

HB0377



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0377

Introduced 1/29/2021, by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

750 ILCS 50/1

from Ch. 40, par. 1501

Amends the Adoption Act. Provides that a "related child" includes a child subject to adoption where either or both of the adopting parents is a former step-parent.

LRB102 05162 LNS 15183 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Adoption Act is amended by changing Section
5 1 as follows:

6 (750 ILCS 50/1) (from Ch. 40, par. 1501)

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

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

11 B. "Related child" means a child subject to adoption where
12 either or both of the adopting parents stands in any of the
13 following relationships to the child by blood, marriage,
14 adoption, or civil union: parent, grand-parent,
15 great-grandparent, brother, sister, step-parent or former
16 step-parent, step-grandparent, step-brother, step-sister,
17 uncle, aunt, great-uncle, great-aunt, first cousin, or second
18 cousin. A person is related to the child as a first cousin or
19 second cousin if they are both related to the same ancestor as
20 either grandchild or great-grandchild. A child whose parent
21 has executed a consent to adoption, a surrender, or a waiver
22 pursuant to Section 10 of this Act or whose parent has signed a
23 denial of paternity pursuant to Section 12 of the Vital

1 Records Act or Section 12a of this Act, or whose parent has had
2 his or her parental rights terminated, is not a related child
3 to that person, unless (1) the consent is determined to be void
4 or is void pursuant to subsection O of Section 10 of this Act;
5 or (2) the parent of the child executed a consent to adoption
6 by a specified person or persons pursuant to subsection A-1 of
7 Section 10 of this Act and a court of competent jurisdiction
8 finds that such consent is void; or (3) the order terminating
9 the parental rights of the parent is vacated by a court of
10 competent jurisdiction.

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

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

20 (a) Abandonment of the child.

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

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

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

1 welfare.

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

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

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

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

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

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

19 (2) The parent has been convicted or found not
20 guilty by reason of insanity and the conviction or
21 finding resulted from the death of any child by
22 physical abuse; or

23 (3) There is a finding of physical child abuse
24 resulting from the death of any child under Section
25 2-21 of the Juvenile Court Act of 1987.

26 No conviction or finding of delinquency pursuant to

1 Article V of the Juvenile Court Act of 1987 shall be
2 considered a criminal conviction for the purpose of
3 applying any presumption under this item (f).

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

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

15 (i) Depravity. Conviction of any one of the following
16 crimes shall create a presumption that a parent is
17 depraved which can be overcome only by clear and
18 convincing evidence: (1) first degree murder in violation
19 of paragraph (1) ~~±~~ or (2) ~~±~~ of subsection (a) of Section
20 9-1 of the Criminal Code of 1961 or the Criminal Code of
21 2012 or conviction of second degree murder in violation of
22 subsection (a) of Section 9-2 of the Criminal Code of 1961
23 or the Criminal Code of 2012 of a parent of the child to be
24 adopted; (2) first degree murder or second degree murder
25 of any child in violation of the Criminal Code of 1961 or
26 the Criminal Code of 2012; (3) attempt or conspiracy to

1 commit first degree murder or second degree murder of any
2 child in violation of the Criminal Code of 1961 or the
3 Criminal Code of 2012; (4) solicitation to commit murder
4 of any child, solicitation to commit murder of any child
5 for hire, or solicitation to commit second degree murder
6 of any child in violation of the Criminal Code of 1961 or
7 the Criminal Code of 2012; (5) predatory criminal sexual
8 assault of a child in violation of Section 11-1.40 or
9 12-14.1 of the Criminal Code of 1961 or the Criminal Code
10 of 2012; (6) heinous battery of any child in violation of
11 the Criminal Code of 1961; (7) aggravated battery of any
12 child in violation of the Criminal Code of 1961 or the
13 Criminal Code of 2012; (8) any violation of Section
14 11-1.20 or Section 12-13 of the Criminal Code of 1961 or
15 the Criminal Code of 2012; (9) any violation of subsection
16 (a) of Section 11-1.50 or Section 12-16 of the Criminal
17 Code of 1961 or the Criminal Code of 2012; (10) any
18 violation of Section 11-9.1 of the Criminal Code of 1961
19 or the Criminal Code of 2012; (11) any violation of
20 Section 11-9.1A of the Criminal Code of 1961 or the
21 Criminal Code of 2012; or (12) an offense in any other
22 state the elements of which are similar and bear a
23 substantial relationship to any of the enumerated offenses
24 in this subsection (i).

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

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

6 There is a rebuttable presumption that a parent is
7 deprived if that parent has been criminally convicted of
8 either first or second degree murder of any person as
9 defined in the Criminal Code of 1961 or the Criminal Code
10 of 2012 within 10 years of the filing date of the petition
11 or motion to terminate parental rights.

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

16 (j) Open and notorious adultery or fornication.

17 (j-1) (Blank).

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

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

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

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

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

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

21 (m-1) (Blank).

22 (n) Evidence of intent to forgo his or her parental
23 rights, whether or not the child is a ward of the court,
24 (1) as manifested by his or her failure for a period of 12
25 months: (i) to visit the child, (ii) to communicate with
26 the child or agency, although able to do so and not

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

23 Contact or communication by a parent with his or her
24 child that does not demonstrate affection and concern does
25 not constitute reasonable contact and planning under
26 subdivision (n). In the absence of evidence to the

1 contrary, the ability to visit, communicate, maintain
2 contact, pay expenses and plan for the future shall be
3 presumed. The subjective intent of the parent, whether
4 expressed or otherwise, unsupported by evidence of the
5 foregoing parental acts manifesting that intent, shall not
6 preclude a determination that the parent has intended to
7 forgo his or her parental rights. In making this
8 determination, the court may consider but shall not
9 require a showing of diligent efforts by an authorized
10 agency to encourage the parent to perform the acts
11 specified in subdivision (n).

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

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

21 (p) Inability to discharge parental responsibilities
22 supported by competent evidence from a psychiatrist,
23 licensed clinical social worker, or clinical psychologist
24 of mental impairment, mental illness or an intellectual
25 disability as defined in Section 1-116 of the Mental
26 Health and Developmental Disabilities Code, or

1 developmental disability as defined in Section 1-106 of
2 that Code, and there is sufficient justification to
3 believe that the inability to discharge parental
4 responsibilities shall extend beyond a reasonable time
5 period. However, this subdivision (p) shall not be
6 construed so as to permit a licensed clinical social
7 worker to conduct any medical diagnosis to determine
8 mental illness or mental impairment.

9 (q) (Blank).

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

21 (s) The child is in the temporary custody or
22 guardianship of the Department of Children and Family
23 Services, the parent is incarcerated at the time the
24 petition or motion for termination of parental rights is
25 filed, the parent has been repeatedly incarcerated as a
26 result of criminal convictions, and the parent's repeated

1 incarceration has prevented the parent from discharging
2 his or her parental responsibilities for the child.

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

18 E. "Parent" means a person who is the legal mother or legal
19 father of the child as defined in subsection X or Y of this
20 Section. For the purpose of this Act, a parent who has executed
21 a consent to adoption, a surrender, or a waiver pursuant to
22 Section 10 of this Act, who has signed a Denial of Paternity
23 pursuant to Section 12 of the Vital Records Act or Section 12a
24 of this Act, or whose parental rights have been terminated by a
25 court, is not a parent of the child who was the subject of the
26 consent, surrender, waiver, or denial unless (1) the consent

1 is void pursuant to subsection O of Section 10 of this Act; or
2 (2) the person executed a consent to adoption by a specified
3 person or persons pursuant to subsection A-1 of Section 10 of
4 this Act and a court of competent jurisdiction finds that the
5 consent is void; or (3) the order terminating the parental
6 rights of the person is vacated by a court of competent
7 jurisdiction.

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

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

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

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

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

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

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

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

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

4 H. (Blank).

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

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

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

17 L. (Blank).

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

23 N. (Blank).

24 O. "Preadoption requirements" means any conditions or
25 standards established by the laws or administrative rules of
26 this State that must be met by a prospective adoptive parent

1 prior to the placement of a child in an adoptive home.

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

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

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

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

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

22 (e) inflicts excessive corporal punishment.

23 Q. "Neglected child" means any child whose parent or other
24 person responsible for the child's welfare withholds or denies
25 nourishment or medically indicated treatment including food or
26 care denied solely on the basis of the present or anticipated

1 mental or physical impairment as determined by a physician
2 acting alone or in consultation with other physicians or
3 otherwise does not provide the proper or necessary support,
4 education as required by law, or medical or other remedial
5 care recognized under State law as necessary for a child's
6 well-being, or other care necessary for his or her well-being,
7 including adequate food, clothing and shelter; or who is
8 abandoned by his or her parents or other person responsible
9 for the child's welfare.

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

21 R. "Putative father" means a man who may be a child's
22 father, but who (1) is not married to the child's mother on or
23 before the date that the child was or is to be born and (2) has
24 not established paternity of the child in a court proceeding
25 before the filing of a petition for the adoption of the child.
26 The term includes a male who is less than 18 years of age.

1 "Putative father" does not mean a man who is the child's father
2 as a result of criminal sexual abuse or assault as defined
3 under Article 11 of the Criminal Code of 2012.

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

9 T. (Blank).

10 T-5. "Biological parent", "birth parent", or "natural
11 parent" of a child are interchangeable terms that mean a
12 person who is biologically or genetically related to that
13 child as a parent.

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

19 V. (Blank).

20 W. (Blank).

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

23 (1) because of his marriage to or civil union with the
24 child's parent at the time of the child's birth or within
25 300 days prior to that child's birth, unless he signed a
26 denial of paternity pursuant to Section 12 of the Vital

1 Records Act or a waiver pursuant to Section 10 of this Act;
2 or

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

7 (3) because he is listed as the child's father or
8 parent on the child's birth certificate, unless he is
9 otherwise determined by an administrative or judicial
10 proceeding not to be the parent of the child or unless he
11 rescinds his acknowledgment of paternity pursuant to the
12 Illinois Parentage Act of 1984; or

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

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

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

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

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

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

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

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

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

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

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

20 BB. "Secondary placement" means a placement, including but
21 not limited to the placement of a youth in care as defined in
22 Section 4d of the Children and Family Services Act, that
23 occurs after a placement disruption or an adoption
24 dissolution. "Secondary placement" does not mean secondary
25 placements arising due to the death of the adoptive parent of
26 the child.

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

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

7 EE. "Post-placement and post-adoption support services"
8 means support services for placed or adopted children and
9 families that include, but are not limited to, mental health
10 treatment, including counseling and other support services for
11 emotional, behavioral, or developmental needs, and treatment
12 for substance abuse.

13 (Source: P.A. 100-159, eff. 8-18-17; 101-155, eff. 1-1-20;
14 101-529, eff. 1-1-20; revised 9-17-19.)