

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 309
ADOPTION SERVICES FOR CHILDREN
FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES
IS LEGALLY RESPONSIBLE

Section

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AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USCA 1305).

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Section 309.10 Purpose

The purpose of this Part is to describe adoption services available to children for whom the Department of Children and Family Services is legally responsible. These services include the recruitment, selection, preparation and training of adoptive families, the identification and preparation of children for adoption, and adoptive placement and finalization. This Part also describes supportive services to adoptive families and children. These services include adoption assistance, adoption registry services, adoption preservation and post-adoption services.

Section 309.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

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

"Adoption placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents.

"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Adult" means a person who has attained the age of 18.

"Agency" means a public child welfare agency or a licensed child welfare agency.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"*Best interests*", as defined in the Juvenile Court Act of 1987 [705 ILCS 405], means consideration of the following factors, in the context of the child's age and developmental needs:

- *the physical safety and welfare of the child, including food, shelter, health, and clothing;*
- *the development of the child's identity;*
- *the child's background and ties, including familial, cultural, and religious;*
- *the child's sense of attachments, including:*
 - *where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);*

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- *the child's sense of security;*
- *the child's sense of familiarity;*
- *continuity of affection for the child;*
- *the least disruptive placement alternative for the child;*
- *the child's wishes and long-term goals;*
- *the child's community ties, including church, school, and friends;*
- *the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;*
- *the uniqueness of every family and child;*
- *the risks attendant to entering and being in substitute care; and*
- *the preferences of the persons available to care for the child. [705 ILCS 405/1-3]*

"Birth grandparent", for the purposes of the Adoption Registry, means the biological parent of:

a non-surrendered person who is a deceased birth mother; or

a non-surrendered person who is a deceased birth father [750 ILCS 50/18.06].

"Birth relative", for the purposes of the Adoption Registry, means a birth mother, birth father, birth grandparent, birth sibling, birth aunt, or birth uncle [750 ILCS 50/18.06].

“Certification training” means training directed toward preparing a family to adopt a child for whom the Department of Children and Family Services is legally responsible and may consist of the following different types of training:

- six hours of standardized training for foster care conversion adoptions; which means that a foster parent or relative caregiver is adopting a child who has been in his or her care; or
- six hours of standardized training and an additional individualized training plan specific to the child's needs for adoptive parents who have not had the child in their care prior to the adoptive placement; or
- training specified by private child welfare agencies who meet the standards of the Council on Accreditation of Services for Families and Children.

“Children for whom the Department of Children and Family Services is legally responsible” means children for whom the Department has temporary protective custody, custody or

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guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court *for the purpose of exchanging medical information with one or more mutually consenting biological relatives, obtaining identifying information about one or more mutually consenting biological relatives, or arranging contact with one or more mutually consenting biological relatives. Additionally, in cases in which an adopted or surrendered person is deceased, an adult child of the adopted or surrendered person or his or her adoptive parents or surviving spouse may file a petition under Section 18.3a of the Adoption Act [750 ILCS 50] and in cases in which the birth parent is deceased, an adult birth sibling of the adopted or surrendered person or of the deceased birth parent may file a petition under Section 18.3a for the purpose of exchanging medical information with one or more mutually consenting biological relatives of the adopted or surrendered person, obtaining identifying information about one or more mutually consenting biological relatives of the adopted or surrendered person, or arranging contact with one or more mutually consenting biological relatives of the adopted or surrendered person.* [750 ILCS 50/18.3a] The duties and responsibilities of a confidential intermediary are set out in Section 18.3a(i) of the Adoption Act.

"Contact between siblings" means contact among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; in person visitation; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Consent to adoption by a specified person" is a voluntary act by the parents to relinquish all parental rights of a child to a person or persons specified by the parents in the specific consent document. Consent to adoption by a specified person is further described in Section 309.70 (Freeing Children for Adoption).

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

"Fictive kin" means any individual, unrelated by birth or marriage, who:

is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or

is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services 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. [20 ILCS 505/7(b)]

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"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in Section 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in Section 301.80 (Relative Home Placement) must be met.

"Internal legal screening" means an internal review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. Depending on local practice, a representative of the State's Attorney's Office may participate in the screening. The purpose of the screening is to determine whether sufficient grounds for termination of parental rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.80 (Termination of Parental Rights).

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 1(D) of the Adoption Act [750 ILCS 50/1(D)].

"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

- safe, stable and committed parenting;
- unconditional love and lifelong support; and
- a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Persons approved for adoption" mean persons who have been licensed as a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or relative caregivers with whom children have been placed in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) and who also meet the certification requirements of Section 309.110(c).

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

"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services. Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Post-placement and post-adoption support services" means support services for youth in care or adoptive children and families that include, but are not limited to, counseling for emotional, behavioral or developmental needs. **NOTE: Please refer to Policy Guide 2020.04 for an expanded definition of Post-placement and post-adoption support services.**

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and for whom paternity of the child has not been established in a court proceeding.

"Registrant" or "Registered Party", for the purposes of the Adoption Registry, means a birth parent, birth grandparent, birth sibling, birth aunt, birth uncle, adopted or surrendered person 21 years of age or over, adoptive parent or legal guardian of an adopted or surrendered person under the age of 21, or adoptive parent, surviving spouse, or adult child of a deceased adopted or surrendered person who has filed an Illinois Adoption Registry Application or Registration Identification Form with the Registry [750 ILCS 50/18.06].

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

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, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or

is the spouse, or party to a civil union, of such a relative; or

is the child's step-father, step-mother, step-grandfather, step-grandmother, or adult step-brother or step-sister; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father; or

is a fictive kin as defined in this Section.

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"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 definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Secondary placement" means a placement, including but not limited to the placement of a child for whom the Department is legally responsible that occurs after placement disruption or adoption dissolution. Secondary placement does not mean secondary placement arising due to the death of the adoptive parent of the child. [750 ILCS 50/1(BB)]

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated, if parental rights were terminated while a petition under Article II of the Juvenile Court Act of 1987 was pending. Children continue to be considered siblings after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship and share at least one parent in common.

"Surrender for adoption" is a voluntary act by the parents to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parents that relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

"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 [750 ILCS 50/1(DD)].

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another; or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, case closed due to independence, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 43 Ill. Reg., effective October 10, 2019)

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Section 309.30 Recruitment of Adoptive Families

- a) The Department shall make special efforts for the diligent recruitment of potential adoptive families that will accept sibling groups for placement and encourage and support sibling contact when siblings must be separated. The Department shall provide training for all prospective adoptive parents and private/subsidized guardians regarding the importance of maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed.

- b) *In addition, special efforts shall be made to recruit potential adoptive families that reflect the ethnic and racial diversity of the children for whom 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 resources, and conducting outreach activities.* [20 ILCS 505/7(c)]

(Source: Amended at 40 Ill. Reg. 720, effective December 31, 2015)

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Section 309.35 Good Faith Effort to Locate Siblings in Adoption and Subsidized Guardianship Placements

- a) *When a child is in need of an adoptive placement, the caseworker shall examine Department records and other available resources and attempt to determine whether a sibling of the child has been adopted or placed in private guardianship after being in the Department's custody or guardianship. If the caseworker determines that a sibling of the child has been adopted or placed in private guardianship, the caseworker shall make a good faith effort to locate the adoptive parents or guardians of the sibling and inform them of the availability of the child for adoption. If a child available for adoption has a sibling who has been adopted or placed in guardianship, and the adoptive parents or guardians of that sibling apply to adopt the child, the caseworker shall consider them as adoptive applicants for the adoption of the child. The caseworker's final decision as to whether it will consent to the adoptive parents or guardians of a sibling being the adoptive parents of the child shall be based upon the welfare and best interest of the child. In arriving at its decision, the caseworker shall consider all relevant factors, including but not limited to:*
- 1) *the wishes of the child;*
 - 2) *the interaction and interrelationship of the child with the applicant to adopt the child;*
 - 3) *the child's need for stability and continuity of relationship with parent figures;*
 - 4) *the child's adjustment to his or her present home, school and community;*
 - 5) *the mental and physical health of all individuals involved;*
 - 6) *the family ties between the child and the child's relatives, including siblings;*
 - 7) *the background, age and living arrangements of the applicant to adopt the child;*
 - 8) *a criminal background report of the applicant to adopt the child.*
- b) *If placement of the child available for adoption with the adopted sibling or sibling in private guardianship is not feasible, but it is in the child's best interest to develop a relationship with his or her sibling, the caseworker shall invite the adoptive parents, guardian or guardians for a joint team decision-making meeting to facilitate a discussion regarding future sibling contact. [20 ILCS 505/7.4(h)]*

(Source: Added at 40 Ill. Reg. 720, effective December 31, 2015)

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Section 309.40 Adoption Listing Services

- a) The Department or its agent shall maintain coded listings that include the names and addresses of persons who have applied for and have been approved for the adoption of a child. The listings shall also include the names of children for whom:
 - 1) the Department has determined, after an internal legal screening, that adoption is the appropriate permanency plan for the child; and
 - 2) two weeks have passed since the internal legal screening determination and an adoptive resource has not yet been identified for the child.
- b) The purpose of the adoption listing service is to enable caseworkers to aggressively identify adoptive parents and children for whom adoption is in their best interests.
- c) When it can be demonstrated that it would be contrary to the child's best interests to list the child due to the child's mental health problems, the child shall not be listed. This exception must be reviewed and reapproved by the Department's Regional Administrator every six months.
- d) Licensed Illinois adoption agencies that provide adoption services on behalf of children for whom the Department is legally responsible shall submit to the Department or its agent, for inclusion in the coded listing, the names and addresses of all persons who have applied and been approved for adoption of a child, who are waiting for a child and who have authorized the listing. In addition, licensed adoption agencies shall also submit to the Department or its agent for inclusion in the coded listing the names of such children who have not been placed for adoption.
- e) The Department or its agent shall make the coded listings available, without charge, to every licensed adoption agency in the state in a format that, in accordance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services, protects the confidentiality of the persons seeking to adopt and of the child not yet placed for adoption.
- f) Information regarding the child shall be made available as follows:
 - 1) Information that is not included in the listing, but is provided to licensed adoption agencies shall include specific personal information about the child, including, but not limited to, if applicable, the child's mental health history, HIV test results or diagnosis of AIDS, or parental alcohol or substance abuse history.
 - 2) Information provided to the general public shall be limited to general information about the child such as the child's personality, likes, dislikes, interests and activities. More specific personal information shall only be provided to persons who have expressed an interest in a specific child and are seriously considering adopting the child.

(Source: Amended at 43 Ill. Reg., effective October 10, 2019)

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Section 309.50 Identification of Children for Potential Adoption Planning

NOTE: Please refer to Policy Guide 2020.04 for Section 309.50.

- a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.
- b) When any of the grounds for parental unfitness, as defined in the Adoption Act, or expedited termination of parental rights are identified, the following actions shall be taken:
 - 1) the parents shall explore the opportunity to voluntarily surrender their child for adoption or consent to the adoption of their child by a specified person as described in Section 309.70(c) or (d); or
 - 2) if the parents are unwilling to voluntarily surrender or consent to the adoption of the child, the case shall be referred for an internal legal screening in accordance with Section 309.80 (Termination of Parental Rights) to determine whether to seek involuntary termination of parental rights.
- c) The following grounds of parental unfitness are defined in Section 1 of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:
 - 1) *Abandonment of the child. Abandonment of a newborn infant in a hospital. Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.*
 - 2) *Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.*
 - 3) *Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.*
 - 4) *Substantial neglect of the child if continuous or repeated. Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.*
 - 5) *Extreme or repeated cruelty to the child.*

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- 6) *Two or more findings of physical abuse to any children under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 [705 ILCS 405], the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987.*
- 7) *Failure to protect the child from conditions within his environment injurious to the child's welfare.*
- 8) *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 the Adoption Act, the Juvenile Court Act or the Juvenile Court Act of 1987.*
- 9) *Depravity.*
 - A) *Conviction of any one of the following crimes shall create a presumption that a parent is deprived which can be overcome only by clear and convincing evidence:*
 - i) *first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted;*
 - ii) *first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*
 - iii) *attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*
 - iv) *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*
 - v) *aggravated criminal sexual assault in violation of Section 12-14 (b) (1) of the Criminal Code of 1961.*

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- B) *There is a rebuttable presumption that a parent is deprived 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.*
- C) *There is a rebuttable presumption that a parent is deprived 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 within 10 years of the filing date of the petition or motion to terminate parental rights.*
- 10) *Open and notorious adultery or fornication.*
- 11) *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 (c) 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.*
- 12) *Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.*
- 13) *Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor or dependent minor under the Juvenile Court Act or the Juvenile Court Act of 1987. 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 Part, "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 within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.*

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- 14) *Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:*
- A) *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*
 - B) *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 [750 ILCS 45] or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of the Adoption 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 subsection (b) shall only be available where the petition is brought by the mother or the husband of the mother.*
- 15) *Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.*
- 16) *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 mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-116], 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.*

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- 17) *The parent has been criminally convicted of aggravated battery, heinous battery, or attempted murder of any child.*
- 18) *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.*
- 19) *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.*
- 20) *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 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.*

d) Expedited Termination of Parental Rights

At any time between case opening and 30 days prior to court adjudication, if it becomes known that one or more of the grounds for parental unfitness listed in subsection (d)(1) or (2) exist, the caseworker will seek immediate supervisory consultation to request that a legal screening be convened in accordance with Section 309.80 (Termination of Parental Rights). The purpose of the legal screening will be to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights.

- 1) Grounds for which expedited termination of parental rights must be sought are:
 - A) extreme or repeated cruelty to the child;

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- B) a finding of physical abuse and criminal conviction of aggravated battery of the child;
 - C) Conviction of: first degree murder in violation of Section 9-1(a)(1) or (2) of the Criminal Code of 1961 or conviction of second degree murder in violation of Section 9-2(a) of the Criminal Code of 1961 of a parent of the child to be adopted; a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of 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 a criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961;
 - D) abandonment of a newborn infant in a hospital;
 - E) abandonment of a newborn infant in a setting where the evidence suggests that the parent intended to relinquish parental rights;
 - F) incarceration of a parent as a result of a criminal conviction where prior to incarceration the parent had little or no contact with the child or provided little or no support of the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period of two years after the filing of the petition or motion for termination of parental rights.
- 2) Grounds for which expedited termination of parental rights shall be considered, and for which the casework supervisor must document the reason for not considering expedited termination of parental rights, are:
- A) abandonment of the child (other than a newborn infant);
 - B) desertion;
 - C) inability to discharge parental responsibility due to mental illness, mental impairment or developmental disability;
 - D) 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

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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 and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

- e) Other additional factors to be considered in identifying the possibility of adoption for a child are:
 - 1) the parents have signed or indicated a desire to sign a consent or surrender for adoption;
 - 2) the parents have previously signed a consent or surrender for adoption with regards to other children in the past and those children were the subjects of abuse, neglect or dependency petitions and/or parental rights have been terminated with regard to other children in the past, thus indicating that there may be risk of harm to other children in the parents' care; or
 - 3) the parents have made unsatisfactory progress in correcting the conditions which led to the removal of his or her children resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.

- f) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:
 - 1) when the Department first assumes custody of the child;
 - 2) within 30 days after case opening;
 - 3) at each administrative case review; and
 - 4) at no less than quarterly reviews and supervisory meetings.

(Source: Amended at 26 Ill. Reg. 16449, effective October 23, 2002).

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Section 309.60 Legal Risk Placements

- a) Legal risk placements are selected for children for whom the Department deems such placements are appropriate as described in this Section. Prior to making a legal risk placement, the Department shall conduct a legal screening in accordance with Section 309.80 to determine whether a legal risk placement is in the child's best interests. Legal risk placements may be appropriate, when pursuit of adoption is in the child's best interests, because:
- 1) any one of the circumstances listed in Section 309.50(b) are present; and
 - 2) placement in a prospective adoptive home willing to adopt the child if the child should become legally free will reduce the necessity of multiple placements of the child or eliminate the length of time the child must wait for an adoptive home; and
 - 3) any one of the following conditions exist:
 - A) one parent has surrendered parental rights and the identity of the other parent is unknown;
 - B) one parent has surrendered parental rights and a diligent search for the absent parent has been unsuccessful;
 - C) one parent has surrendered parental rights and the identity and whereabouts of the other parent is known and that parent has either made statements indicating a desire to surrender the child or grounds for termination of parental rights exist;
 - D) the identity and whereabouts of the parents are unknown;
 - E) termination of parental rights is under judicial appeal;
 - F) the child comes from a family in which other siblings have been freed for adoption and there is a strong indication that this child will also become free for adoption;
 - G) the court having jurisdiction over the child formally or informally requires that the child be placed with a potential adoptive family prior to considering a petition for involuntary termination of parental rights; or
 - H) the child is currently in a substitute care placement where the foster parents are not seeking to adopt and the State's Attorney has agreed to proceed with a petition to terminate parental rights.

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- b) Prior to placing a child in a legal risk placement, the Department shall inform prospective adoptive parents of the risks and enter into a written agreement with the prospective adoptive parents which:
 - 1) informs the prospective adoptive parents:
 - A) that the child is not yet legally free for adoption and may never be available for adoption;
 - B) of the residual parental rights retained by the biological parents, until the child is free for adoption, unless termination of parental rights is under appeal. Such residual rights, as defined by the Juvenile Court Act of 1987, include *the right to reasonable visitation, the right to consent to adoption, the right to determine the child's religious affiliation, and the responsibility for the child's support* [705 ILCS 405/1-3].
 - C) of the possibility of the biological parents regaining custody of the child;
 - D) of the current status of efforts to terminate parental rights and
 - E) of the status of a diligent search for missing parents, if applicable.
 - 2) states the intent of the prospective adoptive parents to adopt the child and the intent of the Department to seek adoption as a goal for the child if parental rights are terminated;
 - 3) contains the prospective adoptive parents agreement to cooperate with a new permanency plan for the child if termination of parental rights is not achieved.
- c) The Department will provide any necessary financial, medical and supportive counseling and services before, during, and after placement of the child in the prospective adoptive parents' home unless:
 - 1) the prospective adoptive parents refuse such assistance; or
 - 2) the supportive counseling and services are unnecessary to the placement of the child; or
 - 3) the child becomes free for adoption and the child will not be eligible for adoption assistance after the adoption is finalized.

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Section 309.70 Freeing Children for Adoption

- a) Children for whom the Department of Children and Family Services is legally responsible are free for adoption when any of the following occurs:
 - 1) both parents of the child have signed adoptive surrenders or consents to adoption by a specified person as described in subsection (c) below; or
 - 2) one parent has signed an adoptive surrender consent to adoption by a specified person as described in subsection (c) below, and parental rights of the remaining parent have been terminated through court action or the remaining parent is deceased; or
 - 3) a court has terminated the parental rights of both parents.
- b) A child 14 years of age or over who is free for adoption must consent to the adoption.
- c) Parents shall be informed that surrenders or consents signed prior to a court determination of abuse, neglect, or dependency may render the child ineligible for adoption assistance.
- d) The following criteria apply to a surrender for adoption:
 - 1) The parent or parents must surrender the child to the Department or a child welfare agency as defined by the Child Care Act [225 ILCS 10];
 - 2) The surrender must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(C)]
 - 3) The surrender authorizes the agency to place the child with a family or individual selected by the agency;
 - 4) The agency consents to the adoption of the child when the adoption proceeding is commenced in court;
 - 5) No surrender assented to by the mother shall be taken within the 72 hour period immediately following the birth of the child;
 - 6) A surrender assented to by the mother not less than 72 hours after the birth of the child is irrevocable unless obtained by fraud or duress;
 - 7) A surrender may be assented to by the father of the child prior to the birth of the child and may be revoked within 72 hours after the birth by proper written notification from the father. If not revoked by the father within 72 hours after the birth of the child, the surrender is irrevocable. The surrender of a child prior to birth must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(D)].

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- e) The following criteria apply to a consent to adoption by a specified person:
- 1) In order to execute a consent to adoption by a specified person:
 - A) the parent or parents must be the parents of a child in whose interests an abuse or neglect or dependency petition has been filed; and
 - B) the Department must approve of the consents by conducting an assessment of the person who will adopt the child, including a check of the Child Abuse and Neglect Tracking System and a Law Enforcement Agencies Data System check; and
 - C) the person who is named in the consent as the person who will adopt the child must be a person:
 - i) in whose physical custody the child has resided for at least six months; or
 - ii) in whose physical custody at least one sibling of the child who is the subject of this consent has resided for at least six months, and the child who is the subject of the consent is currently residing in this foster home; or
 - iii) in whose physical custody a child under one year of age has resided for at least three months;
 - 2) The consent shall be valid only if the person(s) specified in the consent adopts the child;
 - 3) The consent shall be void if:
 - A) a court denies the adoption petition; or
 - B) the Guardianship Administrator of the Department determines that the specified person(s) will not or cannot complete the adoption or, in the best interests of the child, should not adopt the child; or
 - C) the specified person or persons do not file a petition to adopt the child within one year after the consent is signed and the birth parent files a motion in court requesting that the consent be voided after the year has elapsed.
 - 4) Within 30 days after the consent becomes void, the Guardianship Administrator of the Department shall make good faith attempts to notify the parent, the court and all additional persons, including the State's Attorney, the guardian ad litem, attorneys for the parent(s), and the person who would have adopted the child as specified in the consent, that adoption has or will not occur and that the consent is void.

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- 5) If the adoption does not occur, the biological parent(s) who executed the consent must be notified of any further proceedings to terminate parental rights.

(Source: Amended at 26 Ill. Reg. 16449, effective October 23, 2002)

Section 309.80 Termination of Parental Rights

- a) When one of the grounds for termination of parental rights appears to exist and return home as a permanency goal for the child is no longer appropriate, the Department shall conduct an internal legal screening.
- b) The purpose of an internal legal screening is to determine:
- 1) whether there is sufficient evidence to support a finding that there are grounds for termination of parental rights;
 - 2) whether it is in the best interests of the child to seek termination of parental rights and, if the child is age 14 or over, whether the child will consent to the adoption; and
 - 3) identification of the steps which need to be completed to permit the filing of a petition to terminate parental rights in accordance with local court practices.
- c) In addition, the internal legal screening shall include a review of all potential legal risks in order to advise the Department of the risks involved and the feasibility of the plan.
- d) The following persons shall attend the legal screening:
- 1) the Department's regional legal counsel;
 - 2) the child's worker;
 - 3) a representative from the regional adoption unit; and
 - 4) the worker's supervisor, whenever possible.
- e) If a determination is made at legal screening that adoption is in the best interests of the child and there are sufficient legal grounds for termination, the following steps shall be taken:
- 1) Identification of all interested persons, including all putative fathers who need to be served by the State's Attorney for purposes of the Juvenile Court proceeding, who have not previously been served;

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- 2) A petition or motion for appointment of guardian with the power to consent to adoption (termination of parental rights) shall be prepared in all counties in which the Department, rather than the local office of the State's Attorney, prepares the petition;
 - 3) Petitions or motions shall be forwarded to the local office of the State's Attorney (outside of Cook County);
 - 4) In Cook County, a referral shall be made to the State's Attorney;
 - 5) The child's worker shall complete all tasks assigned throughout the process;
 - 6) The child's worker must list a child without an adoptive resource with the Adoption Listing Service in accordance with the requirements of Section 309.40(a); and
 - 7) All necessary paperwork for termination of parental rights must be submitted to the State's Attorney within 30 days after the internal legal screening.
- f) The actual filing and prosecution of a termination of parental rights case rests with the local State's Attorney.
- g) If a request is made for a legal screening to determine whether a request shall be made for expedited termination of parental rights in accordance with subsection 309.50(g), the internal legal screening must consist of consultation among at least the caseworker, caseworker's supervisor, Department regional adoption coordinator, and Department regional legal counsel. This consultation may take place by telephone.

Section 309.90 Putative Father Registry

- a) The Department shall maintain a Putative Father Registry for the purpose of determining the identity and location of a putative father of a child who is, or is expected to be, the subject of an adoption proceeding in order to provide notice of such proceeding to the putative father.
- b) The Department shall maintain the following information in the Putative Father Registry:
 - 1) With respect to the putative father, if known:
 - A) Name of the putative father, including any other names by which the putative father may be known and that he may provide to the Registry;
 - B) Address at which the putative father may be served with notice of petition under the Adoption Act, including any change of address;

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- C) The Social Security Number of the putative father;
 - D) The putative father's birth date; and
 - E) If applicable, a certified copy of an order by a court of the State of Illinois or of another state or territory of the United States adjudicating the putative father to be the father of the child.
- 2) With respect to the mother of the child, if known:
- A) Name of the mother, including any other names known to the putative father by which the mother may be known;
 - B) The mother's last address;
 - C) The mother's Social Security Number; and
 - D) The mother's date of birth.
- 3) If known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child.
- 4) The date the Department received the putative father's registration.
- c) A putative father may register with the Putative Father Registry before the birth of the child but no later than 30 days after the birth of the child. All registrations shall be in writing and signed or submitted online through the official Putative Father Registry website by the putative father, and submitted to the Department at the following address:
- Putative Father Registry
Department of Children and Family Services
160 North LaSalle – 6th Floor
Chicago, Illinois 60601
www.putativefather.org
info@putativefather.org
- Further, putative fathers may call the Putative Father Registry for alternative contact information at: 866/737-3237.
- d) An interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of the child, or an attorney representing an interested party may request that the Department search the Putative Father Registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition.

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- e) Upon receipt of a search request pursuant to subsection (d) above, the registrar shall issue a certified response from the Putative Father Registry.
- f) Except as provided in subsection (d) above, information contained in the Putative Father Registry is confidential and shall not be published or open to public inspection.
- g) A person who knowingly or intentionally registers false information under this Section commits a Class B misdemeanor. A person who knowingly or intentionally releases confidential information in violation of this Section commits a Class B misdemeanor. [750 ILCS 50/12.1]
- h) The Putative Father Registry shall not be used to notify a putative father who is the father of a child as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.
- i) A \$40 fee will be charged to all parties receiving a certified response pursuant to subsection (e) above, except for:
 - 1) Certified responses pertaining to Department of Children and Family Services cases; and,
 - 2) Certified responses as approved by a Deputy Director or legal counsel of the Department of Children and Family Services.

(Source: Amended at 31 Ill. Reg. 8466, effective June 8, 2007).

Section 309.100 Preparation of Children for Adoption

Preparation of children for adoption begins when adoption has been identified as a potential goal for the child. During this pre-placement phase, specific services are provided to the child for whom adoption is being considered.

a) The Assessment Phase

The assessment phase consists of preparation activities initiated before an adoptive home has been identified. The primary purpose of this phase is completion of an assessment to guide the identification of needs to be met and in directing intervention. Assessments already completed on the following issues should be reviewed, and if needing update, should be updated before deciding whether or not adoption is appropriate for a child:

- 1) assessing the child in relation to the physical, emotional, educational and social environment;
- 2) determining the developmental level and potential of the child;

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- 3) gathering and assessing all pertinent information on the child and family, which includes the names and whereabouts of all known siblings, why siblings were not placed together (when applicable), and a complete review of the family history;
- 4) assessing whether it is in the best interests of the child to be separated from his/her siblings (when they were placed together) and, if separated, how best to facilitate contact with his/her siblings;
- 5) when placement of the child with his or her siblings would require that the child be removed from a current foster home, assessing if it is in the best interests of the child to remain in that foster home rather than move to a joint placement with his or her siblings;
- 6) assessing the child's capacity for attachment;
- 7) assessing the child's ability and opportunity to grieve losses;
- 8) assessing issues involving the child's identity;
- 9) assessing the child's unique qualities by focusing on the strengths and talents possessed by the child; and
- 10) assessing the child's understanding of the adoption process and making a determination of the child's desire to move toward an adoptive placement.

b) The Preparation for Placement Phase

This phase includes activities that are initiated after the assessment has been completed and reviewed and all the placement considerations have been assessed for applicability for a particular child. Such activities include:

- 1) further assessment of the child's knowledge of adoption as a permanency goal, ensuring that the child understands the selection of the family will be a joint decision between the prospective adoptive family, the child and the Department;
- 2) sharing descriptive information about the family with the child.
- 3) helping the child deal with feelings of separation and loss.
- 4) if, after adoption, the child will live separately from some or all of his/her siblings, how to facilitate contact with his/her siblings, including adult siblings.
- 5) arranging for specific recruitment activities for any child for whom an adoptive resource cannot be located.

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c) Diligent Recruitment Requirements

If the child's caregiver is not a viable resource for the child, diligent recruitment efforts shall be undertaken to locate adoptive parents who are appropriate to meet the child's needs and best interests, utilizing the placement considerations described in Section 309.130, Placement Considerations. Diligent recruitment efforts include, but are not limited to:

- 1) locating relatives who may be willing to adopt the child or a sibling group and who the Department has reason to believe will be able to adequately provide for the child's/children's safety and welfare.
 - 2) contacting the adoptive parent or legal guardian of a sibling of the child who was adopted or placed in private guardianship and informing them of the availability of the child for adoption;
 - 3) a review of the Department's available adoptive resources, contacts with local adoption agencies, and specialized recruitment activities such as parent groups, appropriate religious and civic organizations and service providers, advocacy groups and agencies;
 - 4) a review of the Adoption Listing Service to determine the availability of an appropriate family; and
 - 5) listing the child with the Adoption Listing Service, in accordance with Section 309.40, that includes among its services an interstate search, when necessary, consisting of contacts with other states, and out of state adoption agencies and referral and advocacy agencies to find a suitable adoptive placement.
- d) The Department shall not deny or delay the placement of a child for adoption when a suitable person or family who has been approved as an adoptive resource is available outside of the State, region, or county of jurisdiction.

(Source: Amended at 40 Ill. Reg. 720, effective December 31, 2015)

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Section 309.105 Who May Adopt a Child

- a) *Any of the following persons, who is under no legal disability (except the minority specified in subsection (a)(2)) and who has resided in the State of Illinois continuously for a period of at least 6 months immediately preceding the commencement of an adoption proceeding, or any member of the armed forces of the United States who has been domiciled in the State of Illinois for 90 days, may institute such proceedings:*
- 1) *A reputable person of legal age and of either sex, provided that if such person is married, or a party to a civil union, and has not been living separate and apart from his or her spouse, or civil union partner, for 12 months or longer, his or her spouse or civil union partner shall be a party to the adoption proceeding, including a spouse or civil union partner desiring to adopt a child of the other spouse or a civil union partner, in all of which cases the adoption shall be by both spouses or civil union partners jointly;*
 - 2) *A minor, by leave of court upon good cause shown. Notwithstanding subsection (a)(1), a spouse or civil union partner is not required to join in a petition for adoption to re-adopt a child after an intercountry adoption if the spouse or civil union partner did not previously adopt the child as set forth in Section 4.1(c) and (e) of the Adoption Act.*
- b) *The residence requirement specified in subsection (a) shall not apply to an adoption of a related child or child previously adopted in a foreign country by the petitioner to an adoption of a child placed by an agency. [750 ILCS 50/2]*

(Source: Amended at 43 Ill. Reg., effective October 10, 2019)

Section 309.110 Preparation and Training of Adoptive Families

The preparation and training of prospective adoptive families will be done in the following four phases:

a) Pre-service Preparation and Education

During this first phase the Department or adoption agency will educate prospective adoptive parents in the following areas:

- 1) the purpose and goals of adoption;
- 2) the selection process and the criteria for being licensed and certified as adoptive parents;

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- 3) the laws, regulations, policies, resources and values that direct the adoption program;
- 4) information about the needs and strengths of children who require adoption services;
- 5) the respective roles of adoptive parents, agencies, and courts;
- 6) differences between parenting in foster home placement, legal risk placement, and adoptive placement regarding attachment, commitment, relationship with the child's family of origin, expectations, responsibilities, supports and the lifelong impact of adoption;
- 7) the child's sense of attachment to his/her siblings, the importance of maintaining a relationship with siblings over the child's lifespan, and the impact upon the child if those relationships are not preserved;
- 8) developing, implementing and modifying Post-Permanency Sibling Contact Agreements; the role the adoptive parent can take in supporting the child's connections, and the possibility that the adoptive parent/guardian may be contacted in the future regarding placement of or contact with siblings;
- 9) the knowledge and practical skills necessary to become successful adoptive parents; and
- 10) the knowledge of developmental challenges and changes faced by adoptive families.

b) The Assessment Phase

During the assessment phase the Department or adoption agency will:

- 1) help applicants make an accurate and informed assessment of the strengths they bring to adoption, including the kinds of children they could most successfully parent and their ability to parent a sibling group;
- 2) help applicants make an accurate assessment of their needs, including the kinds of support they would need from the Department or the adoption agency;
- 3) make an accurate assessment of the strengths and needs of the prospective adoptive family;
- 4) match the prospective family's assessment with the Department's or agency's assessment;

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- 5) develop a written strength and needs assessment or family profile to be used to guide placement of specific children; and
- 6) explore with applicants their willingness to help the child maintain contact with his/her siblings and other significant relationships in the child's past.

c) The Certification Process

The certification process includes completion of the required certification training and an assessment, that includes a written home study that incorporates information from the assessment phase and includes a recommendation regarding the types of children the family is able to parent, that have been approved by the Department or adoption agency supervisor.

d) Post-Certification Phase

During this phase the Department or adoption agency will:

- 1) provide continued support to the family including information regarding children available for adoption;
- 2) make specialized training available; and
- 3) introduce adoptive families to adoptive parent support groups and/or master adoptive parents in those areas where they exist.

(Source: Amended at 40 Ill. Reg. 720, effective December 31, 2015)

Section 309.120 Preparation of the Child's Biological Parents

Preparation of the biological parents of a child for whom an adoptive placement is being sought includes the following:

- a) assistance and counseling around issues pertaining to the surrender of parental rights or consent to adoption by a specified person, or in understanding the reasons why, after reunification efforts have been attempted and failed or deemed to be inappropriate, involuntary termination of parental rights is being sought;
- b) in instances where the identity of the biological father is unknown, counseling the biological mother about her role and responsibility regarding the identification of the father as required in the Adoption Act [750 ILCS 50/11(b)] and explaining the potential consequences if the biological father is not identified;
- c) counseling around issues of separation and loss;

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- d) obtaining necessary non-identifying background information regarding the biological family's social, medical, and psychological history, as well as the prenatal and medical history of the child;
- e) affording the biological parents the opportunity to share identifying and non-identifying information with the child, who is being relinquished for adoption, through the Adoption Registry as specified in Section 309.190, Adoption Registry;
- f) giving the biological parents the opportunity to express their desires regarding the placement of their child in an adoptive home which meets their religious and other preferences. The Department will consider the parents' stated preferences, provided they do not delay placement of the child for adoption, are not contrary to the child's best interests, are consistent with applicable law such as the Adoption Act [750 ILCS 50], the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.), the Removal of Barriers to Inter-Ethnic Adoptions Provisions of the Small Business Job Protection Act of 1996 (42 USCA 671(a) and 674) and Adoption and Safe Families Act (P.L. 105-98);
- g) providing information regarding the possibility of continuing contact between the child and the biological parents or other significant persons in the child's life, when such contact is in the child's best interests and compatible with the wishes of the adoptive parents.

Section 309.130 Placement Considerations

- a) Consideration of the Child's Needs

The child's needs and best interests shall be the primary consideration when selecting an adoptive family for a child. The factors to be considered shall include, but are not limited to:

- 1) the wishes of the child under 14 years of age, who demonstrates the maturity and cognitive ability to participate in the decision;
- 2) the physical, mental, and emotional needs of the child;
- 3) the child's need for stability and continuity of relationship with parent figures;
- 4) the interaction between the child and the prospective adoptive parent;
- 5) the prospective adoptive parent's ability to meet the physical, mental, and emotional needs of the child;

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- 6) the prospective adoptive parents' ability and willingness to support, maintain and continue to be sensitive to the child's significant relationships with the child's extended family, siblings, and any other significant persons who played an important part in the child's life or to whom the child has established significant emotional ties;
- 7) the results of an assessment of the child's capacity for attachment conducted in accordance with subsection (b)(7);
- 8) the consent of a child 14 years of age or older; and
- 9) the prospective adoptive family's willingness to help and support the child in developing a relationship with his/her siblings, including siblings with whom the child does not yet have a relationship, and recognition of the value of preserving family ties between the child and his/her siblings, including the child's need for stability and continuity of relationships with siblings, and the importance of sibling contact in the development of the child's identity.

b) Other Placement Considerations

The following factors must also be considered when selecting an adoptive placement for a child:

- 1) **Siblings:** Sibling groups are to be placed together whenever possible. A decision to place siblings apart shall be based on a carefully documented and reviewed determination that such a separation will be in the best interests of all the siblings involved. While it is preferable for children to be placed together in one home, the Department shall consider a plan for adoptive placement with two or more relatives when the relatives indicate that they are willing and able to develop, nurture and support sibling relationships. When it is not possible to place all of the children together, the Department shall encourage the prospective adoptive families to encourage and facilitate contact among the siblings.
- 2) **Foster Parent Preference:** In accordance with the Adoption Act, licensed foster parents who have cared for a child for a continuous period of one year or more shall be given preference and first consideration over all other applicants for the adoption of that child in their home when adoption is the permanency goal, the child is legally free for adoption and adoption is in the child's best interests.
- 3) **Consideration of Relatives:** The Department may consider relatives as a potential adoptive resource for children who do not have an identified adoptive resource and are not going to be adopted by their current caregiver.

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- 4) **Parenting Capacity of Adoptive Parents:** Adoptive parents shall be selected who are likely to retain their parenting capacities or are effectively able to adapt to the needs of the child as they grow, change and develop. Assessments shall include such information as the family's future plans for financial security, child care and supports for child rearing in the event of a significant illness or death of the adoptive parents.
- 5) **Religion:** The best interests of the child shall be the prime consideration in the placement of a child for adoption. A child shall be placed, whenever possible, with adoptive parents holding the same religious belief as that of the child. (See 750 ILCS 50/15).
- 6) **Communication Needs:** In the case of a child who is hearing impaired, the child shall be placed in a home where one of the members is able to communicate in the child's preferred mode of communication; e.g., sign language. In the case of a limited/non-English speaking child, the child shall be placed in a home where at least one person speaks the child's primary language. In an otherwise suitable adoptive home, placement shall not be denied if the prospective adoptive parents have enrolled in a language course to learn the method of communication used by the child prior to finalization of the adoption.
- 7) **Level of Attachment:** When there is some question about a child's level of or capacity for attachment, the Department shall assess the child's level of or capacity for attachment in making an adoptive placement decision. Such assessments require prior supervisory approval after consultation with Department adoption staff.

(Source: Amended at 40 Ill. Reg. 720, effective December 31, 2015)

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Section 309.135 Post-Permanency Sibling Contact Agreement

When a child in the Department's care has a permanency goal of adoption or private guardianship, and the Department is preparing to finalize the adoption or guardianship, the child's caseworker shall convene a meeting with the prospective adoptive parents or guardians and the foster parents and caseworkers for the child's siblings in substitute care, and others as applicable. The children should participate when developmentally appropriate. Others, such as therapists and mentors, may participate as appropriate. At the meeting, the Department shall encourage the parties to discuss post-permanency sibling contact. The caseworker may assist the parties in drafting a Post-Permanency Sibling Contact Agreement.

- a) *Parties to the Post-Permanency Sibling Contact Agreement shall include:*
 - 1) *the adoptive parent or parents or guardian;*
 - 2) *the child's siblings in substitute care, and the sibling's current foster parents or guardians, and siblings who are emancipated/ living independently; and*
 - 3) *the child.*
- b) *The written consent of a child age 14 and over to the terms and conditions of the Post-Permanency Sibling Contact Agreement and subsequent modifications is required.*
- c) *In developing this Agreement, the Department shall encourage the parties to consider the following factors:*
 - 1) *the physical and emotional safety and welfare of the child;*
 - 2) *the child's wishes;*
 - 3) *the interaction and interrelationship of the child with the child's siblings who would be visiting or communicating with the child, including:*
 - A) *the quality of the relationship between the child and his/her siblings; and*
 - B) *the benefits and potential harms to the child in allowing the relationships to continue or in ending them;*
 - 4) *the child's sense of attachments to his/her siblings and adoptive family, including:*
 - A) *the child's sense of well-being and being valued;*
 - B) *the child's sense of familiarity and connectedness; and*
 - C) *continuity of affection for the child; and*
 - 5) *other factors relevant to the best interest of the child.*

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- d) *In considering the factors in subsection (c), the Department shall encourage the parties to recognize the importance to a child of developing a relationship with siblings, including siblings with whom the child does not yet have a relationship, and the value of preserving family ties between the child and his/her siblings, including:*
- 1) *the child's need for stability and continuity of relationships with siblings; and*
 - 2) *the importance of sibling contact in the development of the child's identity.*
- e) *The parties to the agreement may modify or terminate the Post-Permanency Sibling Contact Agreement. If the parties cannot agree to modification or termination, they may request the assistance of the Department or another agency identified and agreed upon by the parties. Any and all terms may be modified by agreement of the parties. Agreements may also be modified to include contact with siblings whose whereabouts were unknown or who had not yet been born when the Order for Adoption or Order for Private Guardianship was entered.*
- f) *When an Agreement is completed and signed by the parties, the Department shall include the Agreement in the child's Post-Adoption or Private Guardianship case record and in the case file of siblings who are parties to the Agreement who are in the Department's custody or guardianship. [20 ILCS 505/7.4(i)]*

(Source: Added at 40 Ill. Reg. 720, effective December 31, 2015)

Section 309.140 Placement of Children with Adoptive Families

When a specific family is identified as appropriate for the placement of a specific child waiting to be adopted, the Department or adoption agency will:

- a) present information on the child to the family to allow the family to make the decision to proceed to the next step in placement;
- b) bring the child and family together in a situation designed to offer the family an opportunity to observe the child's appearance and behavior without risk of rejection;
- c) arrange a face-to-face meeting between the child and family;
- d) plan a series of visits and contacts, usually of progressive duration, to move the child and family toward placement;

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- e) bring about the actual placement of the child with the adoptive family after which appropriate post placement services will be provided in accordance with Section 309.160; and
- f) inform the adoptive parents that they may be contacted in the future regarding placement of or contact with siblings subsequently requiring placement or requesting contact with their adopted siblings.

(Source: Amended at 40 Ill. Reg. 720, effective December 31, 2015)

Section 309.150 Providing Information to Adoptive Families

The Department or adoption agency will provide, if known, to the family identified to adopt the child the following information, in writing, regarding the child as soon as possible, but no later than 10 days prior to the date of the adoptive placement or the legal risk placement with prospective adoptive parents in the event the child is not yet free for adoption:

- a) Information about the child's biological parents, which shall include:
 - 1) age of the biological parents;
 - 2) their race, religion, cultural and ethnic backgrounds;
 - 3) general physical appearance;
 - 4) their education, occupation, hobbies, interests and talents;
 - 5) existence of any other children born to the biological parents, including the first names and ages of the adopted child's siblings and additional identifying information with appropriate consents;
 - 6) information about biological grandparents, reason for immigrating into the United States, and country of origin;
 - 7) relationship between biological parents;
 - 8) whether the birth parent or parents requested or agreed to post-adoption contact with the child at the time of placement and, if so, the frequency and type of contact; and
 - 9) detailed medical and mental health history of the biological parents and their immediate relatives as described in subsection (c).
- b) Information about the child, which shall include:
 - 1) identifying information which includes name, birth date, place of birth, order of birth, race, sex, physical description;

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- 2) developmental history which includes prenatal, delivery, postnatal, age at which significant milestones were achieved, and significant deficiencies or problems;
- 3) education, which includes:
 - A) schools attended, grade level, type of program, present level of functioning, and current teacher;
 - B) special problems in school; and
 - C) the child's perception of his or her school experience.
- 4) information about the child's personality and behavior, which includes:
 - A) how the child presents him/herself to the worker;
 - B) behavior problems, acting-out, delinquency;
 - C) family's perception of child, role in family, interaction with parents and siblings, with whom the child relates most often, favorite parent or sibling, least favorite parent or sibling, who disciplines, how each child perceives his/her role in the family;
 - D) child's strengths, interests, skills;
 - E) religious/cultural beliefs of the child; and
 - F) child involvement with the agency, including child's perception and involvement with other agencies, and the legal system;
- 5) placement history, which includes:
 - A) reasons and date the child came into placement:
 - B) information as to why the child was unable to return to his/her family of origin;
 - C) number of placements the child has experienced since he/she has been in the care of the Department and reasons for each move;
 - D) information pertaining to any physical or sexual abuse or neglect of which the child was the victim or perpetrator; and
 - E) how and why the adoptive parent or parents were selected and who selected the adoptive parent or parents;

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- 6) legal status, which includes:
 - A) whether the child is free for adoption;
 - B) whether the placement is a legal risk placement; or
 - C) whether the child has any other legal involvement.

- c) Information about the medical and health histories of the child and the biological parents which shall include:
 - 1) for the child:
 - A) significant illnesses, diseases, disabilities, physicians, medications and immunization records;
 - B) conditions or diseases believed to be hereditary;
 - C) drugs or medications taken by the child's biological mother during pregnancy;
 - D) psychological and psychiatric information; and
 - E) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health;

 - 2) for the biological parents:
 - A) chronic and acute illnesses, hospitalizations, general health of grandparents and siblings, alcohol or other drug abuse;
 - B) conditions or diseases believed to be hereditary;
 - C) psychological and psychiatric information; and
 - D) any other information that may be a factor influencing the child's present or future physical, mental, or emotional health.

- d) No information provided under this Section shall disclose the names or last known address of the biological parents, grandparents, siblings of the biological parents, or any other relative of the child to be adopted with the exception of siblings as specified in subsection (a)(5).

(Source: Amended at 43 Ill. Reg., effective October 10, 2019)

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Section 309.160 Post Placement Services

NOTE: Please refer to Policy Guide 2020.04 for Section 309.160.

a) Purpose of Post Placement Services

Post placement services are services provided to the child and adoptive family from the date of placement of the child in the adoptive home to the date of finalization of the adoption for the purpose of:

- 1) continuing the activities around the preparation of the child for adoption;
- 2) ensuring the health and safety of the child;
- 3) ensuring successful integration of the child in the adoptive home;
- 4) providing continuing support and placement stabilization in order to minimize the risk of placement disruption and multiple placements of the child; and
- 5) facilitating adoption finalization.

b) Services Provided

During the post placement period, the primary services the Department will provide are those activities that are directed toward:

1) Empowerment of the Adoptive Family

The Department or adoption agency will help the family recognize successes, understand the stages of adjustment, and assume a decision making role on behalf of the child.

2) Continued Assessment of the Child and Family

The Department or adoption agency will continue to assess the child and family after placement has occurred to ensure that all existing and potential needs have been identified, and appropriate support services are in place prior to finalization.

3) Assessing Adjustment of the Family and Child to the Placement and Providing Supportive Services

The services provided by the Department or adoption agency will be related to the needs of the adoptive family and the special needs of the adopted child, particularly if the child is older, has medical conditions, or physical, mental, or emotional disabilities, or is of a different ethnic, racial, or cultural background than the adoptive family. The assessment will explore the level of attachment occurring within the adoptive family and will utilize specific activities designed to promote and enhance attachment.

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4) Further Discussion of the Child's Background Information

The Department or adoption agency will encourage discussion of the child's background to include specific behaviors exhibited by the child in order to ensure their understanding and acceptance.

5) Predicting and Interpreting Behaviors and Problem Solving

The Department or adoption agency will provide information relating to potential behaviors which may be exhibited by the child and assist the family in dealing with specific behaviors and problems that may arise.

6) Identification of Resources

The Department or adoption agency will make reasonable efforts to ensure that services are accessible and that referrals have been made where appropriate.

7) Completion of Necessary Finalization Papers and Reports

Information relating to the finalization of the adoption is provided to the family and efforts are directed toward completing all necessary reports required prior to finalization.

8) Disruption Services

Although the goal of post-placement services is to maintain the adoptive placement, it may be necessary to provide disruption services when it has been determined that continuation of the placement is not in the best interest of the child and family and removal is necessary.

- c) The Department or adoption agency will schedule regular in-person contacts with the family and child following placement until the adoption is finalized.
- d) The length of time between placement and legal adoption may vary due to the uniqueness of each situation, but will extend for at least six months unless waived by the court. The actual length of time shall be determined jointly between the worker, the court, and the adoptive parents.

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Section 309.170 Post-Adoption Services

NOTE: Please refer to Policy Guide 2020.04 for Section 309.170.

a) Purpose of Post-Adoption Services

Services after adoption of a child are often essential in maintaining the adoptive family unit and empowering families to be advocates in the community for their children's needs. Consequently, the Department will provide post-adoption services in order to reduce the risk of adoption dissolution and to support the goal of permanency in adoption.

b) Post-Adoption Services

The Department provides the following post-adoption services either directly or through purchase of service providers:

- 1) Adoption preservation services will be provided to families with adopted children under age 18. These services are provided in accordance with 89 Ill. Adm. Code 302 (Services Delivered by the Department) Subpart D: Intensive Family Preservation Services, and through other contracts with service providers.
- 2) Services to families receiving adoption assistance as described in 89 Ill. Adm. Code 302.310 (Adoption Assistance). These services include:
 - A) assisting families to utilize and access services available to them through adoption assistance;
 - B) assisting adoptive parents of children with developmental disabilities to access services available through the Illinois Department of Human Services;
 - C) assisting families who are eligible for conditional adoption assistance to access benefits at such time as their children's condition warrants treatment or professional intervention.
- 3) Search and on-going sharing of information among members of the adoption triad. This service includes:
 - A) providing to adults who had been the legal responsibility of the Department or to biological families of adult adoptees adopted through the Department, when they have requested information in writing:
 - i) non-identifying information regarding their biological background when requested;

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- ii) attempts to locate biological family members for purposes of updating social history and/or medical information, if desired;
 - iii) identifying information upon the successful completion of a search, when consents that have been witnessed by an adult third party from all members of the adoption triad are received. The Department will provide names, addresses, and telephone numbers so that they may arrange a reunion provided that consents that have been witnessed by an adult third party from all birth parents and adult adoptees are received.
 - iv) updated medical and psychosocial information between members of the adoption triad, when consents from all birth parents and adult adoptees that have been witnessed by an adult third party have been received.
- B) acting as or cooperating with confidential intermediaries appointed by the court in accordance with the Adoption Act [750 ILCS 50/18.3a]. In addition, the Department will maintain a list of confidential intermediaries who have been trained and certified by the Department.
- C) providing to adoptive parents of minor children, if requested, non-identifying information on a child's background, if this information is available. The Department will also facilitate the exchange of updated medical and psychosocial information between members of the adoption triad and facilitate contact when members of the triad have signed consents that have been witnessed by an adult third party.
- D) facilitating contact between adoptees and their siblings when one or more is still in the Department's care or adopted elsewhere with the consent of the adoptive parents of a minor child that has been witnessed by an adult third party.
- E) facilitating contact, with the consent of the adoptive parents that has been witnessed by an adult third party, between adoptees who are minors and significant relationships in the minor adoptee's past when such contact has been established to be necessary to the adoptee's best interests, when all involved parties have provided written consent witnessed by an adult third party for release of such identifying information.

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- 4) Information and referral to services available in the community which would be of benefit to the adoption triad. These services would include, but not be limited to: adoption preservation services, therapists sensitive to the issues of adoption, education advocates to assist families to obtain special services, mental health agencies, support groups, respite care, financial services and professional search groups. The Department, through its agent, will maintain a listing of post-adoption services and will make this information available to persons upon request.
- 5) The Department will also provide to any interested adult adoptee, biological parents and siblings information regarding the Illinois Adoption Registry described in Section 309.190 of this Part.

c) Who is Eligible for Post-Adoption Services

Post-adoption services are available to:

- 1) Families who have adopted children for whom the Department of Children and Family Services had legal responsibility immediately preceding the adoption. These families are eligible for the services described in subsection (b)(1), adoption preservation services, (b)(2), adoption assistance, if they meet eligibility criteria, (b)(3), search and ongoing sharing of information, and (b)(4), information and referral.
- 2) Families who adopt children for whom the Department did not have legal responsibility prior to adoption. These families are eligible for the services described in subsection (b)(1), adoption preservation services, if sufficient financial resources exist after adoption preservation services are provided to children for whom the Department of Children and Family Services had been legally responsible, and subsection (b)(4) information and referral.
- 3) Biological families of children adopted through the Department. These families are eligible for the services described in subsection (b)(3), search and ongoing sharing of information, and (b)(4) information and referral.

(Source: Amended at 23 Ill. Reg. 11098, effective September 16, 1999)

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Section 309.180 Adoption Assistance

Adoption assistance may be provided to adoptive parents on behalf of children with special needs in accordance with 89 Ill. Adm. Code 302.310, Adoption Assistance.

Section 309.190 Adoption Registry

- a) Effective with the establishment of an Adoption Registry under the auspices of the Department of Public Health, the Department of Children and Family Services shall provide information about Adoption Registry services. The address of the Adoption Registry is as follows:

The Adoption Registry
Illinois Department of Public Health
605 W. Jefferson
Springfield, Illinois 62702-6553
(217) 782-6553

- b) The services shall consist of:
- 1) providing written notification to the biological parents who wish to surrender a child for purposes of adoption or wish to consent to the adoption of a child by a specified person which describes the Adoption Registry, the process for recording their names with the Adoption Registry, the procedures for sharing identifying information with the child who was surrendered for adoption or given consent to be adopted by a specified person, and the process for changing the decision to share or refuse to share identifying information;
 - 2) helping the biological parents complete a written statement of intent when a child is voluntarily surrendered for purposes of adoption or given consent to be adopted by a specified person. The statement shall record:
 - A) the biological parents' desire to have identifying information shared with the adopted child at a later date and a method for contacting the biological parents; or
 - B) the biological parents' desire not to have identifying information revealed; or
 - C) that no decision has been reached at this time.
 - 3) helping the biological parents record their names with the Adoption Registry for the purpose of sharing identifying information with their biological children who were surrendered for adoption or given consent to be adopted by a specified person;

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- 4) helping the adopted child, when the child has attained the age of 18, but has not yet reached his or her 21st birthday, to record his or her name with the Adoption Registry for the purpose of sharing identifying information with his or her biological parents provided the Registry has the written consent of:
 - A) both adoptive parents, or
 - B) a single adoptive parent with a certified copy of the Judgment of Adoption, or
 - C) proof of the death of one adoptive parent and written consent of the surviving adoptive parent, or
 - D) consent of the guardian of the adoptee with a certified copy of the Order of Guardianship;
- 5) recording specific non-identifying information about the biological parents as required by the Adoption Act [750 ILCS 50/18.4] in the case record. This information shall be given to the prospective adoptive parents when the child is placed for adoption and to the adopted child, upon request, when the child has attained the age of 18;
- 6) providing identifying information to mutually consenting member of the adoption triad when a written request is received by the Department of Children and Family Services. If there is an Information Exchange Authorization form on file with the Adoption Registry, this form also must permit the exchange of such information; and
- 7) other services as authorized by 89 Ill. Adm. Code 302.40 (Department Service Goals).

(Source: Amended at 23 Ill. Reg. 11098, effective September 16, 1999)

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

POLICY GUIDE 2020.04

**RULE 309, ADOPTION SERVICES FOR CHILDREN FOR WHOM THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS LEGALLY
RESPONSIBLE**

DATE: January 7, 2020

TO: All DCFS and Private Agency Child Welfare Workers and Supervisors

FROM: Marc D. Smith, Acting Director

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform DCFS and POS of several amendments in Illinois law affecting **Rule 309, Adoption Services for Children for whom the Department of Children and Family Services is Legally Responsible**. In accordance with **Public Act 101-0529 and Public Act 101-0155**. DCFS Rules will be amended to reflect these and previous statutory changes.

II. PRIMARY USERS

The primary users of this Policy Guide are POS and DCFS permanency workers, adoption/post adoption workers, and their supervisors and managers.

III. SUMMARY OF LEGISLATIVE CHANGES

Effective January 1, 2020 **Public Act 101-0529** amends Sections 2-13 of the **Juvenile Court Act** of 1987 [705 ILCS 405/2-13]. This legislation expands the list of circumstances requiring the Department to request the State's Attorney to file a petition for termination of parental rights. The legislation also expands the definition of unfitness based on depravity, to include convictions for numerous additional crimes (for example, sexual exploitation of a child).

Effective January 1, 2020 **Public Act 101-0155** amends Sections 1 and 18.9 of the **Adoption Act** of 1987 [705 ILCS 50/1, 18.9].



As a result, **Rule 309 Adoption Services for Children for whom the Department of Children and Family Services is Legally Responsible** will be amended as follows:

Section 309.20 Definitions

The following definition has been added:

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

Section 309.50 Identification of Children for Potential Adoption Planning

- a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.
- b) When any of the grounds for parental unfitness, as defined in the Adoption Act, or expedited termination of parental rights are identified, the following actions shall be taken:
 - 1) the parents shall explore the opportunity to voluntarily surrender their child for adoption or consent to the adoption of their child by a specified person as described in Section 309.70(c) or (d); or
 - 2) if the parents are unwilling to voluntarily surrender or consent to the adoption of the child, the case shall be referred for an internal legal screening in accordance with Section 309.80 (Termination of Parental Rights) to determine whether to seek involuntary termination of parental rights.
- c) The following grounds of parental unfitness are defined in Section 1 of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:
 - 1) *Abandonment of the child. Abandonment of a newborn infant in a hospital. Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.*
 - 2) *Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.*
 - 3) *Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.*

- 4) *Substantial neglect of the child if continuous or repeated. Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.*
- 5) *Extreme or repeated cruelty to the child.*
- 6) *Two or more findings of physical abuse to any children under Section 2-21 of the Juvenile Court Act of 1987 [705 ILCS 405], the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 2-21 of the Juvenile Court Act of 1987.*
- 7) *Failure to protect the child from conditions within his environment injurious to the child's welfare.*
- 8) *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 the Adoption Act, the Juvenile Court Act or the Juvenile Court Act of 1987.*
- 9) *Depravity.*
 - A) *Conviction of any one of the following crimes shall create a presumption that a parent is deprived which can be overcome only by clear and convincing evidence:*
 - i) *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 of a parent of the child to be adopted;*
 - ii) *first degree murder or second degree murder of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012;*
 - iii) *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;*

- iv) *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; or*
- v) *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;*
- vi) *aggravated criminal sexual assault;*
- vii) *heinous battery of any child in violation of the Criminal Code of 1961;*
- viii) *aggravated battery of any child in violation of the Criminal Code of 1961 or the Criminal Code of 2012.*
- ix) *criminal sexual assault in violation of Section 11-1.20 or Section 12-13 of the Criminal Code of 1961 or the Criminal Code of 2012;*
- x) *criminal sexual abuse in violation of subsection (a) of Section 11-1.50 or Section 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012;*
- xi) *sexual exploitation of a child in violation of Section 11-9.1 of the Criminal Code of 1961 or the Criminal Code of 2012;*
- xii) *permitting sexual abuse of a child in violation of Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012; or*
- xiii) *an offense in any other state the elements of which are similar and bear a substantial relationship to any of the enumerated offenses in this subsection (Sec.1(i)) of the Adoption Act.*

B) *There is a rebuttable presumption that a parent is deprived 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.*

C) *There is a rebuttable presumption that a parent is deprived 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.*

- 10) *Open and notorious adultery or fornication.*
- 11) *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 (c) 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.*
- 12) *Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.*
- 13) *Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor or dependent minor under Section 2-3 of the Juvenile Court Act or the Juvenile Court Act of 1987. 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 Part, "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 within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.*
- 14) *Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:*
 - A) *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*

- B) *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 [750 ILCS 45] or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of the Adoption 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 subsection (b) shall only be available where the petition is brought by the mother or the husband of the mother.*
- 15) *Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.*
- 16) *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 [405 ILCS 5/1-116], 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.*
- 17) *The parent has been criminally convicted of aggravated battery, heinous battery, or attempted murder of any child.*
- 18) *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.*

- 19) *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.*
- 20) *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 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.*

d) Expedited Termination of Parental Rights

At any time between case opening and 30 days prior to court adjudication, if it becomes known that one or more of the grounds for parental unfitness listed in subsection (d)(1) or (2) exist, the caseworker will seek immediate supervisory consultation to request that a legal screening be convened in accordance with Section 309.80 (Termination of Parental Rights). The purpose of the legal screening will be to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights.

- 1) Grounds for which expedited termination of parental rights must be sought are:
 - A) extreme or repeated cruelty to the child;
 - B) a finding of physical abuse and criminal conviction of aggravated battery of the child;
 - C) Conviction of: first degree murder in violation of Section 9-1(a)(1) or (2) of the Criminal Code of 1961 or conviction of second degree murder in violation of Section 9-2(a) of the Criminal Code of 1961 of a parent of the child to be adopted; a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of 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 a criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961;

- D) abandonment of a newborn infant in a hospital;
 - E) abandonment of a newborn infant in a setting where the evidence suggests that the parent intended to relinquish parental rights;
 - F) incarceration of a parent as a result of a criminal conviction where prior to incarceration the parent had little or no contact with the child or provided little or no support of the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period of two years after the filing of the petition or motion for termination of parental rights.
- 2) Grounds for which expedited termination of parental rights shall be considered, and for which the casework supervisor must document the reason for not considering expedited termination of parental rights, are:
- A) abandonment of the child (other than a newborn infant);
 - B) desertion;
 - C) inability to discharge parental responsibility due to mental illness, mental impairment or developmental disability;
 - D) 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 and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.
- e) Other additional factors to be considered in identifying the possibility of adoption for a child are:
- 1) the parents have signed or indicated a desire to sign a consent or surrender for adoption;
 - 2) the parents have previously signed a consent or surrender for adoption with regards to other children in the past and those children were the subjects of abuse, neglect or dependency petitions and/or parental rights have been terminated with regard to other children in the past, thus indicating that there may be risk of harm to other children in the parents' care; or

- 3) the parents have made unsatisfactory progress in correcting the conditions which led to the removal of his or her children resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.
- f) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:
- 1) when the Department first assumes custody of the child;
 - 2) within 30 days after case opening;
 - 3) at each administrative case review; and
 - 4) at no less than quarterly reviews and supervisory meetings.

Section 309.160 Post Placement Services

a) Purpose of Post Placement Services

Post placement services are services provided to the child and adoptive family from the date of placement of the child in the adoptive home to the date of finalization of the adoption for the purpose of:

- 1) continuing the activities around the preparation of the child for adoption;
- 2) ensuring the health and safety of the child;
- 3) ensuring successful integration of the child in the adoptive home;
- 4) providing continuing support and placement stabilization in order to minimize the risk of placement disruption and multiple placements of the child; and
- 5) facilitating adoption finalization.

b) Services Provided

During the post placement period, the primary services the Department will provide are those activities that are directed toward:

1) Empowerment of the Adoptive Family

The Department or adoption agency will help the family recognize successes, understand the stages of adjustment, and assume a decision making role on behalf of the child.

2) Continued Assessment of the Child and Family

The Department or adoption agency will continue to assess the child and family after placement has occurred to ensure that all existing and potential needs have been identified, and appropriate support services are in place prior to finalization.

3) Assessing Adjustment of the Family and Child to the Placement and Providing Supportive Services

The services provided by the Department or adoption agency will be related to the needs of the adoptive family and the special needs of the adopted child, particularly if the child is older, has medical conditions, or physical, mental, or emotional disabilities, or is of a different ethnic, racial, or cultural background than the adoptive family. The assessment will explore the level of attachment occurring within the adoptive family and will utilize specific activities designed to promote and enhance attachment.

4) Further Discussion of the Child's Background Information

The Department or adoption agency will encourage discussion of the child's background to include specific behaviors exhibited by the child in order to ensure their understanding and acceptance.

5) Predicting and Interpreting Behaviors and Problem Solving

The Department or adoption agency will provide information relating to potential behaviors which may be exhibited by the child and assist the family in dealing with specific behaviors and problems that may arise.

6) Identification of Resources

The Department or adoption agency will make reasonable efforts to ensure that services are accessible and that referrals have been made where appropriate.

7) Completion of Necessary Finalization Papers and Reports

Information relating to the finalization of the adoption is provided to the family and efforts are directed toward completing all necessary reports required prior to finalization.

8) Disruption Services

Although the goal of post-placement services is to maintain the adoptive placement, it may be necessary to provide disruption services when it has been determined that continuation of the placement is not in the best interest of the child and family and removal is necessary.

- c) The Department or adoption agency will schedule regular in-person contacts with the family and child following placement until the adoption is finalized.
- d) The length of time between placement and legal adoption may vary due to the uniqueness of each situation but will extend for at least six months unless waived by the court. The actual length of time shall be determined jointly between the worker, the court, and the adoptive parents.
- e) In accordance to Section 18.9 of the Adoption Act, the Department shall establish, maintain and provide accessible sources of information regarding available post-placement and post-adoption support services described in Section 309.170 below.

Section 309.170 Post-Adoption Services

- a) Purpose of Post-Adoption Services

Services after adoption of a child are often essential in maintaining the adoptive family unit and empowering families to be advocates in the community for their children's needs. Consequently, the Department will provide post-adoption services in order to reduce the risk of adoption dissolution and to support the goal of permanency in adoption. Post-Adoption Services shall be provided to *all* adopted and guardianship *children residing in this State adopted pursuant to the Interstate Compact on the Placement of Children, all children residing in this State adopted pursuant to the Intercountry Adoption Act of 2000, and all former youth in care, as defined by the Children and Family Services Act, who have been placed in a guardianship.*

- b) Post-Adoption Services

The Department provides the following post-adoption services either directly or through purchase of service providers:

- 1) Adoption preservation services will be provided to families with adopted children under age 18. These services are provided in accordance with 89 Ill. Adm. Code 302 (Services Delivered by the Department) Subpart D: Intensive Family Preservation Services, and through other contracts with service providers.
- 2) Services to families receiving adoption assistance as described in 89 Ill. Adm. Code 302.310 (Adoption Assistance). These services include:
 - A) assisting families to utilize and access services available to them through adoption assistance;
 - B) assisting adoptive parents of children with developmental disabilities to access services available through the Illinois Department of Human Services;

- C) assisting families who are eligible for conditional adoption assistance to access benefits at such time as their children's condition warrants treatment or professional intervention.
- 3) Search and on-going sharing of information among members of the adoption triad. This service includes:
- A) providing to adults who had been the legal responsibility of the Department or to biological families of adult adoptees adopted through the Department, when they have requested information in writing:
 - i) non-identifying information regarding their biological background when requested;
 - ii) attempts to locate biological family members for purposes of updating social history and/or medical information, if desired;
 - iii) identifying information upon the successful completion of a search, when consents that have been witnessed by an adult third party from all members of the adoption triad are received. The Department will provide names, addresses, and telephone numbers so that they may arrange a reunion provided that consents that have been witnessed by an adult third party from all birth parents and adult adoptees are received.
 - iv) updated medical and psychosocial information between members of the adoption triad, when consents from all birth parents and adult adoptees that have been witnessed by an adult third party have been received.
 - B) acting as or cooperating with confidential intermediaries appointed by the court in accordance with the Adoption Act [750 ILCS 50/18.3a]. In addition, the Department will maintain a list of confidential intermediaries who have been trained and certified by the Department.
 - C) providing to adoptive parents of minor children, if requested, non-identifying information on a child's background, if this information is available. The Department will also facilitate the exchange of updated medical and psychosocial information between members of the adoption triad and facilitate contact when members of the triad have signed consents that have been witnessed by an adult third party.

- D) facilitating contact between adoptees and their siblings when one or more is still in the Department's care or adopted elsewhere with the consent of the adoptive parents of a minor child that has been witnessed by an adult third party.
 - E) facilitating contact, with the consent of the adoptive parents that has been witnessed by an adult third party, between adoptees who are minors and significant relationships in the minor adoptee's past when such contact has been established to be necessary to the adoptee's best interests, when all involved parties have provided written consent witnessed by an adult third party for release of such identifying information.
- 4) Information and referral to services available in the community which would be of benefit to the adoption triad. These services would include, but not be limited to: adoption preservation services, therapists sensitive to the issues of adoption, education advocates to assist families to obtain special services, mental health agencies, support groups, respite care, financial services and professional search groups. The Department, through its agent, will maintain a listing of post-adoption services and will make this information available to persons upon request.
 - 5) The Department will also provide to any interested adult adoptee, biological parents and siblings information regarding the Illinois Adoption Registry described in Section 309.190 of this Part.
- c) Who is Eligible for Post-Adoption Services

Post-adoption services are available to:

- 1) Families who have adopted children for whom the Department of Children and Family Services had legal responsibility immediately preceding the adoption. These families are eligible for the services described in subsection (b)(1), adoption preservation services, (b)(2), adoption assistance, if they meet eligibility criteria, (b)(3), search and ongoing sharing of information, and (b)(4), information and referral.
- 2) Families who adopt children for whom the Department did not have legal responsibility prior to adoption. These families are eligible for the services described in subsection (b)(1), adoption preservation services, if sufficient financial resources exist after adoption preservation services are provided to children for whom the Department of Children and Family Services had been legally responsible, and subsection (b)(4) information and referral.
- 3) Biological families of children adopted through the Department. These families are eligible for the services described in subsection (b)(3), search and ongoing sharing of information, and (b)(4) information and referral.

- 4) *The Department shall establish and maintain a toll-free number to respond to requests from the public about its post-placement and post-adoption support services and shall staff the toll-free number so that calls are answered on a timely basis, but in no event more than one business day from the receipt of a request. The Department shall post the number on its website.*
- 5) *The Department shall provide the information, including the Illinois Post Adoption and Guardianship Services booklet, to prospective adoptive parents and guardians as part of its adoption and guardianship training and at the time they are presented with the Permanency Commitment form; and it shall include, in each annual notification letter mailed to adoptive parents and guardians, a short, 2-sided flier or news bulletin in plain language that describes access to post-placement and post-adoption services, how to access Medicaid and Individual Care Grant or Family Support Program services, the webpage address to Illinois' Post Adoption and Guardianship Services booklet, information on how to request that a copy of the booklet be mailed, and a sticker or magnet that includes the toll-free number to access the Department's post-placement and post-adoption support services.*
- 6) *The Department shall review and update annually all information relating to its post-placement and post-adoption support services, including its Post Adoption and Guardianship Services booklet, to include updated information on Individual Care Group or Family Support Program services eligibility and the post-placement and post-adoption support services that are available through the Medicaid program or any other State program for mental health services. The Department and the Department of Healthcare and Family Services shall coordinate their efforts in the development of resources described in this subsection.*

IV. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at the “DCFS.Policy” – Mailbox. Non-Outlook users may e-mail questions to cfpolicy@illinois.gov.

V. FILING INSTRUCTIONS

File this Policy Guide immediately following Rule 309.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Policy Guide 2015.02

Legislative Update for Permanency and Adoption Staff

DATE: January 15, 2015
TO: All DCFS and Private Agency Child Welfare Workers and Supervisors
FROM: Bobbie Gregg, Acting Director *Bobbie Gregg*
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform DCFS and POS of several amendments in Illinois law affecting child welfare practice made in **Public Acts 98-704, 98-804 and 98-846**. In the coming weeks, DCFS Rules and Procedures will be amended to reflect these statutory changes.

II. PRIMARY USERS

The primary users of this Policy Guide are POS and DCFS permanency workers, adoption/post adoption workers, and their supervisors and managers.

III. SUMMARY OF LEGISLATIVE CHANGES

A. Public Act 98-704 (House Bill 5949)

Public Act 98-704 became effective January 1, 2015, and amends sections of the **Adoption Act** [750 ILCS 50] affecting the Illinois Adoption Registry and Medical Information Exchange and Confidential Intermediary services.

- **No Fee for Confidential Intermediary Services.** There is no longer a service fee for any searches through the Confidential Intermediary program.
- **Searches Requested by Adult Siblings.** Adult siblings (21 and over) can use the Confidential Intermediary program to search for an adult brother or sister who was adopted, whether the birth parent is living or deceased as long as the birth parent has not filed forms with the State requesting no contact be made.
- **Searches Requested by Adult Grandchildren.** Adult grandchildren (21 and over) of a deceased adoptee or surrendered person can use the Confidential Intermediary program to attempt to locate birth relatives.



- **Requests for Non-Certified Copy of Birth Certificate.** If an individual who is eligible requests a non-certified copy of an original birth certificate from Illinois Department of Public Health (DPH), and
 1. DPH issues a certification of “no record found” (no birth certificate is located); or
 2. the located document for an adoption completed before 1946 indicates certain information was “omitted”;

the requesting individual may file a petition for the appointment of a Confidential Intermediary. If information that would have been on the original birth certificate is found in a court adoption file received by the Confidential Intermediary, that information will be provided by the Confidential Intermediary.
- **Adult Grandchild May File With Registry.** An adult grandchild may file a Registration Identification Form and an Information Exchange Authorization or a Denial of Information Exchange with the Adoption Registry and Medical Information Exchange, and may receive information in the same manner as an adult child of the deceased adopted or surrendered person.
- **Adoption Advisory Council Name Changed.** The Adoption Advisory Council described in Section 18.08 of the Adoption Act is renamed the Adoption Registry-Confidential Intermediary Advisory Council.

B. Public Act 98-804 (House Bill 4636)

Amendments to the **Adoption Act** in **Public Act 98-804** became effective January 1, 2015.

- **Expands Adoption Act Definition of “Related Child.”** This definition determines if the adopting parents are filing a Petition to Adopt a “related child” or an unrelated child. The definition expands “related child” to include when either or both of the adopting parents are related to the child by civil union, and adds great-grandparents, first cousins and second cousins to the list of accepted relationships to the child.
- **“First and Second Cousins” Defined.** Clarifies that a person is related to a child as a first cousin or a second cousin if they are both related to the same ancestor as either grandchild or great-grandchild.
- **Clarifies Child’s Relationship to Parent after TPR.** A child whose parent has executed a consent, a surrender, or a waiver pursuant to Section 10 of the Adoption Act, whose parent has signed a denial of paternity pursuant to Section 12 of the Vital Records Act or Section 12a of the Adoption Act, or parent has had his/her parental rights terminated is not a related child to that person, unless:

- the consent is determined to be void or is void pursuant to subsection 10(O) of the Adoption Act; or
 - the parent executed a consent to adoption by a specified person or persons and a court finds the consent is void; or
 - the order terminating the parental rights of the parent is vacated by a court of competent jurisdiction.
- **Defines “Parent.”** A “parent” is the legal mother or legal father of the child as defined in the Adoption Act (below).
 - A “legal father” is 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 the Adoption Act;
 2. because his paternity of the child has been established pursuant to the Illinois Parentage Act [750 ILCS 40], the Illinois Parentage Act of 1984 [750 ILCS 45] or the Gestational Surrogacy Act [750 ILCS 47];
 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 acknowledgement 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.
 - A “legal mother” is 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;
 2. because her maternity of the child has been established pursuant to the Illinois Parentage Act of 1984 or the Gestational Surrogacy Act;
 3. because her maternity or adoption of the child has been established by a court of competent jurisdiction;
 4. because of her marriage to or civil union with the child’s parent at the time of the child’s birth or within 300 days prior to the time of that child’s 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.

- **Terms Used Interchangeably.** “Biological parent”, “birth parent” and “natural parent” are interchangeable terms that mean a person who is biologically or genetically related to the child as a parent.
- **No Residence Requirement for Relative or Agency Adoptions.** A residence requirement is not applicable to an adoption of a related child or an adoption of a child placed by an agency.
- **Venue for Filing Adoption Petition.** An adoption proceeding may be commenced in any county in this State.

C. Public Act 98-846 (Senate Bill 3283)

Public Act 98-846 affects Section 7 of the Children and Family Services Act [20 ILCS 505].

- Section 7(b) of the Children and Family Services Act authorizes the Department to place children in substitute care with relatives, and defines who is considered a “relative” for that purpose. **Effective June 1, 2015** the definition of “relative” will be expanded to include “fictive kin.” “Fictive kin” means any individual, unrelated by birth or marriage, who 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.

DCFS and POS placing workers and foster home licensing staff shall not initiate any relative placements with fictive kin prior to June 1, 2015. The Office of Child and Family Policy will be issuing Rules and Procedures to instruct DCFS and POS staff how and when to consider placement with fictive kin, and licensure requirements.

IV. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

V. FILING INSTRUCTIONS

File this Policy Guide after Rules 309.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES


Distribution: X & Z

Policy Guide 2013.01

REINSTATEMENT OF PARENTAL RIGHTS THROUGH ADOPTION

DATE: May 24, 2013

TO: All DCFS and Private Agency Child Welfare Staff and Supervisors and Rules and Procedures Bookholders

FROM: Richard H. Calica, Director 

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to implement P.A. 96-601 and to issue instructions to Department staff regarding conducting home studies when an adoption petition is filed to adopt a child by the child's former parent whose parental rights have been terminated.

II. PRIMARY USERS

Primary users of this Policy Guide are Department Regional Adoption Coordinators, Adoption Supervisors and Adoption Specialists.

III. BACKGROUND

The Adoption Act was amended to add Section 14.5, Petition to Adopt by Former Parent [750 ILCS 50/14.5], that permits a child's former parent to petition to adopt his/her former child (referred to in this Policy Guide as reinstatement of parental rights through adoption). Section 14.5 applies:

- 1) if it is in the best interests of the child to go forward with the adoption; AND
- 2) the child was a DCFS ward who was adopted by a relative; AND
- 3) the adoptive parent died without a "standby guardian or adoptive parent" and without listing a guardian in his/her will, OR the adoptive parent is ill and unable to parent and consents to the child's former parent adopting and the former parent wishes to adopt and meets the statutory criteria.

Under Section 14.5(c)(2), if the child becomes the subject of a juvenile court petition, the former parent has no standing to petition to adopt the child. In other words, if the child



comes back into DCFS custody or guardianship, the former parent is not permitted to file a petition to adopt the child using the criteria in this Section.

DCFS becomes involved only after the former parent files a petition to adopt. According to Section 14.5(d)(2), when the parent's petition is filed, the court shall appoint DCFS to:

- conduct an investigation and assess the former parent's ability and willingness to provide adequate care and protection to child;
- investigate the facts and circumstances of the past incidents that led to termination of parental rights; and
- assess any concerns as to the child's safety, well being or best interests if the former parent is permitted to adopt.

DCFS must submit a written report to the court. DCFS will not provide any casework or other follow up services or visits if the adoption is granted.

IV. ADOPTION SUPERVISOR'S RESPONSIBILITY

When an adoption investigation is ordered by a court pursuant to Section 14.5 of the Adoption Act, the order shall be forwarded to the Adoption Supervisor for the DCFS Region where the adoption petition is filed.

For adoptions filed in Cook County, the Adoption staff shall follow the procedures in Section III (B) of the **Circuit Court of Cook County, Administrative Order 2010-2** (Please see attached).

Investigatory Report

The Adoption Specialist shall conduct the home study and prepare the written report to the court for any adoption sought pursuant to Section 14.5 using the **CFS 411, Investigatory Report**. The Adoption Supervisor shall approve in writing the home study and written report to the court.

Review DCFS/POS Records

The Adoption Specialist shall obtain a signed **CFS 718, Authorization for Background Check** form for each member of the household that is being checked, the child's and family's case records from storage, review all court and case records involving the child and family, do a home study, obtain and review the child's current health records, and look for signs of other issues, such as past domestic violence that may affect the child's health, safety and well being. This review shall include at a minimum the following:

- What was the reason for the child and family's involvement and child's removal; reasons for TPR. Archives request must include whole family and other members of the household. Including investigatory records, if they are separated.

- Family's past history, current circumstances and recurrent issues;
- Birth family dynamics;
- Past or current incidents of domestic violence, substance abuse, criminal activity, etc.;
- What potential involvement will members of the household have? How will they be interacting with the child?
- Sleeping arrangements.

References

The Adoption Specialist shall interview community workers and others (e.g., mental health worker) who have worked with or have personal knowledge about the family. At least 3 collateral contacts shall be made.

Child's Current Functioning

The Adoption Specialist shall contact at least three collateral professionals (e.g., school personnel, mental health counselor, etc.) to gather information on the how child is doing – e.g., school, child's education (obtain current IEP) and service needs. Please refer to **Policy Guide 2012.05** for additional information.

CERAP

The Adoption Specialist shall conduct a CERAP as required in **Procedures 315.Appendix A, Child Endangerment Risk Assessment Protocol** or as ordered by the court.

Criminal and SACWIS Background Checks

The Adoption Specialist shall also require the petitioners and all members of the petitioner's household to submit to Child Abuse/Neglect and fingerprint-based criminal background checks. The Adoption Specialist must obtain a signed **CFS 718, Authorization for Background Check** form for every member of the household subject to a background check.

Best Interests, Health, Safety and Well Being

The Adoption Specialist shall document review of **Rule 315.30, Best Interests Health and Safety of the Child, Rule 315.300, Evaluating Whether Children Placement Should Be Returned Home, and Rule 315.305, When Reunification Is Inappropriate** to ensure that returning the child to the home of his/her parent is in the child's best interests and will promote the child's health, safety and well being.

✓ NOTE: Birth parents are NEVER eligible for Adoption Assistance.

V. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VI. FILING INSTRUCTIONS

File this Policy Guide immediately following Rule 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible.

VII. ATTACHMENT

Circuit Court of Cook County, Administrative Order 2010-2

Attachment: Cook County Administrative Order 2010-2

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

ADMINISTRATIVE ORDER 2010 - 2

**SUBJECT: IMPLEMENTATION OF P.A. 96-601 (750 ILCS 50/14.3)
RESTORATION OF PARENTAL RIGHTS AND ADOPTION BY
BIOLOGICAL PARENT**

Effective on the date of this Order, the following procedures shall apply to all adoption proceedings initiated in the County Division by a biological parent seeking restoration of his or her parental rights and adoption of his or her biological child as provided in 750 ILCS 50/14.3.

I. Denomination of Pleadings.

The petition filed in such matters shall be denominated as a "Petition For Restoration of Parental Rights and Adoption of a Minor Child." The statutory authority for the proceeding shall be clearly stated in the introductory paragraph of the petition.

II. Contents of Pleading.

Each pleading shall contain a clear statement of fact establishing the propriety of initiating the action as set out in 750 ILCS 50/14.5(a). In addition to the requirements found at 750 ILCS 50/5, such petitions must contain factual allegations to satisfy the requirements of 750 ILCS 50/14.5 (c) (1) (A through E). Conclusory allegations parroting the language of the statute will be presumed to be legally insufficient and subject to summary dismissal under 735 ILCS 5/ 2-615. Finally, such Petition shall contain a factual allegation establishing standing to initiate the action as set out in 750 ILCS 50/14.5 (c) (2).

The prayer for relief shall include a request for the relief provided by 750 ILCS 50/14.5(e) (3) and (4).

III. Appointment of a Guardian *ad Litem* and Designation of Investigator

The appointment of a Guardian *ad Litem* in these proceedings shall be determined by the provisions of this Administrative Order. Any prior or subsequent Administrative Order of the County Division relating to the appointment of a Guardian *ad Litem* shall not serve to alter or overrule the provisions of this Order unless this Administrative Order is specifically referenced.

Due to the requirements for obtaining an interim order found at 750 ILCS 50/14.5 (d), Counsel is encouraged to seek appointment of a Guardian *ad Litem* and Investigator promptly after initiating the proceeding. This may be done at either the 9:30 a.m. or 1:30 p.m. court calls for Calendar 1. Notice of a Party's intention to obtain such an Order shall be served on The Office of the Cook County Public Guardian, Robert Harris, at least three business days prior to the date of the hearing. The current practice concerning delivery of courtesy copies to the Court applies to these matters.

The Order shall provide, in addition to all other relief sought by the Petitioner, that the Guardian *ad Litem* shall have access to the child(ren) and any and all relevant documents pertaining to said child(ren) without limitation. Nothing herein shall be construed to grant the Guardian *ad Litem* access to any records of any other person other than as provided by the provisions of the Illinois Supreme Court and the Code of Civil Procedure relating to discovery in civil cases. The order shall also provide that the Guardian *ad Litem* is authorized to re-disclose to all parties, the Illinois Department of Children and Family Services "Department" and the Court any information the Guardian *ad Litem* has in his or her possession on any prior abuse, neglect and dependency case pertaining to the parties in that proceeding.

A. In all proceedings initiated under this statutory provision, the Court will appoint Robert F. Harris, Public Guardian of Cook County as the Guardian *ad Litem* for the minor child. In the event Mr. Harris seeks to withdraw as Guardian *ad Litem*, the Court will appoint a successor Guardian *ad Litem* from the Court's designated panel of *Guardians ad Litem*s. The Guardian *ad Litem* will be selected in the same manner as one is appointed in any other adoption proceeding.

In the event withdrawal is sought due to a conflict over what outcome of the matter is in the minor's best interest, the Court will appoint Mr. Harris to serve as the minor's attorney, assuming the adopting family is unable to pay for the services of counsel for the minor, and select a new *Guardian ad Litem* from the designated panel in order to preserve the confidentiality of communications between the minor child and the original *Guardian ad Litem*.

In the event the Court determines that Mr. Harris cannot continue to serve as counsel for the minor child, assuming the adopting family is unable to pay for the services of appointed counsel; private counsel shall be appointed to represent the minor child.

Upon receipt of the preliminary investigation report, the *Guardian ad Litem* shall undertake diligent efforts to have an in-person meeting with the child(ren) that are the subject of these proceedings.

Upon completion of the investigation, the *Guardian ad Litem* shall file a report with the Court in a form substantially similar to that attached to this Administrative Order. One report shall be prepared for each child sought to be adopted and filed of record in the adoption proceeding.

B. All initial investigations in such proceedings shall be conducted by the Illinois Department of Children and Family Services ("Department") or any successor to the duties and responsibilities of that Department.

Upon appointment, the Investigator shall provide the *Guardian ad Litem* with a "*Preliminary Investigation Disclosure*." This should be delivered within three business days of receiving notice of the fact of appointment. Such disclosure shall contain, at a minimum, 1) an assessment of the home where the child currently resides as set out in the Child Endangerment Risk Assessment Protocol ("CERAP"); 2) a current CANTS/LEADS search results for all persons residing in such home who are aged 13 and above, and all frequent visitors to the home aged 18 and older.

Within 60 days of the Preliminary Investigation Disclosure, DCFS shall complete an Investigative Report for the court.

Due to the nature of these proceedings, in addition to the requirements for initial reports of investigation in adoption proceedings as established from time to time. DCFS shall draft an Investigation Report that includes the following information in order to allow the Court to determine whether an adoption is in the child's best interest:

- (a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child's identity;
- (c) the child's background and ties, including familial, cultural, and religious;
- (d) the child's sense of attachments, including:
 - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child's sense of security;
 - (iii) the child's sense of familiarity;
 - (iv) continuity of affection for the child;
 - (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives.
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care;
- (j).the current and past relationship of the minor respondent to the birth parent;
- (k).the circumstances which led to the prior termination of parental rights;
- (l) details as to the change in circumstances in the life of the birth parent since the time of the prior termination of parental rights;
- (m).details as to the current circumstances of the life of the birth parent including but not limited to living arrangements, family composition, educational and/or work history, sources of income demonstrating an ability to provide for the child's care; the petitioner's understanding of both the current needs of the child and the child's attachment to the birth parents and other significant persons
- (n) the appropriateness and willingness of the petitioner to maintain contact with the members of the minor's former adoptive family.
- * (o) an assessment of the home of the Petitioner as set out in the Child Endangerment Protocol(CERAP) and a report of current CANTS/LEADS search results for all person residing in such home who are aged 13 and above and all frequent visitors to the home aged 18 and older.*

IV. Obtaining an Interim Order

The Court will schedule a hearing to determine whether an interim order should be entered approximately sixty days after the appointment of the Guardian *ad Litem* and the investigator. This will allow sufficient time for an investigation as to the facts and circumstances of the matter by the Guardian *ad Litem* and the preparation of at least a preliminary investigation by the Department.

If an emergency concerning the legal and physical custody of any minor child exists, the Court will schedule a hearing at an earlier date. In determining such date, the Court will consider the reason for the termination of parental rights, the efforts to ameliorate the conditions that led to the termination, the current living arrangements for the child, and the necessity of making certain that appropriate safeguards are in place.

V. Hearings

The Court does not contemplate requiring an evidentiary hearing in each case prior to the entry of orders restoring parental rights and granting an adoption. Such a hearing will be conducted upon the Court acting *sua sponte* or upon the written request of the minor's Guardian *ad Litem*. Nothing in this Order shall prevent any party to these proceedings from requesting a hearing to determine whether the child is available for adoption.

Dated this 29th day of January and Spread Upon the Records of this Court.

ENTER: _____
Presiding Judge, County Division

Report of GAL

(Insert Case Caption)

REPORT OF GUARDIAN *ad Litem*

Now comes , _____, appointed by this Court to act as the Guardian *ad Litem* for the child sought to be adopted and recommends that this Court:
{ } enter a Judgment of Adoption as being in the best interest of the child.

{ } set this matter for an evidentiary hearing to determine whether it is in the best interests of the minor for the court to enter a Judgment of Adoption.

This recommendation is made as a result of my investigation and review of these proceedings as required by the court's Standing Order and more specifically:

1. The child is available for Adoption as defined by statute because:

The Parental Rights of the biological/legal (strike one) mother were

{ } terminated by this Court.

{ } terminated by a surrender or irrevocable consent to adoption executed by the mother.

{ } terminated in another proceeding and all appeal rights have been exhausted.

{ } previously terminated and the biological mother has filed a petition seeking restoration of her parental rights and adoption of her biological child pursuant to 750 ILCS 50/14.5 et. al.

The Parental Rights of the biological/ legal (strike one) father were

{ } terminated by this Court.

{ } terminated by a surrender or irrevocable consent to adoption executed by the father.

{ } terminated in another proceeding and all appeal rights have been exhausted.

{ } previously terminated and the biological father has filed a petition seeking restoration of his parental rights and adoption of his biological child pursuant to 750 ILCS 50/14.5 et. al.

2. Based upon information available to me, it is/ is not (strike one) in the best interests of the minor that a Judgment of Adoption be entered by this Court; this opinion is based upon the following:

{ }The conclusions found in an investigation conducted by a child welfare agency approved by the Illinois Department of Children and Family Services which I have reviewed.

{ }The conclusions found in an investigation conducted by the Illinois Department of Child and Family Services which I have reviewed.

{ }The results of my own investigation which were based in part by the Affidavits submitted by the Petitioners detailing their background. More specifically, based on the information available to me, it appears that:
The Petitioner(s) is/ are related to the child as: _____

That the child has resided with the Petitioner(s) for

That the results of a criminal history and C.A.N.T.S. check, as well as a search of the Sex Offender Registry performed by DCFS or a DCFS approved agency yielded negative results with the exception of _____ which I believe does not impact on the welfare of the child because

_____.

3. The religious affiliation of the Petitioner(s) is

_____.

4. The child's religious affiliation is

_____.

5. The child is/ is not (strike one) under the age of 14 years.

(For a child under age 14 only) As the duly appointed Guardian *ad Litem*, I hereby enter the child's consent to this adoption.

(For a child age 14 and over) The child's consent to adoption will be presented to the Court.

6. A Supplemental Report of the Guardian *ad Litem* containing additional information supporting my recommendation is/ is not (strike one) attached.

Respectfully submitted
Guardian *ad Litem*

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