

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Children and Family Services Act is amended by changing Sections 6a and 7 as follows:

(20 ILCS 505/6a) (from Ch. 23, par. 5006a)

Sec. 6a. Case Plan.

(a) With respect to each Department client for whom the Department is providing placement service, the Department shall develop a case plan designed to stabilize the family situation and prevent placement of a child outside the home of the family when the child can be cared for at home without endangering the child's health or safety, reunify the family if temporary placement is necessary when safe and appropriate, or move the child toward the most permanent living arrangement and permanent legal status. Such case plan shall provide for the utilization of family preservation services as defined in Section 8.2 of the Abused and Neglected Child Reporting Act. Such case plan shall be reviewed and updated every 6 months. The Department shall ensure that incarcerated parents are able to participate in case plan reviews via teleconference or videoconference. Where appropriate, the case plan shall include recommendations concerning alcohol or drug abuse

evaluation.

If the parent is incarcerated, the case plan must address the tasks that must be completed by the parent and how the parent will participate in the administrative case review and permanency planning hearings and, wherever possible, must include treatment that reflects the resources available at the facility where the parent is confined. The case plan must provide for visitation opportunities, unless visitation is not in the best interests of the child.

(b) The Department may enter into written agreements with child welfare agencies to establish and implement case plan demonstration projects. The demonstration projects shall require that service providers develop, implement, review and update client case plans. The Department shall examine the effectiveness of the demonstration projects in promoting the family reunification or the permanent placement of each client and shall report its findings to the General Assembly no later than 90 days after the end of the fiscal year in which any such demonstration project is implemented.

(Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by P.A. 90-443); 90-28, eff. 1-1-98; 90-443, eff. 8-16-97.)

(20 ILCS 505/7) (from Ch. 23, par. 5007)

Sec. 7. Placement of children; considerations.

(a) In placing any child under this Act, the Department shall place the child, as far as possible, in the care and

custody of some individual holding the same religious belief as the parents of the child, or with some child care facility which is operated by persons of like religious faith as the parents of such child.

(a-5) In placing a child under this Act, the Department shall place the child with the child's sibling or siblings under Section 7.4 of this Act unless the placement is not in each child's best interest, or is otherwise not possible under the Department's rules. If the child is not placed with a sibling under the Department's rules, the Department shall consider placements that are likely to develop, preserve, nurture, and support sibling relationships, where doing so is in each child's best interest.

(b) In placing a child under this Act, the Department may place a child with a relative if the Department determines that the relative will be able to adequately provide for the child's safety and welfare based on the factors set forth in the Department's rules governing relative placements, and that the placement is consistent with the child's best interests, taking into consideration the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

When the Department first assumes custody of a child, in placing that child under this Act, the Department shall make reasonable efforts to identify, locate, and provide notice to all adult grandparents and other adult relatives of the child who are ready, willing, and able to care for the child. At a

minimum, these efforts shall be renewed each time the child requires a placement change and it is appropriate for the child to be cared for in a home environment. The Department must document its efforts to identify, locate, and provide notice to such potential relative placements and maintain the documentation in the child's case file.

If the Department determines that a placement with any identified relative is not in the child's best interests or that the relative does not meet the requirements to be a relative caregiver, as set forth in Department rules or by statute, the Department must document the basis for that decision and maintain the documentation in the child's case file.

If, pursuant to the Department's rules, any person files an administrative appeal of the Department's decision not to place a child with a relative, it is the Department's burden to prove that the decision is consistent with the child's best interests.

When the Department determines that the child requires placement in an environment, other than a home environment, the Department shall continue to make reasonable efforts to identify and locate relatives to serve as visitation resources for the child and potential future placement resources, except when the Department determines that those efforts would be futile or inconsistent with the child's best interests.

If the Department determines that efforts to identify and

locate relatives would be futile or inconsistent with the child's best interests, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

If the Department determines that an individual or a group of relatives are inappropriate to serve as visitation resources or possible placement resources, the Department shall document the basis of its determination and maintain the documentation in the child's case file.

When the Department determines that an individual or a group of relatives are appropriate to serve as visitation resources or possible future placement resources, the Department shall document the basis of its determination, maintain the documentation in the child's case file, create a visitation or transition plan, or both, and incorporate the visitation or transition plan, or both, into the child's case plan. For the purpose of this subsection, any determination as to the child's best interests shall include consideration of the factors set out in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department may not place a child with a relative, with the exception of certain circumstances which may be waived as defined by the Department in rules, if the results of a check of the Law Enforcement Agencies Data System (LEADS) identifies a prior criminal conviction of the relative or any adult member of the relative's household for any of the following offenses

under the Criminal Code of 1961 or the Criminal Code of 2012:

- (1) murder;
 - (1.1) solicitation of murder;
 - (1.2) solicitation of murder for hire;
 - (1.3) intentional homicide of an unborn child;
 - (1.4) voluntary manslaughter of an unborn child;
 - (1.5) involuntary manslaughter;
 - (1.6) reckless homicide;
 - (1.7) concealment of a homicidal death;
 - (1.8) involuntary manslaughter of an unborn child;
 - (1.9) reckless homicide of an unborn child;
 - (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, 11-13, 11-35, 11-40, and 11-45;
- (3) kidnapping;
 - (3.1) aggravated unlawful restraint;
 - (3.2) forcible detention;
 - (3.3) aiding and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child as described in Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
 - (8.1) predatory criminal sexual assault of a child;

- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery as described in Section 12-4.1 or subdivision (a) (2) of Section 12-3.05;
- (12) aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or (e) (4) of Section 12-3.05;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug-induced infliction of great bodily harm as described in Section 12-4.7 or subdivision (g) (1) of Section 12-3.05;
- (15) aggravated stalking;
- (16) home invasion;
- (17) vehicular invasion;
- (18) criminal transmission of HIV;
- (19) criminal abuse or neglect of an elderly person or person with a disability as described in Section 12-21 or subsection (b) of Section 12-4.4a;
- (20) child abandonment;
- (21) endangering the life or health of a child;
- (22) ritual mutilation;
- (23) ritualized abuse of a child;
- (24) an offense in any other state the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

For the purpose of this subsection, "relative" shall

include any person, 21 years of age or over, other than the parent, who (i) is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, second cousin, godparent, great-uncle, or great-aunt; or (ii) is the spouse of such a relative; or (iii) is the child's step-father, step-mother, or adult step-brother or step-sister; or (iv) is a fictive kin; "relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this paragraph prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987. A relative with whom a child is placed pursuant to this subsection may, but is not required to, apply for licensure as a foster family home pursuant to the Child Care Act of 1969; provided, however, that as of July 1, 1995, foster care payments shall be made only to licensed foster family homes pursuant to the terms of Section 5 of this Act.

Notwithstanding any other provision under this subsection to the contrary, a fictive kin with whom a child is placed pursuant to this subsection shall apply for licensure as a foster family home pursuant to the Child Care Act of 1969 within 6 months of the child's placement with the fictive kin. The Department shall not remove a child from the home of a fictive kin on the basis that the fictive kin fails to apply for licensure within 6 months of the child's placement with the fictive kin, or fails to meet the standard for licensure. All other requirements established under the rules and procedures of the Department concerning the placement of a child, for whom the Department is legally responsible, with a relative shall apply. By June 1, 2015, the Department shall promulgate rules establishing criteria and standards for placement, identification, and licensure of fictive kin.

For purposes of this subsection, "fictive kin" means any individual, unrelated by birth or marriage, who:

(i) is shown to have close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or

(ii) is the current foster parent of a child in the custody or guardianship of the Department pursuant to this Act and the Juvenile Court Act of 1987, if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been

identified by the Department as the child's permanent connection, as defined by Department rule.

The provisions added to this subsection (b) by Public Act 98-846 ~~this amendatory Act of the 98th General Assembly~~ shall become operative on and after June 1, 2015.

(c) In placing a child under this Act, the Department shall ensure that the child's health, safety, and best interests are met. In rejecting placement of a child with an identified relative, the Department shall ensure that the child's health, safety, and best interests are met. In evaluating the best interests of the child, the Department shall take into consideration the factors set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987.

The Department shall consider the individual needs of the child and the capacity of the prospective foster or adoptive parents to meet the needs of the child. When a child must be placed outside his or her home and cannot be immediately returned to his or her parents or guardian, a comprehensive, individualized assessment shall be performed of that child at which time the needs of the child shall be determined. Only if race, color, or national origin is identified as a legitimate factor in advancing the child's best interests shall it be considered. Race, color, or national origin shall not be routinely considered in making a placement decision. The Department shall make special efforts for the diligent recruitment of potential foster and adoptive families that

reflect the ethnic and racial diversity of the children for whom foster and adoptive homes are needed. "Special efforts" shall include contacting and working with community organizations and religious organizations and may include contracting with those organizations, utilizing local media and other local resources, and conducting outreach activities.

(c-1) At the time of placement, the Department shall consider concurrent planning, as described in subsection (1-1) of Section 5, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. To the extent that doing so is in the child's best interests as set forth in subsection (4.05) of Section 1-3 of the Juvenile Court Act of 1987, the Department should consider placements that will permit the child to maintain a meaningful relationship with his or her parents.

(d) The Department may accept gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

(e) The Department in placing children in adoptive or foster care homes may not, in any policy or practice relating to the placement of children for adoption or foster care, discriminate against any child or prospective adoptive or foster parent on the basis of race.

(Source: P.A. 98-846, eff. 1-1-15; 99-143, eff. 7-27-15;

99-340, eff. 1-1-16; revised 10-19-15.)

Section 10. The Juvenile Court Act of 1987 is amended by changing Section 2-13 as follows:

(705 ILCS 405/2-13) (from Ch. 37, par. 802-13)

Sec. 2-13. Petition.

(1) Any adult person, any agency or association by its representative may file, or the court on its own motion, consistent with the health, safety and best interests of the minor may direct the filing through the State's Attorney of a petition in respect of a minor under this Act. The petition and all subsequent court documents shall be entitled "In the interest of, a minor".

(2) The petition shall be verified but the statements may be made upon information and belief. It shall allege that the minor is abused, neglected, or dependent, with citations to the appropriate provisions of this Act, and set forth (a) facts sufficient to bring the minor under Section 2-3 or 2-4 and to inform respondents of the cause of action, including, but not limited to, a plain and concise statement of the factual allegations that form the basis for the filing of the petition; (b) the name, age and residence of the minor; (c) the names and residences of his parents; (d) the name and residence of his legal guardian or the person or persons having custody or control of the minor, or of the nearest known relative if no

parent or guardian can be found; and (e) if the minor upon whose behalf the petition is brought is sheltered in custody, the date on which such temporary custody was ordered by the court or the date set for a temporary custody hearing. If any of the facts herein required are not known by the petitioner, the petition shall so state.

(3) The petition must allege that it is in the best interests of the minor and of the public that he be adjudged a ward of the court and may pray generally for relief available under this Act. The petition need not specify any proposed disposition following adjudication of wardship. The petition may request that the minor remain in the custody of the parent, guardian, or custodian under an Order of Protection.

(4) If termination of parental rights and appointment of a guardian of the person with power to consent to adoption of the minor under Section 2-29 is sought, the petition shall so state. If the petition includes this request, the prayer for relief shall clearly and obviously state that the parents could permanently lose their rights as a parent at this hearing.

In addition to the foregoing, the petitioner, by motion, may request the termination of parental rights and appointment of a guardian of the person with power to consent to adoption of the minor under Section 2-29 at any time after the entry of a dispositional order under Section 2-22.

(4.5) (a) Unless good cause exists that filing a petition to terminate parental rights is contrary to the child's best

interests, with ~~With~~ respect to any minors committed to its care pursuant to this Act, the Department of Children and Family Services shall request the State's Attorney to file a petition or motion for termination of parental rights and appointment of guardian of the person with power to consent to adoption of the minor under Section 2-29 if:

(i) a minor has been in foster care, as described in subsection (b), for 15 months of the most recent 22 months; or

(ii) a minor under the age of 2 years has been previously determined to be abandoned at an adjudicatory hearing; or

(iii) the parent is criminally convicted of (A) first degree murder or second degree murder of any child, (B) attempt or conspiracy to commit first degree murder or second degree murder of any child, (C) solicitation to commit murder of any child, solicitation to commit murder for hire of any child, or solicitation to commit second degree murder of any child, (D) aggravated battery, aggravated battery of a child, or felony domestic battery, any of which has resulted in serious injury to the minor or a sibling of the minor, (E) aggravated criminal sexual assault in violation of subdivision (a)(1) of Section 11-1.40 or subdivision (a)(1) of Section 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012, or (F) an offense in any other state the elements of which are

similar and bear a substantial relationship to any of the foregoing offenses.

~~unless:~~

(a-1) For purposes of this subsection (4.5), good cause exists in the following circumstances:

(i) the child is being cared for by a relative,

(ii) the Department has documented in the case plan a compelling reason for determining that filing such petition would not be in the best interests of the child,

(iii) the court has found within the preceding 12 months that the Department has failed to make reasonable efforts to reunify the child and family, or

(iv) the parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for 15 months out of any 22-month period, the parent maintains a meaningful role in the child's life, and the Department has not documented another reason why it would otherwise be appropriate to file a petition to terminate parental rights pursuant to this Section and the Adoption Act. The assessment of whether an incarcerated parent maintains a meaningful role in the child's life may include consideration of the following:
~~paragraph (c) of this subsection (4.5) provides otherwise.~~

(A) the child's best interest;

(B) the parent's expressions or acts of manifesting concern for the child, such as letters,

telephone calls, visits, and other forms of communication with the child and the impact of the communication on the child;

(C) the parent's efforts to communicate with and work with the Department for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship; or

(D) limitations in the parent's access to family support programs, therapeutic services, visiting opportunities, telephone and mail services, and meaningful participation in court proceedings.

(b) For purposes of this subsection, the date of entering foster care is defined as the earlier of:

(1) The date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or

(2) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.

(c) (Blank). ~~With respect to paragraph (a)(i), the following transition rules shall apply:~~

~~(1) If the child entered foster care after November 19, 1997 and this amendatory Act of 1998 takes effect before the child has been in foster care for 15 months of the preceding 22 months, then the Department shall comply with the requirements of paragraph (a) of this subsection (4.5)~~

~~for that child as soon as the child has been in foster care for 15 of the preceding 22 months.~~

~~(2) If the child entered foster care after November 19, 1997 and this amendatory Act of 1998 takes effect after the child has been in foster care for 15 of the preceding 22 months, then the Department shall comply with the requirements of paragraph (a) of this subsection (4.5) for that child within 3 months after the end of the next regular session of the General Assembly.~~

~~(3) If the child entered foster care prior to November 19, 1997, then the Department shall comply with the requirements of paragraph (a) of this subsection (4.5) for that child in accordance with Department policy or rule.~~

~~(d) (Blank). If the State's Attorney determines that the Department's request for filing of a petition or motion conforms to the requirements set forth in subdivisions (a), (b), and (c) of this subsection (4.5), then the State's Attorney shall file the petition or motion as requested.~~

(5) The court shall liberally allow the petitioner to amend the petition to set forth a cause of action or to add, amend, or supplement factual allegations that form the basis for a cause of action up until 14 days before the adjudicatory hearing. The petitioner may amend the petition after that date and prior to the adjudicatory hearing if the court grants leave to amend upon a showing of good cause. The court may allow amendment of the petition to conform with the evidence at any

time prior to ruling. In all cases in which the court has granted leave to amend based on new evidence or new allegations, the court shall permit the respondent an adequate opportunity to prepare a defense to the amended petition.

(6) At any time before dismissal of the petition or before final closing and discharge under Section 2-31, one or more motions in the best interests of the minor may be filed. The motion shall specify sufficient facts in support of the relief requested.

(Source: P.A. 97-1150, eff. 1-25-13.)

Section 15. The Adoption Act is amended by changing Section 1 as follows:

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

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

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

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

person is related to the child as a first cousin or second cousin if they are both related to the same ancestor as either grandchild or great-grandchild. A child whose parent has executed a consent to adoption, a surrender, or a waiver pursuant to Section 10 of this Act or whose parent has signed a denial of paternity pursuant to Section 12 of the Vital Records Act or Section 12a of this Act, or whose parent has had his or her parental rights terminated, is not a related child to that person, unless (1) the consent is determined to be void or is void pursuant to subsection O of Section 10 of this Act; or (2) the parent of the child executed a consent to adoption by a specified person or persons pursuant to subsection A-1 of Section 10 of this Act and a court of competent jurisdiction finds that such consent is void; or (3) the order terminating the parental rights of the parent is vacated by a court of competent jurisdiction.

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

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

(a) Abandonment of the child.

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

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

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

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

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

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

(e) Extreme or repeated cruelty to the child.

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

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

(2) The parent has been convicted or found not guilty by reason of insanity and the conviction or

finding resulted from the death of any child by physical abuse; or

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

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

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

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

(i) Depravity. Conviction of any one of the following crimes shall create a presumption that a parent is depraved which can be overcome only by clear and convincing evidence: (1) first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or the Criminal Code of 2012 or conviction of

second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 or the Criminal Code of 2012 of a parent of the child to be adopted; (2) first degree murder or second degree murder of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012; (3) attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012; (4) solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012; (5) predatory criminal sexual assault of a child in violation of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012; (6) heinous battery of any child in violation of the Criminal Code of 1961; or (7) aggravated battery of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012.

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

There is a rebuttable presumption that a parent is

depraved if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 or the Criminal Code of 2012 within 10 years of the filing date of the petition or motion to terminate parental rights.

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

(j) Open and notorious adultery or fornication.

(j-1) (Blank).

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

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

child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.

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

(m) Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act, or (ii) to make reasonable progress toward the return of the child to the parent during any 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Act, "failure to make reasonable progress toward the return of the child to the parent" includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any

9-month period following the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987. Notwithstanding any other provision, when a petition or motion seeks to terminate parental rights on the basis of item (ii) of this subsection (m), the petitioner shall file with the court and serve on the parties a pleading that specifies the 9-month period or periods relied on. The pleading shall be filed and served on the parties no later than 3 weeks before the date set by the court for closure of discovery, and the allegations in the pleading shall be treated as incorporated into the petition or motion. Failure of a respondent to file a written denial of the allegations in the pleading shall not be treated as an admission that the allegations are true.

(m-1) (Blank). ~~Pursuant to the Juvenile Court Act of 1987, a child has been in foster care for 15 months out of any 22 month period which begins on or after the effective date of this amendatory Act of 1998 unless the child's parent can prove by a preponderance of the evidence that it is more likely than not that it will be in the best interests of the child to be returned to the parent within 6 months of the date on which a petition for termination of parental rights is filed under the Juvenile Court Act of 1987. The 15 month time limit is tolled during any period for which there is a court finding that the appointed custodian or guardian failed to make reasonable efforts to~~

~~reunify the child with his or her family, provided that (i) the finding of no reasonable efforts is made within 60 days of the period when reasonable efforts were not made or (ii) the parent filed a motion requesting a finding of no reasonable efforts within 60 days of the period when reasonable efforts were not made. For purposes of this subdivision (m 1), the date of entering foster care is the earlier of: (i) the date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or (ii) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.~~

(n) Evidence of intent to forgo his or her parental rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 12 months: (i) to visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or (iii) to maintain contact with or plan for the future of the child, although physically able to do so, or (2) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth, (i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984, the Illinois Parentage Act of 2015, or the law of the jurisdiction of the child's birth within 30 days of being

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

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

encourage the parent to perform the acts specified in subdivision (n).

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

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

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

(q) (Blank).

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

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

(t) A finding that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment

administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

E. "Parent" means a person who is the legal mother or legal father of the child as defined in subsection X or Y of this Section. For the purpose of this Act, a parent who has executed a consent to adoption, a surrender, or a waiver pursuant to Section 10 of this Act, who has signed a Denial of Paternity pursuant to Section 12 of the Vital Records Act or Section 12a of this Act, or whose parental rights have been terminated by a court, is not a parent of the child who was the subject of the consent, surrender, waiver, or denial unless (1) the consent is void pursuant to subsection O of Section 10 of this Act; or (2) the person executed a consent to adoption by a specified person or persons pursuant to subsection A-1 of Section 10 of this Act and a court of competent jurisdiction finds that the consent is void; or (3) the order terminating the parental rights of the person is vacated by a court of competent jurisdiction.

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

(a) a child who has been surrendered for adoption to an agency and to whose adoption the agency has thereafter

consented;

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

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

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

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

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

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

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

H. (Blank).

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

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

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

L. (Blank).

M. "Interstate Compact on the Placement of Children" is a law enacted by all states and certain territories for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

N. (Blank).

O. "Preadoption requirements" means any conditions or standards established by the laws or administrative rules of this State that must be met by a prospective adoptive parent prior to the placement of a child in an adoptive home.

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

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

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

(c) commits or allows to be committed any sex offense against the child, as sex offenses are defined in the Criminal Code of 2012 and extending those definitions of sex offenses to include children under 18 years of age;

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

(e) inflicts excessive corporal punishment.

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

A child shall not be considered neglected or abused for the

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

R. "Putative father" means a man who may be a child's father, but who (1) is not married to the child's mother on or before the date that the child was or is to be born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 years of age. "Putative father" does not mean a man who is the child's father as a result of criminal sexual abuse or assault as defined under Article 11 of the Criminal Code of 2012.

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

T. (Blank).

T-5. "Biological parent", "birth parent", or "natural

parent" of a child are interchangeable terms that mean a person who is biologically or genetically related to that child as a parent.

U. "Interstate adoption" means the placement of a minor child with a prospective adoptive parent for the purpose of pursuing an adoption for that child that is subject to the provisions of the Interstate Compact on Placement of Children.

V. (Blank).

W. (Blank).

X. "Legal father" of a child means a man who is recognized as or presumed to be that child's father:

(1) because of his marriage to or civil union with the child's parent at the time of the child's birth or within 300 days prior to that child's birth, unless he signed a denial of paternity pursuant to Section 12 of the Vital Records Act or a waiver pursuant to Section 10 of this Act; or

(2) because his paternity of the child has been established pursuant to the Illinois Parentage Act, the Illinois Parentage Act of 1984, or the Gestational Surrogacy Act; or

(3) because he is listed as the child's father or parent on the child's birth certificate, unless he is otherwise determined by an administrative or judicial proceeding not to be the parent of the child or unless he rescinds his acknowledgment of paternity pursuant to the

Illinois Parentage Act of 1984; or

(4) because his paternity or adoption of the child has been established by a court of competent jurisdiction.

The definition in this subsection X shall not be construed to provide greater or lesser rights as to the number of parents who can be named on a final judgment order of adoption or Illinois birth certificate that otherwise exist under Illinois law.

Y. "Legal mother" of a child means a woman who is recognized as or presumed to be that child's mother:

(1) because she gave birth to the child except as provided in the Gestational Surrogacy Act; or

(2) because her maternity of the child has been established pursuant to the Illinois Parentage Act of 1984 or the Gestational Surrogacy Act; or

(3) because her maternity or adoption of the child has been established by a court of competent jurisdiction; or

(4) because of her marriage to or civil union with the child's other parent at the time of the child's birth or within 300 days prior to the time of birth; or

(5) because she is listed as the child's mother or parent on the child's birth certificate unless she is otherwise determined by an administrative or judicial proceeding not to be the parent of the child.

The definition in this subsection Y shall not be construed to provide greater or lesser rights as to the number of parents

who can be named on a final judgment order of adoption or Illinois birth certificate that otherwise exist under Illinois law.

Z. "Department" means the Illinois Department of Children and Family Services.

AA. "Placement disruption" means a circumstance where the child is removed from an adoptive placement before the adoption is finalized.

BB. "Secondary placement" means a placement, including but not limited to the placement of a ward of the Department, that occurs after a placement disruption or an adoption dissolution. "Secondary placement" does not mean secondary placements arising due to the death of the adoptive parent of the child.

CC. "Adoption dissolution" means a circumstance where the child is removed from an adoptive placement after the adoption is finalized.

DD. "Unregulated placement" means the secondary placement of a child that occurs without the oversight of the courts, the Department, or a licensed child welfare agency.

EE. "Post-placement and post-adoption support services" means support services for placed or adopted children and families that include, but are not limited to, counseling for emotional, behavioral, or developmental needs.

(Source: P.A. 98-455, eff. 1-1-14; 98-532, eff. 1-1-14; 98-804, eff. 1-1-15; 99-49, eff. 7-15-15; 99-85, eff. 1-1-16; revised 8-4-15.)