-placing agency is able to  
29 accept the relinquished newborn infant, then the Department  
30 must assume responsibility for the infant as soon as  
31 practicable.

32 (e) A custody order issued under subsection (b) shall  
33 remain in effect until a final adoption order based on the

1 relinquished newborn infant's best interests is issued in  
2 accordance with this Act and the Adoption Act.

3 (f) When possible, the child-placing agency must place a  
4 relinquished newborn infant in a prospective adoptive home.

5 (g) The Department or child-placing agency must initiate  
6 proceedings to (i) terminate the parental rights of the  
7 relinquished newborn infant's known or unknown parents, (ii)  
8 appoint a guardian for the infant, and (iii) obtain consent  
9 to the infant's adoption in accordance with this Act no  
10 sooner than 60 days following the date of the initial  
11 relinquishment of the infant to the hospital, fire station,  
12 or emergency medical facility.

13 (h) Before filing a petition for termination of parental  
14 rights, the Department or child-placing agency must do the  
15 following:

16 (1) Search its Putative Father Registry for the  
17 purpose of determining the identity and location of the  
18 putative father of the relinquished newborn infant who  
19 is, or is expected to be, the subject of an adoption  
20 proceeding, in order to provide notice of the proceeding  
21 to the putative father. At least one search of the  
22 Registry must be conducted, at least 30 days after the  
23 relinquished newborn infant's estimated date of birth;  
24 earlier searches may be conducted, however. Notice to any  
25 potential putative father discovered in a search of the  
26 Registry according to the estimated age of the  
27 relinquished newborn infant must be in accordance with  
28 Section 12a of the Adoption Act.

29 (2) Verify with law enforcement officials, using  
30 the National Crime Information Center, that the  
31 relinquished newborn infant is not a missing child.

32 Section 55. Petition for return of custody.

33 (a) A parent of a newborn infant relinquished in

1 accordance with this Act may petition for the return of  
2 custody of the infant before the termination of parental  
3 rights with respect to the infant.

4 (b) A parent of a newborn infant relinquished in  
5 accordance with this Act may petition for the return of  
6 custody of the infant by contacting the Department for the  
7 purpose of obtaining the name of the child-placing agency and  
8 then filing a petition for return of custody in the circuit  
9 court in which the proceeding for the termination of parental  
10 rights is pending.

11 (c) If a petition for the termination of parental rights  
12 has not been filed by the Department or the child-placing  
13 agency, the parent of the relinquished newborn infant must  
14 contact the Department, which must notify the parent of the  
15 appropriate court in which the petition for return of custody  
16 must be filed.

17 (d) The circuit court may hold the proceeding for the  
18 termination of parental rights in abeyance for a period not  
19 to exceed 60 days from the date that the petition for return  
20 of custody was filed without a showing of good cause. During  
21 that period:

22 (1) The court shall order genetic testing to  
23 establish maternity or paternity, or both.

24 (2) The Department shall conduct a child protective  
25 investigation and home study to develop recommendations  
26 to the court.

27 (3) When indicated as a result of the Department's  
28 investigation and home study, further proceedings under  
29 the Juvenile Court Act of 1987 as the court determines  
30 appropriate, may be conducted. However, relinquishment  
31 of a newborn infant in accordance with this Act does not  
32 render the infant abused, neglected, or abandoned solely  
33 because the newborn infant was relinquished to a  
34 hospital, fire station, or emergency medical facility in

1           accordance with this Act.

2           (e) Failure to file a petition for the return of custody  
3 of a relinquished newborn infant before the termination of  
4 parental rights bars any future action asserting legal rights  
5 with respect to the infant unless the parent's act of  
6 relinquishment that led to the termination of parental rights  
7 involved fraud perpetrated against and not stemming from or  
8 involving the parent. No action to void or revoke the  
9 termination of parental rights of a parent of a newborn  
10 infant relinquished in accordance with this Act, including an  
11 action based on fraud, may be commenced after 12 months after  
12 the date that the newborn infant was initially relinquished  
13 to a hospital, fire station, or emergency medical facility.

14           Section 60. Department's duties. The Department must  
15 implement a public information program to promote safe  
16 placement alternatives for newborn infants. The public  
17 information program must inform the public of the following:

18           (1) The relinquishment alternative provided for in  
19 this Act, which results in the adoption of a newborn  
20 infant under 72 hours of age and which provides for the  
21 parent's anonymity, if the parent so chooses.

22           (2) The alternative of adoption through a public or  
23 private agency, in which the parent's identity may or may  
24 not be known to the agency, but is kept anonymous from  
25 the adoptive parents, if the birth parent so desires, and  
26 which allows the parent to be actively involved in the  
27 child's adoption plan.

28           The public information program may include, but need not  
29 be limited to, the following elements:

30           (i) Educational and informational materials in  
31 print, audio, video, electronic or other media.

32           (ii) Establishment of a web site.

33           (iii) Public service announcements and

1 advertisements.

2 (iv) Establishment of toll-free telephone hotlines  
3 to provide information.

4 Section 65. Evaluation.

5 (a) The Department shall collect and analyze information  
6 regarding the relinquishment of newborn infants and placement  
7 of children under this Act. Fire stations, emergency medical  
8 facilities, and medical professionals accepting and providing  
9 services to a newborn infant under this Act shall report to  
10 the Department data necessary for the Department to evaluate  
11 and determine the effect of this Act in the prevention of  
12 injury or death of newborn infants. Child-placing agencies  
13 shall report to the Department data necessary to evaluate and  
14 determine the effectiveness of these agencies in providing  
15 child protective and child welfare services to newborn  
16 infants relinquished under this Act.

17 (b) The information collected shall include, but need  
18 not be limited to: the number of newborn infants  
19 relinquished; the services provided to relinquished newborn  
20 infants; the outcome of care for the relinquished newborn  
21 infants; the number and disposition of cases of relinquished  
22 newborn infants subject to placement; the number of children  
23 accepted and served by child-placing agencies; and the  
24 services provided by child-placing agencies and the  
25 disposition of the cases of the children placed under this  
26 Act.

27 (c) The Department shall submit a report by January 1,  
28 2002, and on January 1 of each year thereafter, to the  
29 Governor and General Assembly regarding the prevention of  
30 injury or death of newborn infants and the effect of  
31 placements of children under this Act. The report shall  
32 include, but need not be limited to, a summary of collected  
33 data, an analysis of the data and conclusions regarding the

1 Act's effectiveness, a determination whether the purposes of  
2 the Act are being achieved, and recommendations for changes  
3 that may be considered necessary to improve the  
4 administration and enforcement of this Act.

5 Section 70. Construction of Act. Nothing in this Act  
6 shall be construed to preclude the courts of this State from  
7 exercising their discretion to protect the health and safety  
8 of children in individual cases. The best interests and  
9 welfare of a child shall be a paramount consideration in the  
10 construction and interpretation of this Act. It is in the  
11 child's best interests that this Act be construed and  
12 interpreted so as not to result in extending time limits  
13 beyond those set forth in this Act.

14 Section 75. Repeal. This Act is repealed on July 1, 2007.

15 Section 90. The Illinois Public Aid Code is amended by  
16 changing Section 4-1.2 as follows:

17 (305 ILCS 5/4-1.2) (from Ch. 23, par. 4-1.2)

18 Sec. 4-1.2. Living Arrangements - Parents - Relatives -  
19 Foster Care.

20 (a) The child or children must (1) be living with his or  
21 their father, mother, grandfather, grandmother, brother,  
22 sister, stepfather, stepmother, stepbrother, stepsister,  
23 uncle or aunt, or other relative approved by the Illinois  
24 Department, in a place of residence maintained by one or more  
25 of such relatives as his or their own home, or (2) have been  
26 (a) removed from the home of the parents or other relatives  
27 by judicial order under the Juvenile Court Act or the  
28 Juvenile Court Act of 1987, as amended, (b) placed under the  
29 guardianship of the Department of Children and Family

1 Services, and (c) under such guardianship, placed in a foster  
 2 family home, group home or child care institution licensed  
 3 pursuant to the "Child Care Act of 1969", approved May 15,  
 4 1969, as amended, or approved by that Department as meeting  
 5 standards established for licensing under that Act, or (3)  
 6 have been relinquished in accordance with the Abandoned  
 7 Newborn Infant Protection Act. A child so placed in foster  
 8 care who was not receiving aid under this Article in or for  
 9 the month in which the court proceedings leading to that  
 10 placement were initiated may qualify only if he lived in the  
 11 home of his parents or other relatives at the time the  
 12 proceedings were initiated, or within 6 months prior to the  
 13 month of initiation, and would have received aid in and for  
 14 that month if application had been made therefor.

15 (b) The Illinois Department may, by rule, establish  
 16 those persons who are living together who must be included in  
 17 the same assistance unit in order to receive cash assistance  
 18 under this Article and the income and assets of those persons  
 19 in an assistance unit which must be considered in determining  
 20 eligibility.

21 (c) The conditions of qualification herein specified  
 22 shall not prejudice aid granted under this Code for foster  
 23 care prior to the effective date of this 1969 Amendatory Act.  
 24 (Source: P.A. 90-17, eff. 7-1-97.)

25 Section 92. The Abused and Neglected Child Reporting Act  
 26 is amended by changing Section 3 as follows:

27 (325 ILCS 5/3) (from Ch. 23, par. 2053)

28 Sec. 3. As used in this Act unless the context otherwise  
 29 requires:

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

1 "Department" means Department of Children and Family  
2 Services.

3 "Local law enforcement agency" means the police of a  
4 city, town, village or other incorporated area or the sheriff  
5 of an unincorporated area or any sworn officer of the  
6 Illinois Department of State Police.

7 "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  
12 be inflicted upon such child physical injury, by other  
13 than accidental means, which 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 such 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  
20 any bodily function;

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

26 d. commits or allows to be committed an act or acts  
27 of torture upon such child;

28 e. inflicts excessive corporal punishment;

29 f. commits or allows to be committed the offense of  
30 female genital mutilation, as defined in Section 12-34 of  
31 the Criminal Code of 1961, against the child; or

32 g. causes to be sold, transferred, distributed, or  
33 given to such child under 18 years of age, a controlled  
34 substance as defined in Section 102 of the Illinois



1           Controlled Substances Act in violation of Article IV of  
2           the Illinois Controlled Substances Act, except for  
3           controlled substances that are prescribed in accordance  
4           with Article III of the Illinois Controlled Substances  
5           Act and are dispensed to such child in a manner that  
6           substantially complies with the prescription.

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

10           "Neglected child" means any child who is not receiving  
11           the proper or necessary nourishment or medically indicated  
12           treatment including food or care not provided solely on the  
13           basis of the present or anticipated mental or physical  
14           impairment as determined by a physician acting alone or in  
15           consultation with other physicians or otherwise is not  
16           receiving the proper or necessary support or medical or other  
17           remedial care recognized under State law as necessary for a  
18           child's well-being, or other care necessary for his or her  
19           well-being, including adequate food, clothing and shelter; or  
20           who is abandoned by his or her parents or other person  
21           responsible for the child's welfare without a proper plan of  
22           care; or who is a newborn infant whose blood, urine, or  
23           meconium contains any amount of a controlled substance as  
24           defined in subsection (f) of Section 102 of the Illinois  
25           Controlled Substances Act or a metabolite thereof, with the  
26           exception of a controlled substance or metabolite thereof  
27           whose presence in the newborn infant is the result of medical  
28           treatment administered to the mother or the newborn infant. A  
29           child shall not be considered neglected for the sole reason  
30           that the child's parent or other person responsible for his  
31           or her welfare has left the child in the care of an adult  
32           relative for any period of time. A child shall not be  
33           considered neglected for the sole reason that the child has  
34           been relinquished in accordance with the Abandoned Newborn

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

10 "Child Protective Service Unit" means certain specialized  
11 State employees of the Department assigned by the Director to  
12 perform the duties and responsibilities as provided under  
13 Section 7.2 of this Act.

14 "Person responsible for the child's welfare" means the  
15 child's parent; guardian; foster parent; relative caregiver;  
16 any person responsible for the child's welfare in a public or  
17 private residential agency or institution; any person  
18 responsible for the child's welfare within a public or  
19 private profit or not for profit child care facility; or any  
20 other person responsible for the child's welfare at the time  
21 of the alleged abuse or neglect, or any person who came to  
22 know the child through an official capacity or position of  
23 trust, including but not limited to health care  
24 professionals, educational personnel, recreational  
25 supervisors, and volunteers or support personnel in any  
26 setting where children may be subject to abuse or neglect.

27 "Temporary protective custody" means custody within a  
28 hospital or other medical facility or a place previously  
29 designated for such custody by the Department, subject to  
30 review by the Court, including a licensed foster home, group  
31 home, or other institution; but such place shall not be a  
32 jail or other place for the detention of criminal or juvenile  
33 offenders.

34 "An unfounded report" means any report made under this

1 Act for which it is determined after an investigation that no  
2 credible evidence of abuse or neglect exists.

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

6 "An undetermined report" means any report made under this  
7 Act in which it was not possible to initiate or complete an  
8 investigation on the basis of information provided to the  
9 Department.

10 "Subject of report" means any child reported to the  
11 central register of child abuse and neglect established under  
12 Section 7.7 of this Act and his or her parent, guardian or  
13 other person responsible who is also named in the report.

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

17 (Source: P.A. 90-239, eff. 7-28-97; 90-684, eff. 7-31-98;  
18 91-802, eff. 1-1-01.)

19 Section 95. The Juvenile Court Act of 1987 is amended by  
20 changing Section 2-3 as follows:

21 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

23 (1) Those who are neglected include:

24 (a) any minor under 18 years of age who is not  
25 receiving the proper or necessary support, education as  
26 required by law, or medical or other remedial care  
27 recognized under State law as necessary for a minor's  
28 well-being, or other care necessary for his or her  
29 well-being, including adequate food, clothing and  
30 shelter, or who is abandoned by his or her parents or  
31 other person responsible for the minor's welfare, except  
32 that a minor shall not be considered neglected for the

1 sole reason that the minor's parent or other person  
2 responsible for the minor's welfare has left the minor in  
3 the care of an adult relative for any period of time; or

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

6 (c) any newborn infant whose blood, urine, or  
7 meconium contains any amount of a controlled substance as  
8 defined in subsection (f) of Section 102 of the Illinois  
9 Controlled Substances Act, as now or hereafter amended,  
10 or a metabolite of a controlled substance, with the  
11 exception of controlled substances or metabolites of such  
12 substances, the presence of which in the newborn infant  
13 is the result of medical treatment administered to the  
14 mother or the newborn infant; or

15 (d) any minor under the age of 14 years whose  
16 parent or other person responsible for the minor's  
17 welfare leaves the minor without supervision for an  
18 unreasonable period of time without regard for the mental  
19 or physical health, safety, or welfare of that minor.

20 Whether the minor was left without regard for the mental  
21 or physical health, safety, or welfare of that minor or the  
22 period of time was unreasonable shall be determined by  
23 considering the following factors, including but not limited  
24 to:

25 (1) the age of the minor;

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

27 (3) special needs of the minor, including whether  
28 the minor is physically or mentally handicapped, or  
29 otherwise in need of ongoing prescribed medical treatment  
30 such as periodic doses of insulin or other medications;

31 (4) the duration of time in which the minor was  
32 left without supervision;

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

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

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

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

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

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

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

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

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

27          (14) whether the minor was left under the  
28 supervision of another person;

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

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

34          (2) Those who are abused include any minor under 18

1 years of age whose parent or immediate family member, or any  
 2 person responsible for the minor's welfare, or any person who  
 3 is in the same family or household as the minor, or any  
 4 individual residing in the same home as the minor, or a  
 5 paramour of the minor's parent:

6 (i) inflicts, causes to be inflicted, or allows to  
 7 be inflicted upon such minor physical injury, by other  
 8 than accidental means, which causes death, disfigurement,  
 9 impairment of physical or emotional health, or loss or  
 10 impairment of any bodily function;

11 (ii) creates a substantial risk of physical injury  
 12 to such minor by other than accidental means which would  
 13 be likely to cause death, disfigurement, impairment of  
 14 emotional health, or loss or impairment of any bodily  
 15 function;

16 (iii) commits or allows to be committed any sex  
 17 offense against such minor, as such sex offenses are  
 18 defined in the Criminal Code of 1961, as amended, and  
 19 extending those definitions of sex offenses to include  
 20 minors under 18 years of age;

21 (iv) commits or allows to be committed an act or  
 22 acts of torture upon such minor; or

23 (v) inflicts excessive corporal punishment.

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

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

31 (Source: P.A. 89-21, eff. 7-1-95; 90-239, eff. 7-28-97.)

32 Section 96. The Criminal Code of 1961 is amended by  
 33 changing Sections 12-21.5 and 12-21.6 as follows:

1 (720 ILCS 5/12-21.5)

2 Sec. 12-21.5. Child Abandonment.

3 (a) A person commits the offense of child abandonment  
4 when he or she, as a parent, guardian, or other person having  
5 physical custody or control of a child, without regard for  
6 the mental or physical health, safety, or welfare of that  
7 child, knowingly leaves that child who is under the age of 13  
8 without supervision by a responsible person over the age of  
9 14 for a period of 24 hours or more, except that a person  
10 does not commit the offense of child abandonment when he or  
11 she relinquishes a child in accordance with the Abandoned  
12 Newborn Infant Protection Act.

13 (b) For the purposes of determining whether the child  
14 was left without regard for the mental or physical health,  
15 safety, or welfare of that child, the trier of fact shall  
16 consider the following factors:

17 (1) the age of the child;

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

19 (3) special needs of the child, including whether  
20 the child is physically or mentally handicapped, or  
21 otherwise in need of ongoing prescribed medical treatment  
22 such as periodic doses of insulin or other medications;

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

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

27 (6) the time of day or night when the child was  
28 left without supervision;

29 (7) the weather conditions, including whether the  
30 child was left in a location with adequate protection  
31 from the natural elements such as adequate heat or light;

32 (8) the location of the parent, guardian, or other  
33 person having physical custody or control of the child at  
34 the time the child was left without supervision, the

1 physical distance the child was from the parent,  
2 guardian, or other person having physical custody or  
3 control of the child at the time the child was without  
4 supervision;

5 (9) whether the child's movement was restricted, or  
6 the child was otherwise locked within a room or other  
7 structure;

8 (10) whether the child was given a phone number of  
9 a person or location to call in the event of an emergency  
10 and whether the child was capable of making an emergency  
11 call;

12 (11) whether there was food and other provision  
13 left for the child;

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

19 (13) the age and physical and mental capabilities  
20 of the person or persons who provided supervision for the  
21 child;

22 (14) any other factor that would endanger the  
23 health or safety of that particular child;

24 (15) whether the child was left under the  
25 supervision of another person.

26 (d) Child abandonment is a Class 4 felony. A second or  
27 subsequent offense after a prior conviction is a Class 3  
28 felony.

29 (Source: P.A. 88-479.)

30 (720 ILCS 5/12-21.6)

31 Sec. 12-21.6. Endangering the life or health of a child.

32 (a) It is unlawful for any person to willfully cause or  
33 permit the life or health of a child under the age of 18 to



1 be endangered or to willfully cause or permit a child to be  
2 placed in circumstances that endanger the child's life or  
3 health, except that it is not unlawful for a person to  
4 relinquish a child in accordance with the Abandoned Newborn  
5 Infant Protection Act.

6 (b) A violation of this Section is a Class A  
7 misdemeanor. A second or subsequent violation of this  
8 Section is a Class 3 felony. A violation of this Section  
9 that is a proximate cause of the death of the child is a  
10 Class 3 felony for which a person, if sentenced to a term of  
11 imprisonment, shall be sentenced to a term of not less than 2  
12 years and not more than 10 years.

13 (Source: P.A. 90-687, eff. 7-31-98.)

14 Section 96.5. The Neglected Children Offense Act is  
15 amended by changing Section 2 as follows:

16 (720 ILCS 130/2) (from Ch. 23, par. 2361)

17 Sec. 2. Any parent, legal guardian or person having the  
18 custody of a child under the age of 18 years, who knowingly  
19 or wilfully causes, aids or encourages such person to be or  
20 to become a dependent and neglected child as defined in  
21 section 1, who knowingly or wilfully does acts which directly  
22 tend to render any such child so dependent and neglected, or  
23 who knowingly or wilfully fails to do that which will  
24 directly tend to prevent such state of dependency and neglect  
25 is guilty of the Class A misdemeanor of contributing to the  
26 dependency and neglect of children, except that a person who  
27 relinquishes a child in accordance with the Abandoned Newborn  
28 Infant Protection Act is not guilty of that misdemeanor.

29 Instead of imposing the punishment hereinbefore provided, the  
30 court may release the defendant from custody on probation for  
31 one year upon his or her entering into recognizance with or  
32 without surety in such sum as the court directs. The

1 conditions of the recognizance shall be such that if the  
2 defendant appears personally in court whenever ordered to do  
3 so within the year and provides and cares for such neglected  
4 and dependent child in such manner as to prevent a  
5 continuance or repetition of such state of dependency and  
6 neglect or as otherwise may be directed by the court then the  
7 recognizance shall be void, otherwise it shall be of full  
8 force and effect. If the court is satisfied by information  
9 and due proof under oath that at any time during the year the  
10 defendant has violated the terms of such order it may  
11 forthwith revoke the order and sentence him or her under the  
12 original conviction. Unless so sentenced, the defendant shall  
13 at the end of the year be discharged. In case of forfeiture  
14 on the recognizance the sum recovered thereon may in the  
15 discretion of the court be paid in whole or in part to  
16 someone designated by the court for the support of such  
17 dependent and neglected child.

18 (Source: P.A. 77-2350.)

19 Section 97. The Adoption Act is amended by changing  
20 Section 1 as follows:

21 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

24 A. "Child" means a person under legal age subject to  
25 adoption under this Act.

26 B. "Related child" means a child subject to adoption  
27 where either or both of the adopting parents stands in any of  
28 the following relationships to the child by blood or  
29 marriage: parent, grand-parent, brother, sister, step-parent,  
30 step-grandparent, step-brother, step-sister, uncle, aunt,  
31 great-uncle, great-aunt, or cousin of first degree. A child  
32 whose parent has executed a final irrevocable consent to

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

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

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

16 (a) Abandonment of the child.

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

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

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

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

28 (d) Substantial neglect of the child if continuous  
29 or repeated.

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

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

34 (f) Two or more findings of physical abuse to any

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

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

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

22 (i) Depravity. Conviction of any one of the  
23 following crimes shall create a presumption that a parent  
24 is depraved which can be overcome only by clear and  
25 convincing evidence: (1) first degree murder in violation  
26 of paragraph 1 or 2 of subsection (a) of Section 9-1 of  
27 the Criminal Code of 1961 or conviction of second degree  
28 murder in violation of subsection (a) of Section 9-2 of  
29 the Criminal Code of 1961 of a parent of the child to be  
30 adopted; (2) first degree murder or second degree murder  
31 of any child in violation of the Criminal Code of 1961;  
32 (3) attempt or conspiracy to commit first degree murder  
33 or second degree murder of any child in violation of the  
34 Criminal Code of 1961; (4) solicitation to commit murder

1 of any child, solicitation to commit murder of any child  
2 for hire, or solicitation to commit second degree murder  
3 of any child in violation of the Criminal Code of 1961;  
4 or (5) aggravated criminal sexual assault in violation of  
5 Section 12-14(b)(1) 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  
8 at least 3 felonies under the laws of this State or any  
9 other state, or under federal law, or the criminal laws  
10 of any United States territory; and at least one of these  
11 convictions took place within 5 years of the filing of  
12 the petition or motion seeking termination of parental  
13 rights.

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

20 (j) Open and notorious adultery or fornication.

21 (j-1) (Blank).

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

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

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

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

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

1 substantially fulfill his or her obligations under the  
2 service plan and correct the conditions that brought the  
3 child into care during any 9-month period after the end  
4 of the initial 9-month period following the adjudication  
5 under Section 2-3 or 2-4 of the Juvenile Court Act of  
6 1987.

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

32 (n) Evidence of intent to forgo his or her parental  
33 rights, whether or not the child is a ward of the court,  
34 (1) as manifested by his or her failure for a period of

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

25 Contact or communication by a parent with his or her  
26 child that does not demonstrate affection and concern  
27 does not constitute reasonable contact and planning under  
28 subdivision (n). In the absence of evidence to the  
29 contrary, the ability to visit, communicate, maintain  
30 contact, pay expenses and plan for the future shall be  
31 presumed. The subjective intent of the parent, whether  
32 expressed or otherwise, unsupported by evidence of the  
33 foregoing parental acts manifesting that intent, shall  
34 not preclude a determination that the parent has intended



1 to forgo his or her parental rights. In making this  
2 determination, the court may consider but shall not  
3 require a showing of diligent efforts by an authorized  
4 agency to encourage the parent to perform the acts  
5 specified in subdivision (n).

6 It shall be an affirmative defense to any allegation  
7 under paragraph (2) of this subsection that the father's  
8 failure was due to circumstances beyond his control or to  
9 impediments created by the mother or any other person  
10 having legal custody. Proof of that fact need only be by  
11 a preponderance of the evidence.

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

15 (p) Inability to discharge parental  
16 responsibilities supported by competent evidence from a  
17 psychiatrist, licensed clinical social worker, or  
18 clinical psychologist of mental impairment, mental  
19 illness or mental retardation as defined in Section 1-116  
20 of the Mental Health and Developmental Disabilities Code,  
21 or developmental disability as defined in Section 1-106  
22 of that Code, and there is sufficient justification to  
23 believe that the inability to discharge parental  
24 responsibilities shall extend beyond a reasonable time  
25 period. However, this subdivision (p) shall not be  
26 construed so as to permit a licensed clinical social  
27 worker to conduct any medical diagnosis to determine  
28 mental illness or mental impairment.

29 (q) The parent has been criminally convicted of  
30 aggravated battery, heinous battery, or attempted murder  
31 of any child.

32 (r) The child is in the temporary custody or  
33 guardianship of the Department of Children and Family  
34 Services, the parent is incarcerated as a result of

1 criminal conviction at the time the petition or motion  
2 for termination of parental rights is filed, prior to  
3 incarceration the parent had little or no contact with  
4 the child or provided little or no support for the child,  
5 and the parent's incarceration will prevent the parent  
6 from discharging his or her parental responsibilities for  
7 the child for a period in excess of 2 years after the  
8 filing of the petition or motion for termination of  
9 parental rights.

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

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

34 E. "Parent" means the father or mother of a legitimate

1 or illegitimate child. For the purpose of this Act, a person  
 2 who has executed a final and irrevocable consent to adoption  
 3 or a final and irrevocable surrender for purposes of  
 4 adoption, or whose parental rights have been terminated by a  
 5 court, is not a parent of the child who was the subject of  
 6 the consent or surrender, unless the consent is void pursuant  
 7 to subsection O of Section 10.

8 F. A person is available for adoption when the person  
 9 is:

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

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

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

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

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

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

28 A person who would otherwise be available for adoption  
 29 shall not be deemed unavailable for adoption solely by reason  
 30 of his or her death.

31 G. The singular includes the plural and the plural  
 32 includes the singular and the "male" includes the "female",  
 33 as the context of this Act may require.

34 H. "Adoption disruption" occurs when an adoptive

1 placement does not prove successful and it becomes necessary  
2 for the child to be removed from placement before the  
3 adoption is finalized.

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

9 J. "Immediate relatives" means the biological parents,  
10 the parents of the biological parents and siblings of the  
11 biological parents.

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

14 L. "Intercountry Adoption Coordinator" is a staff person  
15 of the Department of Children and Family Services appointed  
16 by the Director to coordinate the provision of services by  
17 the public and private sector to prospective parents of  
18 foreign-born children.

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

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

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

30 P. "Abused child" means a child whose parent or  
31 immediate family member, or any person responsible for the  
32 child's welfare, or any individual residing in the same home  
33 as the child, or a paramour of the child's parent:

34 (a) inflicts, causes to be inflicted, or allows to

1 be inflicted upon the child physical injury, by other  
2 than accidental means, that causes death, disfigurement,  
3 impairment of physical or emotional health, or loss or  
4 impairment of any bodily function;

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

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

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

17 (e) inflicts excessive corporal punishment.

18 Q. "Neglected child" means any child whose parent or  
19 other person responsible for the child's welfare withholds or  
20 denies nourishment or medically indicated treatment including  
21 food or care denied solely on the basis of the present or  
22 anticipated mental or physical impairment as determined by a  
23 physician acting alone or in consultation with other  
24 physicians or otherwise does not provide the proper or  
25 necessary support, education as required by law, or medical  
26 or other remedial care recognized under State law as  
27 necessary for a child's well-being, or other care necessary  
28 for his or her well-being, including adequate food, clothing  
29 and shelter; or who is abandoned by his or her parents or  
30 other person responsible for the child's welfare.

31 A child shall not be considered neglected or abused for  
32 the sole reason that the child's parent or other person  
33 responsible for his or her welfare depends upon spiritual  
34 means through prayer alone for the treatment or cure of

1 disease or remedial care as provided under Section 4 of the  
2 Abused and Neglected Child Reporting Act.

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

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

19 T. "Terminally ill parent" means a person who has a  
20 medical prognosis by a physician licensed to practice  
21 medicine in all of its branches that the person has an  
22 incurable and irreversible condition which will lead to  
23 death.

24 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;  
25 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,  
26 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.  
27 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,  
28 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;  
29 revised 8-31-99.)

30 Section 999. Effective date. This Act takes effect upon  
31 becoming law."