



1 consent is determined to be void or is void pursuant to  
2 subsection 0 of Section 10.

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

5 D. "Unfit person" means any person whom the court shall  
6 find to be unfit to have a child, without regard to the  
7 likelihood that the child will be placed for adoption. The  
8 grounds of unfitness are any one or more of the following:

9 (a) Abandonment of the child.

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

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

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

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

21 (d) Substantial neglect of the child if continuous  
22 or repeated.

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

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

27 (f) Two or more findings of physical abuse to any  
28 children under Section 4-8 of the Juvenile Court Act or  
29 Section 2-21 of the Juvenile Court Act of 1987, the most  
30 recent of which was determined by the juvenile court  
31 hearing the matter to be supported by clear and  
32 convincing evidence; a criminal conviction or a finding  
33 of not guilty by reason of insanity resulting from the  
34 death of any child by physical child abuse; or a finding

1 of physical child abuse resulting from the death of any  
2 child under Section 4-8 of the Juvenile Court Act or  
3 Section 2-21 of the Juvenile Court Act of 1987.

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

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

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

33 There is a rebuttable presumption that a parent is  
34 depraved if the parent has been criminally convicted of

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

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

13 (j) Open and notorious adultery or fornication.

14 (j-1) (Blank).

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

19 There is a rebuttable presumption that a parent is  
20 unfit under this subsection with respect to any child to  
21 which that parent gives birth where there is a confirmed  
22 test result that at birth the child's blood, urine, or  
23 meconium contained any amount of a controlled substance  
24 as defined in subsection (f) of Section 102 of the  
25 Illinois Controlled Substances Act or metabolites of such  
26 substances, the presence of which in the newborn infant  
27 was not the result of medical treatment administered to  
28 the mother or the newborn infant; and the biological  
29 mother of this child is the biological mother of at least  
30 one other child who was adjudicated a neglected minor  
31 under subsection (c) of Section 2-3 of the Juvenile Court  
32 Act of 1987.

33 (l) Failure to demonstrate a reasonable degree of  
34 interest, concern or responsibility as to the welfare of

1 a new born child during the first 30 days after its  
2 birth.

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

34 (m-1) Pursuant to the Juvenile Court Act of 1987, a

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

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

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

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

33 It shall be an affirmative defense to any allegation  
34 under paragraph (2) of this subsection that the father's

1 failure was due to circumstances beyond his control or to  
2 impediments created by the mother or any other person  
3 having legal custody. Proof of that fact need only be by  
4 a preponderance of the evidence.

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

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

22 (q) The parent has been criminally convicted of  
23 aggravated battery, heinous battery, or attempted murder  
24 of any child.

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



1 filing of the petition or motion for termination of  
2 parental rights.

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

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

27 E. "Parent" means the father or mother of a legitimate  
28 or illegitimate child. For the purpose of this Act, a person  
29 who has executed a final and irrevocable consent to adoption  
30 or a final and irrevocable surrender for purposes of  
31 adoption, or whose parental rights have been terminated by a  
32 court, is not a parent of the child who was the subject of  
33 the consent or surrender, unless the consent is void pursuant  
34 to subsection 0 of Section 10.

1 F. A person is available for adoption when the person  
2 is:

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

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

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

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

16 (d) an adult who meets the conditions set forth in  
17 Section 3 of this Act.

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

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

24 H. "Adoption disruption" occurs when an adoptive  
25 placement does not prove successful and it becomes necessary  
26 for the child to be removed from placement before the  
27 adoption is finalized.

28 I. "Foreign placing agency" is an agency or individual  
29 operating in a country or territory outside the United States  
30 that is authorized by its country to place children for  
31 adoption either directly with families in the United States  
32 or through United States based international agencies.

33 J. "Immediate relatives" means the biological parents,  
34 the parents of the biological parents and siblings of the

1 biological parents.

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

4 L. "Intercountry Adoption Coordinator" is a staff person  
5 of the Department of Children and Family Services appointed  
6 by the Director to coordinate the provision of services by  
7 the public and private sector to prospective parents of  
8 foreign-born children.

9 M. "Interstate Compact on the Placement of Children" is  
10 a law enacted by most states for the purpose of establishing  
11 uniform procedures for handling the interstate placement of  
12 children in foster homes, adoptive homes, or other child care  
13 facilities.

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

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

20 P. "Abused child" means a child whose parent or  
21 immediate family member, or any person responsible for the  
22 child's welfare, or any individual residing in the same home  
23 as the child, or a paramour of the child's parent:

24 (a) inflicts, causes to be inflicted, or allows to  
25 be inflicted upon the child physical injury, by other  
26 than accidental means, that causes death, disfigurement,  
27 impairment of physical or emotional health, or loss or  
28 impairment of any bodily function;

29 (b) creates a substantial risk of physical injury  
30 to the child by other than accidental means which would  
31 be likely to cause death, disfigurement, impairment of  
32 physical or emotional health, or loss or impairment of  
33 any bodily function;

34 (c) commits or allows to be committed any sex

1 offense against the child, as sex offenses are defined in  
2 the Criminal Code of 1961 and extending those definitions  
3 of sex offenses to include children under 18 years of  
4 age;

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

7 (e) inflicts excessive corporal punishment.

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

21 A child shall not be considered neglected or abused for  
22 the sole reason that the child's parent or other person  
23 responsible for his or her welfare depends upon spiritual  
24 means through prayer alone for the treatment or cure of  
25 disease or remedial care as provided under Section 4 of the  
26 Abused and Neglected Child Reporting Act. A child shall not  
27 be considered neglected or abused for the sole reason that  
28 the child's parent or other person responsible for the  
29 child's welfare failed to vaccinate, delayed vaccination, or  
30 refused vaccination for the child whether due to a waiver on  
31 religious or medical grounds as permitted by the law or  
32 otherwise.

33 R. "Putative father" means a man who may be a child's  
34 father, but who (1) is not married to the child's mother on

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

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

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

20 (Source: P.A. 90-13, eff. 6-13-97; 90-15, eff. 6-13-97;  
21 90-27, eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-28,  
22 eff. 1-1-98 except subdiv. (D)(m) eff. 6-25-97; 90-443, eff.  
23 8-16-97; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98; 91-357,  
24 eff. 7-29-99; 91-373, eff. 1-1-00; 91-572, eff. 1-1-00;  
25 revised 8-31-99.)".