



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3473

by Rep. Peter Breen

#### SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/2-18	from Ch. 37, par. 802-18
750 ILCS 50/1	from Ch. 40, par. 1501

Amends the Abused and Neglected Child Reporting Act and the Juvenile Court Act of 1987. Expands the definition of "neglected child" under both Acts to include a child whose umbilical cord tissue contains any amount of a controlled substance as defined in a specified provision of the Illinois Controlled Substances Act or a metabolite thereof. Provides that nothing in the new provisions is intended to limit the type of medically reliable testing that can establish that a controlled substance or metabolite thereof is present in a newborn infant. Further amends the Juvenile Court Act of 1987 by providing that proof that a newborn infant's umbilical cord tissue contains any amount of a controlled substance as defined under the Illinois Controlled Substances Act, or a metabolite of a controlled substance, constitutes prima facie evidence of abuse or neglect. Amends the Adoption Act. Includes as a ground of unfitness under the definition of "unfit person" a finding that at birth the child's umbilical cord tissue contained any amount of a controlled substance as defined under the Illinois Controlled Substances Act or a metabolite thereof. Provides that nothing in the new provision is intended to limit the type of medically reliable testing that can establish that a controlled substance or metabolite thereof is present in a newborn infant. Effective immediately.

LRB100 09953 KTG 20124 b

1 AN ACT concerning children.

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

4 Section 5. The Abused and Neglected Child Reporting Act is  
5 amended by changing Section 3 as follows:

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

7 Sec. 3. As used in this Act unless the context otherwise  
8 requires:

9 "Adult resident" means any person between 18 and 22 years  
10 of age who resides in any facility licensed by the Department  
11 under the Child Care Act of 1969. For purposes of this Act, the  
12 criteria set forth in the definitions of "abused child" and  
13 "neglected child" shall be used in determining whether an adult  
14 resident is abused or neglected.

15 "Agency" means a child care facility licensed under Section  
16 2.05 or Section 2.06 of the Child Care Act of 1969 and includes  
17 a transitional living program that accepts children and adult  
18 residents for placement who are in the guardianship of the  
19 Department.

20 "Blatant disregard" means an incident where the real,  
21 significant, and imminent risk of harm would be so obvious to a  
22 reasonable parent or caretaker that it is unlikely that a  
23 reasonable parent or caretaker would have exposed the child to

1 the danger without exercising precautionary measures to  
2 protect the child from harm. With respect to a person working  
3 at an agency in his or her professional capacity with a child  
4 or adult resident, "blatant disregard" includes a failure by  
5 the person to perform job responsibilities intended to protect  
6 the child's or adult resident's health, physical well-being, or  
7 welfare, and, when viewed in light of the surrounding  
8 circumstances, evidence exists that would cause a reasonable  
9 person to believe that the child was neglected. With respect to  
10 an agency, "blatant disregard" includes a failure to implement  
11 practices that ensure the health, physical well-being, or  
12 welfare of the children and adult residents residing in the  
13 facility.

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

17 "Department" means Department of Children and Family  
18 Services.

19 "Local law enforcement agency" means the police of a city,  
20 town, village or other incorporated area or the sheriff of an  
21 unincorporated area or any sworn officer of the Illinois  
22 Department of State Police.

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

1           (a) inflicts, causes to be inflicted, or allows to be  
2           inflicted upon such child physical injury, by other than  
3           accidental means, which causes death, disfigurement,  
4           impairment of physical or emotional health, or loss or  
5           impairment of any bodily function;

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

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

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

18          (e) inflicts excessive corporal punishment or, in the  
19          case of a person working for an agency who is prohibited  
20          from using corporal punishment, inflicts corporal  
21          punishment upon a child or adult resident with whom the  
22          person is working in his or her professional capacity;

23          (f) commits or allows to be committed the offense of  
24          female genital mutilation, as defined in Section 12-34 of  
25          the Criminal Code of 2012, against the child;

26          (g) causes to be sold, transferred, distributed, or

1 given to such child under 18 years of age, a controlled  
2 substance as defined in Section 102 of the Illinois  
3 Controlled Substances Act in violation of Article IV of the  
4 Illinois Controlled Substances Act or in violation of the  
5 Methamphetamine Control and Community Protection Act,  
6 except for controlled substances that are prescribed in  
7 accordance with Article III of the Illinois Controlled  
8 Substances Act and are dispensed to such child in a manner  
9 that substantially complies with the prescription; or

10 (h) commits or allows to be committed the offense of  
11 involuntary servitude, involuntary sexual servitude of a  
12 minor, or trafficking in persons as defined in Section 10-9  
13 of the Criminal Code of 2012 against the child.

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

17 "Neglected child" means any child who is not receiving the  
18 proper or necessary nourishment or medically indicated  
19 treatment including food or care not provided solely on the  
20 basis of the present or anticipated mental or physical  
21 impairment as determined by a physician acting alone or in  
22 consultation with other physicians or otherwise is not  
23 receiving the proper or necessary support or medical or other  
24 remedial care recognized under State law as necessary for a  
25 child's well-being, or other care necessary for his or her  
26 well-being, including adequate food, clothing and shelter; or

1 who is subjected to an environment which is injurious insofar  
2 as (i) the child's environment creates a likelihood of harm to  
3 the child's health, physical well-being, or welfare and (ii)  
4 the likely harm to the child is the result of a blatant  
5 disregard of parent, caretaker, or agency responsibilities; or  
6 who is abandoned by his or her parents or other person  
7 responsible for the child's welfare without a proper plan of  
8 care; or who has been provided with interim crisis intervention  
9 services under Section 3-5 of the Juvenile Court Act of 1987  
10 and whose parent, guardian, or custodian refuses to permit the  
11 child to return home and no other living arrangement agreeable  
12 to the parent, guardian, or custodian can be made, and the  
13 parent, guardian, or custodian has not made any other  
14 appropriate living arrangement for the child; or who is a  
15 newborn infant whose umbilical cord tissue, blood, urine, or  
16 meconium contains any amount of a controlled substance as  
17 defined in subsection (f) of Section 102 of the Illinois  
18 Controlled Substances Act or a metabolite thereof, with the  
19 exception of a controlled substance or metabolite thereof whose  
20 presence in the newborn infant is the result of medical  
21 treatment administered to the mother or the newborn infant.  
22 Nothing in the preceding sentence is intended to limit the type  
23 of medically reliable testing that can establish that a  
24 controlled substance or metabolite thereof is present in a  
25 newborn infant. A child shall not be considered neglected for  
26 the sole reason that the child's parent or other person

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

14 "Child Protective Service Unit" means certain specialized  
15 State employees of the Department assigned by the Director to  
16 perform the duties and responsibilities as provided under  
17 Section 7.2 of this Act.

18 "Person responsible for the child's welfare" means the  
19 child's parent; guardian; foster parent; relative caregiver;  
20 any person responsible for the child's welfare in a public or  
21 private residential agency or institution; any person  
22 responsible for the child's welfare within a public or private  
23 profit or not for profit child care facility; or any other  
24 person responsible for the child's welfare at the time of the  
25 alleged abuse or neglect, including any person that is the  
26 custodian of a child under 18 years of age who commits or

1 allows to be committed, against the child, the offense of  
2 involuntary servitude, involuntary sexual servitude of a  
3 minor, or trafficking in persons for forced labor or services,  
4 as provided in Section 10-9 of the Criminal Code of 2012, or  
5 any person who came to know the child through an official  
6 capacity or position of trust, including but not limited to  
7 health care professionals, educational personnel, recreational  
8 supervisors, members of the clergy, and volunteers or support  
9 personnel in any setting where children may be subject to abuse  
10 or neglect.

11 "Temporary protective custody" means custody within a  
12 hospital or other medical facility or a place previously  
13 designated for such custody by the Department, subject to  
14 review by the Court, including a licensed foster home, group  
15 home, or other institution; but such place shall not be a jail  
16 or other place for the detention of criminal or juvenile  
17 offenders.

18 "An unfounded report" means any report made under this Act  
19 for which it is determined after an investigation that no  
20 credible evidence of abuse or neglect exists.

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

24 "An undetermined report" means any report made under this  
25 Act in which it was not possible to initiate or complete an  
26 investigation on the basis of information provided to the



1 Department.

2 "Subject of report" means any child reported to the central  
3 register of child abuse and neglect established under Section  
4 7.7 of this Act as an alleged victim of child abuse or neglect  
5 and the parent or guardian of the alleged victim or other  
6 person responsible for the alleged victim's welfare who is  
7 named in the report or added to the report as an alleged  
8 perpetrator of child abuse or neglect.

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

12 "Member of the clergy" means a clergyman or practitioner of  
13 any religious denomination accredited by the religious body to  
14 which he or she belongs.

15 (Source: P.A. 99-350, eff. 6-1-16.)

16 Section 10. The Juvenile Court Act of 1987 is amended by  
17 changing Sections 2-3 and 2-18 as follows:

18 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

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

20 (1) Those who are neglected include:

21 (a) any minor under 18 years of age who is not  
22 receiving the proper or necessary support, education as  
23 required by law, or medical or other remedial care  
24 recognized under State law as necessary for a minor's

1 well-being, or other care necessary for his or her  
2 well-being, including adequate food, clothing and shelter,  
3 or who is abandoned by his or her parent or parents or  
4 other person or persons responsible for the minor's  
5 welfare, except that a minor shall not be considered  
6 neglected for the sole reason that the minor's parent or  
7 parents or other person or persons responsible for the  
8 minor's welfare have left the minor in the care of an adult  
9 relative for any period of time, who the parent or parents  
10 or other person responsible for the minor's welfare know is  
11 both a mentally capable adult relative and physically  
12 capable adult relative, as defined by this Act; or

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

15 (c) any newborn infant whose umbilical cord tissue,  
16 blood, urine, or meconium contains any amount of a  
17 controlled substance as defined in subsection (f) of  
18 Section 102 of the Illinois Controlled Substances Act, as  
19 now or hereafter amended, or a metabolite of a controlled  
20 substance, with the exception of controlled substances or  
21 metabolites of such substances, the presence of which in  
22 the newborn infant is the result of medical treatment  
23 administered to the mother or the newborn infant; nothing  
24 in this paragraph (c) is intended to limit the type of  
25 medically reliable testing that can establish that a  
26 controlled substance or metabolite thereof is present in a

1        newborn infant; or

2            (d) any minor under the age of 14 years whose parent or  
3        other person responsible for the minor's welfare leaves the  
4        minor without supervision for an unreasonable period of  
5        time without regard for the mental or physical health,  
6        safety, or welfare of that minor; or

7            (e) any minor who has been provided with interim crisis  
8        intervention services under Section 3-5 of this Act and  
9        whose parent, guardian, or custodian refuses to permit the  
10       minor to return home unless the minor is an immediate  
11       physical danger to himself, herself, or others living in  
12       the home.

13        Whether the minor was left without regard for the mental or  
14       physical health, safety, or welfare of that minor or the period  
15       of time was unreasonable shall be determined by considering the  
16       following factors, including but not limited to:

17            (1) the age of the minor;

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

19            (3) special needs of the minor, including whether the  
20        minor is a person with a physical or mental disability, 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 minor was left  
24        without supervision;

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

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

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

6           (8) the location of the parent or guardian at the time  
7 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 the  
11 minor was otherwise locked within a room or other  
12 structure;

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

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

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

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

26          (14) whether the minor was left under the supervision

1 of another person;

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

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

7 (2) Those who are abused include any minor under 18 years  
8 of age whose parent or immediate family member, or any person  
9 responsible for the minor's welfare, or any person who is in  
10 the same family or household as the minor, or any individual  
11 residing in the same home as the minor, or a paramour of the  
12 minor's parent:

13 (i) inflicts, causes to be inflicted, or allows to be  
14 inflicted upon such minor physical injury, by other than  
15 accidental means, which causes death, disfigurement,  
16 impairment of physical or emotional health, or loss or  
17 impairment of any bodily function;

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

23 (iii) commits or allows to be committed any sex offense  
24 against such minor, as such sex offenses are defined in the  
25 Criminal Code of 1961 or the Criminal Code of 2012, or in  
26 the Wrongs to Children Act, and extending those definitions

1 of sex offenses to include minors under 18 years of age;  
2 (iv) commits or allows to be committed an act or acts  
3 of torture upon such minor;  
4 (v) inflicts excessive corporal punishment;  
5 (vi) commits or allows to be committed the offense of  
6 involuntary servitude, involuntary sexual servitude of a  
7 minor, or trafficking in persons as defined in Section 10-9  
8 of the Criminal Code of 1961 or the Criminal Code of 2012,  
9 upon such minor; or  
10 (vii) allows, encourages or requires a minor to commit  
11 any act of prostitution, as defined in the Criminal Code of  
12 1961 or the Criminal Code of 2012, and extending those  
13 definitions to include minors under 18 years of age.

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

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

21 (Source: P.A. 99-143, eff. 7-27-15.)

22 (705 ILCS 405/2-18) (from Ch. 37, par. 802-18)  
23 Sec. 2-18. Evidence.

24 (1) At the adjudicatory hearing, the court shall first  
25 consider only the question whether the minor is abused,

1 neglected or dependent. The standard of proof and the rules of  
2 evidence in the nature of civil proceedings in this State are  
3 applicable to proceedings under this Article. If the petition  
4 also seeks the appointment of a guardian of the person with  
5 power to consent to adoption of the minor under Section 2-29,  
6 the court may also consider legally admissible evidence at the  
7 adjudicatory hearing that one or more grounds of unfitness  
8 exists under subdivision D of Section 1 of the Adoption Act.

9 (2) In any hearing under this Act, the following shall  
10 constitute prima facie evidence of abuse or neglect, as the  
11 case may be:

12 (a) proof that a minor has a medical diagnosis of  
13 battered child syndrome is prima facie evidence of abuse;

14 (b) proof that a minor has a medical diagnosis of  
15 failure to thrive syndrome is prima facie evidence of  
16 neglect;

17 (c) proof that a minor has a medical diagnosis of fetal  
18 alcohol syndrome is prima facie evidence of neglect;

19 (d) proof that a minor has a medical diagnosis at birth  
20 of withdrawal symptoms from narcotics or barbiturates is  
21 prima facie evidence of neglect;

22 (e) proof of injuries sustained by a minor or of the  
23 condition of a minor of such a nature as would ordinarily  
24 not be sustained or exist except by reason of the acts or  
25 omissions of the parent, custodian or guardian of such  
26 minor shall be prima facie evidence of abuse or neglect, as

1 the case may be;

2 (f) proof that a parent, custodian or guardian of a  
3 minor repeatedly used a drug, to the extent that it has or  
4 would ordinarily have the effect of producing in the user a  
5 substantial state of stupor, unconsciousness,  
6 intoxication, hallucination, disorientation or  
7 incompetence, or a substantial impairment of judgment, or a  
8 substantial manifestation of irrationality, shall be prima  
9 facie evidence of neglect;

10 (g) proof that a parent, custodian, or guardian of a  
11 minor repeatedly used a controlled substance, as defined in  
12 subsection (f) of Section 102 of the Illinois Controlled  
13 Substances Act, in the presence of the minor or a sibling  
14 of the minor is prima facie evidence of neglect. "Repeated  
15 use", for the purpose of this subsection, means more than  
16 one use of a controlled substance as defined in subsection  
17 (f) of Section 102 of the Illinois Controlled Substances  
18 Act;

19 (h) proof that a newborn infant's umbilical cord  
20 tissue, blood, urine, or meconium contains any amount of a  
21 controlled substance as defined in subsection (f) of  
22 Section 102 of the Illinois Controlled Substances Act, or a  
23 metabolite of a controlled substance, with the exception of  
24 controlled substances or metabolites of those substances,  
25 the presence of which is the result of medical treatment  
26 administered to the mother or the newborn, is prime facie



1 evidence of neglect; nothing in this paragraph (h) is  
2 intended to limit the type of medically reliable testing  
3 that can establish that a controlled substance or  
4 metabolite thereof is present in a newborn infant;

5 (i) proof that a minor was present in a structure or  
6 vehicle in which the minor's parent, custodian, or guardian  
7 was involved in the manufacture of methamphetamine  
8 constitutes prima facie evidence of abuse and neglect;

9 (j) proof that a parent, custodian, or guardian of a  
10 minor allows, encourages, or requires a minor to perform,  
11 offer, or agree to perform any act of sexual penetration as  
12 defined in Section 11-0.1 of the Criminal Code of 2012 for  
13 any money, property, token, object, or article or anything  
14 of value, or any touching or fondling of the sex organs of  
15 one person by another person, for any money, property,  
16 token, object, or article or anything of value, for the  
17 purpose of sexual arousal or gratification, constitutes  
18 prima facie evidence of abuse and neglect;

19 (k) proof that a parent, custodian, or guardian of a  
20 minor commits or allows to be committed the offense of  
21 involuntary servitude, involuntary sexual servitude of a  
22 minor, or trafficking in persons as defined in Section 10-9  
23 of the Criminal Code of 1961 or the Criminal Code of 2012,  
24 upon such minor, constitutes prima facie evidence of abuse  
25 and neglect.

26 (3) In any hearing under this Act, proof of the abuse,

1 neglect or dependency of one minor shall be admissible evidence  
2 on the issue of the abuse, neglect or dependency of any other  
3 minor for whom the respondent is responsible.

4 (4) (a) Any writing, record, photograph or x-ray of any  
5 hospital or public or private agency, whether in the form of an  
6 entry in a book or otherwise, made as a memorandum or record of  
7 any condition, act, transaction, occurrence or event relating  
8 to a minor in an abuse, neglect or dependency proceeding, shall  
9 be admissible in evidence as proof of that condition, act,  
10 transaction, occurrence or event, if the court finds that the  
11 document was made in the regular course of the business of the  
12 hospital or agency and that it was in the regular course of  
13 such business to make it, at the time of the act, transaction,  
14 occurrence or event, or within a reasonable time thereafter. A  
15 certification by the head or responsible employee of the  
16 hospital or agency that the writing, record, photograph or  
17 x-ray is the full and complete record of the condition, act,  
18 transaction, occurrence or event and that it satisfies the  
19 conditions of this paragraph shall be prima facie evidence of  
20 the facts contained in such certification. A certification by  
21 someone other than the head of the hospital or agency shall be  
22 accompanied by a photocopy of a delegation of authority signed  
23 by both the head of the hospital or agency and by such other  
24 employee. All other circumstances of the making of the  
25 memorandum, record, photograph or x-ray, including lack of  
26 personal knowledge of the maker, may be proved to affect the

1 weight to be accorded such evidence, but shall not affect its  
2 admissibility.

3 (b) Any indicated report filed pursuant to the Abused and  
4 Neglected Child Reporting Act shall be admissible in evidence.

5 (c) Previous statements made by the minor relating to any  
6 allegations of abuse or neglect shall be admissible in  
7 evidence. However, no such statement, if uncorroborated and not  
8 subject to cross-examination, shall be sufficient in itself to  
9 support a finding of abuse or neglect.

10 (d) There shall be a rebuttable presumption that a minor is  
11 competent to testify in abuse or neglect proceedings. The court  
12 shall determine how much weight to give to the minor's  
13 testimony, and may allow the minor to testify in chambers with  
14 only the court, the court reporter and attorneys for the  
15 parties present.

16 (e) The privileged character of communication between any  
17 professional person and patient or client, except privilege  
18 between attorney and client, shall not apply to proceedings  
19 subject to this Article.

20 (f) Proof of the impairment of emotional health or  
21 impairment of mental or emotional condition as a result of the  
22 failure of the respondent to exercise a minimum degree of care  
23 toward a minor may include competent opinion or expert  
24 testimony, and may include proof that such impairment lessened  
25 during a period when the minor was in the care, custody or  
26 supervision of a person or agency other than the respondent.

1           (5) In any hearing under this Act alleging neglect for  
2 failure to provide education as required by law under  
3 subsection (1) of Section 2-3, proof that a minor under 13  
4 years of age who is subject to compulsory school attendance  
5 under the School Code is a chronic truant as defined under the  
6 School Code shall be prima facie evidence of neglect by the  
7 parent or guardian in any hearing under this Act and proof that  
8 a minor who is 13 years of age or older who is subject to  
9 compulsory school attendance under the School Code is a chronic  
10 truant shall raise a rebuttable presumption of neglect by the  
11 parent or guardian. This subsection (5) shall not apply in  
12 counties with 2,000,000 or more inhabitants.

13           (6) In any hearing under this Act, the court may take  
14 judicial notice of prior sworn testimony or evidence admitted  
15 in prior proceedings involving the same minor if (a) the  
16 parties were either represented by counsel at such prior  
17 proceedings or the right to counsel was knowingly waived and  
18 (b) the taking of judicial notice would not result in admitting  
19 hearsay evidence at a hearing where it would otherwise be  
20 prohibited.

21           (Source: P.A. 96-1464, eff. 8-20-10; 97-897, eff. 1-1-13;  
22 97-1150, eff. 1-25-13.)

23           Section 15. The Adoption Act is amended by changing Section  
24 1 as follows:

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

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

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

6 B. "Related child" means a child subject to adoption where  
7 either or both of the adopting parents stands in any of the  
8 following relationships to the child by blood, marriage,  
9 adoption, or civil union: parent, grand-parent,  
10 great-grandparent, brother, sister, step-parent,  
11 step-grandparent, step-brother, step-sister, uncle, aunt,  
12 great-uncle, great-aunt, first cousin, or second cousin. A  
13 person is related to the child as a first cousin or second  
14 cousin if they are both related to the same ancestor as either  
15 grandchild or great-grandchild. A child whose parent has  
16 executed a consent to adoption, a surrender, or a waiver  
17 pursuant to Section 10 of this Act or whose parent has signed a  
18 denial of paternity pursuant to Section 12 of the Vital Records  
19 Act or Section 12a of this Act, or whose parent has had his or  
20 her parental rights terminated, is not a related child to that  
21 person, unless (1) the consent is determined to be void or is  
22 void pursuant to subsection O of Section 10 of this Act; or (2)  
23 the parent of the child executed a consent to adoption by a  
24 specified person or persons pursuant to subsection A-1 of  
25 Section 10 of this Act and a court of competent jurisdiction  
26 finds that such consent is void; or (3) the order terminating

1 the parental rights of the parent is vacated by a court of  
2 competent jurisdiction.

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 except that a person shall not be considered an unfit person  
10 for the sole reason that the person has relinquished a child in  
11 accordance with the Abandoned Newborn Infant Protection Act:

12 (a) Abandonment of the child.

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

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

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

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

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

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

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

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

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

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

15 (3) There is a finding of physical child abuse  
16 resulting from the death of any child under Section  
17 2-21 of the Juvenile Court Act of 1987.

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

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

24 (h) Other neglect of, or misconduct toward the child;  
25 provided that in making a finding of unfitness the court  
26 hearing the adoption proceeding shall not be bound by any

1 previous finding, order or judgment affecting or  
2 determining the rights of the parents toward the child  
3 sought to be adopted in any other proceeding except such  
4 proceedings terminating parental rights as shall be had  
5 under either this Act, the Juvenile Court Act or the  
6 Juvenile Court Act of 1987.

7 (i) Depravity. Conviction of any one of the following  
8 crimes shall create a presumption that a parent is deprived  
9 which can be overcome only by clear and convincing  
10 evidence: (1) first degree murder in violation of paragraph  
11 1 or 2 of subsection (a) of Section 9-1 of the Criminal  
12 Code of 1961 or the Criminal Code of 2012 or conviction of  
13 second degree murder in violation of subsection (a) of  
14 Section 9-2 of the Criminal Code of 1961 or the Criminal  
15 Code of 2012 of a parent of the child to be adopted; (2)  
16 first degree murder or second degree murder of any child in  
17 violation of the Criminal Code of 1961 or the Criminal Code  
18 of 2012; (3) attempt or conspiracy to commit first degree  
19 murder or second degree murder of any child in violation of  
20 the Criminal Code of 1961 or the Criminal Code of 2012; (4)  
21 solicitation to commit murder of any child, solicitation to  
22 commit murder of any child for hire, or solicitation to  
23 commit second degree murder of any child in violation of  
24 the Criminal Code of 1961 or the Criminal Code of 2012; (5)  
25 predatory criminal sexual assault of a child in violation  
26 of Section 11-1.40 or 12-14.1 of the Criminal Code of 1961



1 or the Criminal Code of 2012; (6) heinous battery of any  
2 child in violation of the Criminal Code of 1961; or (7)  
3 aggravated battery of any child in violation of the  
4 Criminal Code of 1961 or the Criminal Code of 2012.

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

12 There is a rebuttable presumption that a parent is  
13 deprived if that parent has been criminally convicted of  
14 either first or second degree murder of any person as  
15 defined in the Criminal Code of 1961 or the Criminal Code  
16 of 2012 within 10 years of the filing date of the petition  
17 or motion to terminate parental rights.

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

22 (j) Open and notorious adultery or fornication.

23 (j-1) (Blank).

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

1 proceeding.

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

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

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

1 adjudication of neglected or abused minor under Section 2-3  
2 of the Juvenile Court Act of 1987 or dependent minor under  
3 Section 2-4 of that Act. If a service plan has been  
4 established as required under Section 8.2 of the Abused and  
5 Neglected Child Reporting Act to correct the conditions  
6 that were the basis for the removal of the child from the  
7 parent and if those services were available, then, for  
8 purposes of this Act, "failure to make reasonable progress  
9 toward the return of the child to the parent" includes the  
10 parent's failure to substantially fulfill his or her  
11 obligations under the service plan and correct the  
12 conditions that brought the child into care during any  
13 9-month period following the adjudication under Section  
14 2-3 or 2-4 of the Juvenile Court Act of 1987.  
15 Notwithstanding any other provision, when a petition or  
16 motion seeks to terminate parental rights on the basis of  
17 item (ii) of this subsection (m), the petitioner shall file  
18 with the court and serve on the parties a pleading that  
19 specifies the 9-month period or periods relied on. The  
20 pleading shall be filed and served on the parties no later  
21 than 3 weeks before the date set by the court for closure  
22 of discovery, and the allegations in the pleading shall be  
23 treated as incorporated into the petition or motion.  
24 Failure of a respondent to file a written denial of the  
25 allegations in the pleading shall not be treated as an  
26 admission that the allegations are true.

1 (m-1) (Blank).

2 (n) Evidence of intent to forgo his or her parental  
3 rights, whether or not the child is a ward of the court,  
4 (1) as manifested by his or her failure for a period of 12  
5 months: (i) to visit the child, (ii) to communicate with  
6 the child or agency, although able to do so and not  
7 prevented from doing so by an agency or by court order, or  
8 (iii) to maintain contact with or plan for the future of  
9 the child, although physically able to do so, or (2) as  
10 manifested by the father's failure, where he and the mother  
11 of the child were unmarried to each other at the time of  
12 the child's birth, (i) to commence legal proceedings to  
13 establish his paternity under the Illinois Parentage Act of  
14 1984, the Illinois Parentage Act of 2015, or the law of the  
15 jurisdiction of the child's birth within 30 days of being  
16 informed, pursuant to Section 12a of this Act, that he is  
17 the father or the likely father of the child or, after  
18 being so informed where the child is not yet born, within  
19 30 days of the child's birth, or (ii) to make a good faith  
20 effort to pay a reasonable amount of the expenses related  
21 to the birth of the child and to provide a reasonable  
22 amount for the financial support of the child, the court to  
23 consider in its determination all relevant circumstances,  
24 including the financial condition of both parents;  
25 provided that the ground for termination provided in this  
26 subparagraph (n)(2)(ii) shall only be available where the

1 petition is brought by the mother or the husband of the  
2 mother.

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

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

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

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

15           (q) (Blank).

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

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

9           (t) A finding that at birth the child's umbilical cord  
10 tissue, blood, urine, or meconium contained any amount of a  
11 controlled substance as defined in subsection (f) of  
12 Section 102 of the Illinois Controlled Substances Act, or a  
13 metabolite of a controlled substance, with the exception of  
14 controlled substances or metabolites of such substances,  
15 the presence of which in the newborn infant was the result  
16 of medical treatment administered to the mother or the  
17 newborn infant, and that the biological mother of this  
18 child is the biological mother of at least one other child  
19 who was adjudicated a neglected minor under subsection (c)  
20 of Section 2-3 of the Juvenile Court Act of 1987, after  
21 which the biological mother had the opportunity to enroll  
22 in and participate in a clinically appropriate substance  
23 abuse counseling, treatment, and rehabilitation program.  
24 Nothing in the preceding sentence is intended to limit the  
25 type of medically reliable testing that can establish that  
26 a controlled substance or metabolite thereof is present in

1           a newborn infant.

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

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

18                 (a) a child who has been surrendered for adoption to an  
19 agency and to whose adoption the agency has thereafter  
20 consented;

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

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



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

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

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

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

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

13 H. (Blank).

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

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

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

26 L. (Blank).

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

6 N. (Blank).

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

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

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

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

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

1 Criminal Code of 2012 and extending those definitions of  
2 sex offenses to include children under 18 years of age;

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

5 (e) inflicts excessive corporal punishment.

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

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

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

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

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

18 T. (Blank).

19 T-5. "Biological parent", "birth parent", or "natural  
20 parent" of a child are interchangeable terms that mean a person  
21 who is biologically or genetically related to that child as a  
22 parent.

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

1 V. (Blank).

2 W. (Blank).

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

5 (1) because of his marriage to or civil union with the  
6 child's parent at the time of the child's birth or within  
7 300 days prior to that child's birth, unless he signed a  
8 denial of paternity pursuant to Section 12 of the Vital  
9 Records Act or a waiver pursuant to Section 10 of this Act;  
10 or

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

15 (3) because he is listed as the child's father or  
16 parent on the child's birth certificate, unless he is  
17 otherwise determined by an administrative or judicial  
18 proceeding not to be the parent of the child or unless he  
19 rescinds his acknowledgment of paternity pursuant to the  
20 Illinois Parentage Act of 1984; or

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

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

1 law.

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

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

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

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

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

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

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

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

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

1 is finalized.

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

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

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

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

17 (Source: P.A. 98-455, eff. 1-1-14; 98-532, eff. 1-1-14; 98-804,  
18 eff. 1-1-15; 99-49, eff. 7-15-15; 99-85, eff. 1-1-16; 99-642,  
19 eff. 7-28-16; 99-836, eff. 1-1-17.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.