NOTICE
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2026 IL App (5th) 260376-U

NO. 5-26-0376

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

In re ADOPTION OF ANTHONY H., and BENJAMIN H., Minors	)	Appeal from the Circuit Court of Shelby County.
(Gabrielle S., n/k/a M. and Luke M.,	)	
Petitioners-Appellees,	)	
v.	)	No. 23-AD-3
Waylon H.,	)	Honorable Allan F. Lolie Jr.,
Respondent-Appellant).	)	Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court.
Justices Barberis and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's judgment terminating the respondent's parental rights was not against the manifest weight of the evidence. Pursuant to the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2024)), the petitioners showed that the respondent was an unfit parent and that termination was in the best interest of the minor. Therefore, the judgment of the circuit court is affirmed.

¶ 2 The respondent, Waylon H. (Father), appeals from the Shelby County circuit court's adoption order of April 27, 2026, as well as its underlying unfitness and best-interest orders, which terminated his parental rights over his two minor children. For the reasons explained below, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Petitioner Gabrielle S. (Mother) is the natural mother of two minors, Anthony H. and Benjamin H., born in 2017 and 2018, respectively. Respondent Waylon H. (Father) is the minors' natural father, as established by a voluntary acknowledgment of parentage. Petitioner Luke M. is married to Mother and not related to the minors. On March 14, 2023, the petitioners filed a petition for adoption of both minors. The petitioners later amended their petition twice and filed their second amended petition for adoption of the minors on November 17, 2025. In their petition, Mother and Luke M. asked the court to enter a judgment of adoption declaring the minors to be adopted by the petitioners, and to terminate Father's parental rights.

¶ 5 The petitioners alleged that Father was an unfit parent pursuant to section 1(D) of the Adoption Act (750 ILCS 50/0.01 *et seq.* (West 2024)) on the following bases: (1) failing to maintain a reasonable degree of interest, concern, or responsibility as to the minors' welfare; (2) repeatedly and continuously neglecting the minors; (3) not visiting or communicating with the minors since approximately December of 2020; (4) not contributing to the support of the minors; (5) habitually using alcohol and drugs for a period of over one year; (6) acting in a manner indicating the intent to forego his parental rights to the minors; and (7) being presumed depraved, as he had been convicted of at least three felonies under Illinois law, two of which occurred within five years of the filing of the second amended petition.

¶ 6 The petitioners stated that Father had Class 2 felony convictions stemming from four separate criminal cases. These included a 2015 burglary conviction for which he was given a three-year sentence; two burglary convictions in 2016, resulting in a four-year sentence; a 2022 conviction of unlawful possession of weapons by a felon, for which he received a 10-year sentence;

and a conviction in a separate 2022 case for aggravated battery, resulting in a five-year sentence concurrent with the aforementioned 2022 case.

¶ 7 A. Fitness Hearing

¶ 8 The circuit court held a fitness hearing on January 23, 2026. The State admitted certified copies of the documentation of Father's seven felony convictions into evidence. Father was then called to testify by the petitioners. He stated he was the father of the two minors and was present at the birth of his older son; however, he was incarcerated when his younger son was born.

¶ 9 In 2015, he was sentenced to three years of impact incarceration for burglary, and served six months. In 2016, he was again arrested and convicted of three counts of burglary in two different counties. In one of these cases, he received probation, but it was terminated unsuccessfully after 18 months, and he was given concurrent four-year sentences in both 2016 cases.

¶ 10 In 2022, Father pled guilty to unlawful possession of weapons by a felon and was given a 10-year sentence, which he was still serving at present. Later that year, Father was charged with aggravated battery of a police officer and pled guilty. Prior to sentencing, he fled the state in March of 2023 and was picked up in Florida in June of 2023. Father noted that most of his convictions occurred before the minors were born.

¶ 11 Father further testified that he was employed by a construction company from 2019 to 2020 and by another company in 2021. After that, he worked at a friend's business for about a year, until he became a fugitive in 2023. During 2019 and 2020, Father stated that he had contact with the minors, seeing them every weekend in 2019 and then for longer periods in 2020, including a

full two weeks in November of that year. He asserted that Mother did not give him money for the minors while he had them, and he had paid Mother $110 in support since they were born.[1]

¶ 12 After the circuit court heard all of the testimony presented by the petitioners' witnesses, it made a finding that a rebuttable presumption of depravity existed, based on Father's felony convictions. The circuit court then instructed Father to present his rebuttal evidence.

¶ 13 Father first called David Rathje, who testified that he was an excavation contractor who employed Father. He had known Father since high school and described him as a hard worker. Rathje had met the minors "once or twice" and observed that they had a "great relationship" with Father. He further stated that Father often talked to him about his children and it was clear to Rathje that Father cared very deeply about them. He testified that Father was visibly upset, even crying, after he was prevented from seeing the minors. Lastly, Rathje stated that he had told Father he would have a job ready for him upon his release from prison.

¶ 14 Next, Hope Middleton testified that she was the mother of one of Father's other children. She described him as a loving father, stating that she had observed him with their child, another child of his with a different mother, and the two minors at issue in this case. She said the minors loved Father and missed having him in their lives, and described a time in July of 2020 when Father took Benjamin H. to the doctor when he had a health issue. She stated that Father "can't function without his kids," describing how much he loved them and how upset he became when he could no longer see them.

¶ 15 On cross-examination, Middleton was asked about Father's time as a fugitive. She went with him when he fled to Florida. Middleton testified that the reason they left the state was because

[1]The circuit court found Father to be unfit only on the grounds of depravity. As the rest of the testimony presented on behalf of the petitioners did not pertain to the issue of depravity, we conclude our summary of that testimony here. Similarly, we will only mention the relevant testimony on behalf of Father.

of a personal issue that she had with her father. While they were in Florida, Middleton stated that Father could not reach the minors because Mother had changed her phone number. She also described his struggles with drugs at the time as being caused by the loss of his children.

¶ 16 Father also testified on his own behalf. He stated that when he learned he was going to have a son—referring to the older minor—he wanted to change himself. He got into drug court and was later released in time for Anthony H.'s birth. His intent after his current incarceration ended was to reestablish a relationship with the minors, and he was willing to meet any conditions necessary to be able to have visitation with them.

¶ 17 He also testified about the steps he had taken while in prison to become a better father. He said he completed a parenting program, a masonry course that would allow him to work a union job, and two other life skills classes. He was also set to complete a drug program. Father stated that he had certificates for the completed courses, but he had not brought them with him. He added that all of these courses were voluntary and not ordered by the court. Father said he learned how to identify the negative, harmful things he had done and how to work toward becoming a part of his children's lives.

¶ 18 After hearing the remainder of Father's testimony, the testimony of the other witnesses, and argument from both sides, the circuit court took the matter under advisement. The circuit court issued a written order on January 17, 2026, finding that the petitioners had failed to prove Father's unfitness on all grounds alleged in their petition except for depravity pursuant to section 1(D)(i) of the Adoption Act (750 ILCS 50/1(D)(i) (West 2024)). The circuit court wrote that the petitioners' exhibits established that Father had seven felony convictions, two of which occurred within five years of the filing of the second amended petition for adoption. This created a rebuttable presumption of depravity, which Father failed to overcome.

¶ 19 The circuit court further stated that the testimony showed that Father was in and out of custody when the minors were young and/or when Mother was pregnant. He fled to Florida to avoid arrest and was a fugitive for approximately one year before going to prison for his latest two convictions, which were for unlawful use of weapons by a felon and aggravated battery of a police officer. Prior to his current incarceration, Father had been placed on drug court probation, which was revoked and Father was sent to prison.

¶ 20 Lastly, the circuit court acknowledged and found credible Father's testimony that he had taken some self-help and education classes in prison. However, it found that, without more, this was insufficient to rebut the presumption of depravity. Thus, the circuit court found Father to be an unfit parent, and the matter proceeded to a best-interest hearing.

¶ 21 B. Best-Interest Hearing

¶ 22 On March 16, 2026, the minors' guardian *ad litem* (GAL) filed a report with the circuit court in advance of the best-interest hearing. He wrote that he had met with the petitioners in their family home in February of 2026, and also spoke with the minors outside of the presence of their family. The GAL addressed the statutory best-interest factors found in section 1-3(4.05) of the Juvenile Court Act of 1987[2] (705 ILCS 405/1-3(4.05) (West 2024)). He observed that both minors appeared to be well cared for by the petitioners. They were appropriately dressed, healthy, and well fed. The family home did not seem to pose any dangers to their physical safety, and both minors expressed feeling safe in their home. Anthony H. told the GAL about the hobbies he enjoyed doing, and said that his "mom and dad"—referring to the petitioners—made sure he was safe when practicing archery and took care of a heart condition he had.

[2]The Adoption Act has its own set of best-interest factors, which are substantially similar to the ones found in the Juvenile Court Act. We discuss the different statutes as they apply to private adoption cases later in our analysis.

¶ 23 By contrast, the GAL wrote that Father was currently incarcerated and did not have a suitable environment in which to raise the minors. When the GAL spoke with the minors about Father, one of the older boy's only memories of him was being in the car with Father as Father fled from police attempting to pull him over. Anthony H. told the GAL that Father dropped him off at his apartment and left him unsupervised before continuing his flight. The GAL observed that this incident "clearly left a mark on him and his feelings of safety and comfort" in Father's care. The GAL did not believe the minors would feel safe or comfortable with Father.

¶ 24 Next, the GAL wrote that both minors seemed to identify as the petitioners' children, and they referred to Luke M. as "dad" without prompting. When he asked them to clarify who they meant by "dad," the minors even appeared confused by the question, unsure of who else they could be referring to. The petitioners had a younger son, and the minors had a sibling relationship with their half-brother. The minors, who were aged nine and seven, had been in the exclusive care of the petitioners for a large portion of their lives, and the GAL opined that their current living situation was likely the only one they could recall. They had other family in the area, and had significant ties to the families of both petitioners.

¶ 25 The GAL opined that the minors felt loved and valued by the petitioners, and did not express a strong relationship with Father or his family. They had few memories of Father and limited contact with him throughout their lives; any bond they had with him would likely cease if the adoption petition were granted. By contrast, Luke M. treated the minors like his own sons, and the GAL did not believe this was likely to change, regardless of the outcome of the case.

¶ 26 Regarding the minors' wishes, neither one expressed outward excitement about the adoption. However, the GAL opined that this could be because they already viewed Luke M. as their dad, so adoption would not change anything from their perspective. The minors did not

express any displeasure about the prospect of no longer seeing Father. Overall, the GAL believed that the minors were supportive of but unconcerned with the actual adoption process, as it would merely formalize what they already felt and experienced.

¶ 27 The minors also had several friends at school, played sports, and occasionally attended a local church. They were comfortable in their current community. The GAL believed that they were very happy in their current situation and would not want to move. Importantly, the petitioners had provided the minors with a stable, loving home environment and a sense of permanence. Although the GAL acknowledged that Father seemed to have much love for the minors, he could not provide them with stability. There was concern about whether Father would be able to be there for his sons when they needed him. The GAL further noted that "[c]hildren cannot thrive in the care of a parent who is in and out of prison, or a fugitive." Moreover, the relationship the minors had with Father had historically been chaotic and uncertain. He was in and out of their lives, and much of his absence could be attributed to his own decisions and criminal acts.

¶ 28 The GAL concluded that it was clear that the petitioners loved the minors and were willing and able to provide them with the safe and stable environment they needed. He recommended that the circuit court find that it was in the minors' best interests to grant the petition for adoption.

¶ 29 The circuit court held a best-interest hearing on March 27, 2026, at which it took judicial notice of the GAL report. Mother testified that she and Luke M. had been together for seven years and married for three. Both petitioners were employed outside of the home and had lived in their current home since 2022, and it was in a safe condition for the minors. She had had custody of the minors throughout their lives. She was able to provide for their safety and well-being, including food, shelter, healthcare, and clothing, and had been doing so without any assistance from Father. She had received a total of $110 from Father for their care.

¶ 30 Mother further testified that Luke M. had been in the minors' lives since Christmas of 2020, and both minors had been referring to him as "dad" since late 2020 or early 2021. He played sports and "roughhoused" with them. Anthony H. had a heart condition, and Mother and Luke M. were able to handle his care needs. Luke M. had always treated the minors like his own children, no differently than he treated his natural son. The minors saw themselves as the petitioners' kids. The minors also visited the petitioners' families, and Luke M.'s parents interacted with them on a regular basis. The minors were well-acclimated at school and attended church with the petitioners and their half-brother on occasion.

¶ 31 Mother believed that keeping the minors in the petitioners' care would be the least disruptive placement for the minors and would meet their needs for permanency and stability. She further believed that the minors wished for them to remain a family together.

¶ 32 On cross-examination, Mother was asked whether Father had tried to be in contact with the minors since Christmas of 2020, and whether she had not allowed him access to the minors. Mother stated that she felt it was best for them not to allow Father contact, and that she and Father had tried on three previous occasions but "it fell through every time."

¶ 33 Luke M. testified about his work on his family's farm and his involvement in the minors' lives. He played sports and video games with them and took them to work with him on the farm when they did not have school. He stated that he treated them the same as he treated his natural son, and affirmed Mother's testimony about how long he had been in the minors' lives, his paternal relationship with them, and his belief that they consider themselves to be his children. He further stated that, if the adoption were not granted, he would continue to love and care for them.

¶ 34 Lastly, Father testified that the incident Anthony H. told the GAL about, in which he was fleeing from the police with the minor in his car, never happened. He also stated that he had three

other children in addition to the two minors. The minors had had limited contact with their three half-siblings, which Father attributed to Mother limiting contact. However, he said that Benjamin H. bonded with one of the other three children and they were always together when Father had the minors.

¶ 35 Father also testified that he tried to maintain contact with the minors after 2020, but he was unable to do so. He did not have a phone for some time, and then he said Mother would not answer, and blocked him on social media. Father intended to be a part of the minors' lives, but he had to stop attempting to contact them because he was told that Mother would call the police if he continued.

¶ 36 After hearing argument, the circuit court took the matter under advisement. It issued a written order on April 10, 2026. The circuit court noted that both petitioners' testimonies and the GAL report stated that the minors refer to Luke M. as "dad," and Luke M. further testified that he treated the minors as his own children and wished to adopt them. The circuit court also acknowledged that Father wanted to have a relationship with the minors after he was released from prison.

¶ 37 The circuit court next reviewed the statutory best-interest factors, as discussed in the GAL report. The court generally adopted the GAL's findings. It wrote that the minors were clearly physically safe and had all their needs met in the petitioners' home. It was undisputed that Father had provided almost no financial assistance for the minors, and Mother had not sought child support through the courts. Even when he was not incarcerated, Father did not financially or emotionally support the minors.

¶ 38 The circuit court further found that the minors were bonded with and felt attachment toward the petitioners and the petitioners' families, and they had no connection to Father's family. It was

also undisputed that they were established in their community, school, and church. While the circuit court noted that the GAL report did not state the minors' wishes directly, the GAL did write that neither child expressed disappointment about the prospect of no longer having contact with Father.

¶ 39 The minors had not had any contact with Father for several years, and their only memories of him appeared to be predominantly negative ones. The circuit court noted that Mother prevented Father from having more contact with the minors, but added that Father did not take any action to protect his right to parenting time. The minors had love, stability, and permanence with the petitioners, while Father had been incarcerated for most of their lives and had not provided them with stability. The court found that the minors' current environment was best for them.

¶ 40 The circuit court concluded that it was clear that the petitioners had met their burden. The court found that it was in the minors' best interests that Father's parental rights be terminated and the petitioners be allowed to adopt the minors.

¶ 41 The circuit court entered an adoption order on April 27, 2026. Father filed a timely notice of appeal.

¶ 42 II. ANALYSIS

¶ 43 On appeal, Father argues that the circuit court's findings that he was an unfit parent and that termination of his parental rights was in the minors' best interest were against the manifest weight of the evidence. We reject both contentions.

¶ 44 A. The Circuit Court's Finding of Unfitness

¶ 45 Before a minor may be adopted, the minor's natural parents or guardian must either consent to the adoption or be found unfit by the court pursuant to section 1(D) of the Adoption Act. *In re Adoption of Syck*, 138 Ill. 2d 255, 259 (1990); *Douglas R.S. v. Jennifer A.S.*, 2012 IL App (5th)

110321, ¶ 3; 750 ILCS 50/1(D) (West 2022). The parties petitioning for the minor's adoption must first prove parental unfitness by clear and convincing evidence. *Syck,* 138 Ill. 2d at 273-74. At the unfitness stage, the focus is solely on the conduct of the parent. *Douglas R.S.*, 2012 IL App (5th) 110321, ¶ 5. If the court makes a finding of unfitness, it next considers whether termination of the parent's rights is in the best interests of the child. *Douglas R.S.*, 2012 IL App (5th) 110321, ¶ 5.

¶ 46 As applicable to the underlying case, the Adoption Act defines an "unfit person" as:

> "D. 'Unfit person' means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following ***:
>
> * * *
>
> (i) *** There is a rebuttable presumption that a parent is depraved if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any other state, or under federal law, or the criminal laws of any United States territory; and at least one of these convictions took place within 5 years of the filing of the petition or motion seeking termination of parental rights." 750 ILCS 50/1(D)(i) (West 2024).

¶ 47 A rebuttable presumption creates " 'a *prima facie* case as to the particular issue in question and thus has the practical effect of requiring the party against whom it operates to come forward with evidence to meet the presumption.' " *In re J.A.*, 316 Ill. App. 3d 553, 562 (2000) (quoting *Diederich v. Walters*, 65 Ill. 2d 95, 100 (1976)). However, once evidence opposing the presumption is presented, that presumption ceases to exist. *In re J.A.*, 316 Ill. App. 3d at 562. The burden of proof "does not shift but remains with the party who initially had the benefit of the presumption." *In re J.A.*, 316 Ill. App. 3d at 562-63.

¶ 48 In Illinois, "depravity" means " 'an inherent deficiency of moral sense and rectitude.' " *In re L.J.S.*, 2018 IL App (3d) 180218, ¶ 18 (quoting *In re A.M.*, 358 Ill. App. 3d 247, 253 (2005)). Depravity must be shown to exist at the time of the petition to terminate parental rights, and the acts evincing depravity " 'must be of sufficient duration and of sufficient repetition to establish a "deficiency" in moral sense and either an inability or an unwillingness to conform to accepted

morality.' " *In re A.M.*, 358 Ill. App. 3d at 253 (quoting *In re J.A.*, 316 Ill. App. 3d at 561). To rebut the presumption of depravity, the parent may present evidence showing that, despite his convictions, he is not depraved. *In re A.M.*, 358 Ill. App. 3d at 253. The statutory ground of depravity "requires the trier of fact to closely scrutinize the character and credibility of the parent," and we afford deferential treatment to the circuit court's determination, as the trier of fact. *In re J.A.*, 316 Ill. App. 3d at 563.

¶ 49 In reviewing a court's findings that a parent is unfit and that terminating parental rights is in the best interest of the child, we do not retry the case; rather, we must determine if the findings are against the manifest weight of the evidence. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 31. The lower court's finding of unfitness is afforded great deference because that court was best positioned to view and evaluate the parties and their testimony. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 31. Accordingly, on appeal, we will not reweigh the evidence or reassess the credibility of the witnesses. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 31. A decision is contrary to the manifest weight of the evidence "if the opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on the evidence presented." *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 31. A single basis for parental unfitness is sufficient to sustain the circuit court's finding. *In re Gwynne P.*, 215 Ill. 2d 340, 363 (2005).

¶ 50 On appeal, Father does not dispute his criminal history, but argues that he presented sufficient evidence to rebut the presumption of depravity. He further argues that the circuit court erred in failing to find that he had done so and then proceeding to analyze whether the petitioners had proved his depravity by clear and convincing evidence. He states that he testified about completing several courses while in prison, including courses in life skills, parenting, and masonry. He also enrolled in a drug program and was set to receive a certificate of completion upon his

release. The circuit court wrote in its fitness order that while Father did not present any certificates showing completion of these courses, the court found his testimony on this point to be credible.

¶ 51 Father cites to *In re A.M.* 358 Ill. App. 3d 247 (2005) and *In re P.J.*, 2018 IL App (3d) 170539 in support of his position that he successfully rebutted the presumption of depravity. In both cases, the respondent father rebutted this presumption by introducing evidence of obtaining a GED and completing various courses in prison, and in the latter case, participating in inpatient drug treatment. *In re A.M.*, 358 Ill. App. 3d at 254; *In re P.J.*, 2018 IL App (3d) 170539, ¶¶ 5, 16.

¶ 52 We agree with Father that the circuit court incorrectly stated in its fitness order that Father had not rebutted the presumption of depravity. Father is correct that a respondent "need not rebut the presumption by clear and convincing evidence; rather, he only had to provide evidence opposing the presumption." *In re P.J.*, 2018 IL App (3d) 170539, ¶ 14. If he presents such evidence, "the presumption is removed and the issue is determined based on the evidence presented." *In re P.J.*, 2018 IL App (3d) 170539, ¶ 13.

¶ 53 However, we nevertheless find that the circuit court properly found that the petitioners had established by clear and convincing evidence that Father was an unfit parent on the basis of depravity. In *In re A.M.*, while the father did rebut the presumption of depravity by introducing evidence of his efforts to better himself, we affirmed the circuit court's finding of depravity based on the State's evidence of his two misdemeanor and three felony convictions, four of which occurred after his rebuttal evidence of completing his GED. *In re A.M.*, 358 Ill. App. 3d at 253-54. Here, Father's completion of various self-improvement courses in prison, "while *** commendable, does not show rehabilitation." *In re A.M.*, 358 Ill. App. 3d at 254. Rehabilitation is shown by "a parent who, upon leaving prison, maintains a lifestyle suitable for parenting children safely." *In re J.V.*, 2018 IL App (1st) 171766, ¶ 183.

¶ 54 Here, the circuit court reviewed the evidence presented, including Father's seven felony convictions, and noted that Father was in and out of prison throughout the minors' lives. He also fled to Florida to avoid arrest after a physical altercation with a police officer. This occurred in the same month that the petitioners filed their original petition. He had also violated probation in his past, further demonstrating his unwillingness to obey the law. Father was incarcerated for his most recent felony convictions throughout the course of the proceedings. The uncontroverted evidence showed that Father had, over a significant period of time, repeatedly chosen to engage in criminal conduct that not only impacted the victims of his crimes, but prevented him from being in his sons' lives. The record clearly shows that, despite Father overcoming the rebuttable presumption, the petitioners met their burden of showing depravity by clear and convincing evidence. Therefore, we conclude that the circuit court's unfitness finding based on depravity was not against the manifest weight of the evidence.

¶ 55 B. The Circuit Court's Best-Interest Finding

¶ 56 Once the court makes a finding of unfitness, "[t]he issue is no longer whether parental rights *can* be terminated; the issue is whether, in light of the child's needs, parental rights *should* be terminated." (Emphases in original.) *In re D.T.*, 212 Ill. 2d 347, 364 (2004). The parent's interest in maintaining the parent-child relationship "must yield to the child's interest in a stable, loving home life." *In re D.T.*, 212 Ill. 2d at 364. At this stage of the termination proceedings, the petitioner bears the burden of proving by a preponderance of the evidence that termination of parental rights is in the child's best interest. *Douglas R.S.*, 2012 IL App (5th) 110321, ¶ 5; *Harold K. v. Ryan B.*, 313 Ill. App. 3d 692, 699 (2000) ("In an adoption setting, the trial court must base its decision 'on the welfare and best interests of the child.' 750 ILCS 50/15.1(c) (West 1994).").

¶ 57 In making a best-interest determination, the minor's best interests and welfare are "of paramount consideration" and in construing the Adoption Act, the court may consider all relevant factors, including, but not limited to, the following factors listed in section 15.1 of the Adoption Act (750 ILCS 50/15.1(b) (West 2024)):

> "(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 wishes of the child's parent as expressed in writing prior to that parent's execution of a consent or surrender for adoption;
>
> (5) the child's adjustment to the child's present home, school and community;
>
> (6) the mental and physical health of all individuals involved;
>
> (7) the family ties between the child and the applicant to adopt the child and the value of preserving family ties between the child and the child's relatives, including siblings;
>
> (8) the background, age and living arrangements of the applicant to adopt the child;
>
> (9) the criminal background check report presented to the court as part of the investigation required under Section 6 of this Act." 750 ILCS 50/15.1(b) (West 2024);

See *In re Adoption of C.D.*, 313 Ill. App. 3d 301, 307-08 (2000).

¶ 58 As with the circuit court's findings at the unfitness stage, we afford the court great deference, as it is in a superior position to view the witnesses, assess their credibility, and weigh conflicting evidence. *In re J.B.*, 2019 IL App (4th) 190537, ¶ 33. We will not reverse the circuit court's best-interest determination unless it is against the manifest weight of the evidence. *In re J.B.*, 2019 IL App (4th) 190537, ¶ 33.

¶ 59 Before proceeding with a summary of Father's challenge to the circuit court's best-interest findings, we note that in his argument on appeal, Father refers to the statutory best-interest factors

found in section 1-3(4.05) of the Juvenile Court Act (705 ILCS 405/1-3(4.05) (West 2024)), which are applicable to a court's best-interest determination upon the State's filing of a petition to terminate parental rights. These are also the factors used by the GAL in his report and by the circuit court in its analysis. While the language used in that section and section 15.1 of the Adoption Act is not identical, the factors are substantively similar, and the Adoption Act allows the court to review other relevant factors beyond those listed in section 15.1. Furthermore, our supreme court in *In re M.M.*, 156 Ill. 2d 53 (1993) explained as follows:

> "Obviously, best interests considerations under the Juvenile Court Act and the Adoption Act are not mutually exclusive. However, the juvenile court's best interests considerations, in the context of a termination proceeding, are limited to a determination of whether it is in the child's best interests to be freed for adoption. By contrast, best interests considerations in the context of an adoption proceeding concern the appropriateness of a particular adoption placement." *In re M.M.*, 156 Ill. 2d at 67.

¶ 60 We find that the record here supports the circuit court's finding that termination of Father's parental rights was in the minors' best interests. We make our determination based upon the circuit court's best-interest finding pursuant to the Adoption Act. See 750 ILCS 50/2.1 (West 2024)) ("This Act shall be construed in concert with the Juvenile Court Act of 1987 ***"); see also *In re A.S.B.*, 381 Ill. App. 3d 220, 221-22 (2008) (stating that, in cases under the Juvenile Court Act or the Adoption Act, "the goals of the termination proceedings are the same: (1) to determine whether the natural parents are unfit and if so (2) to determine whether adoption is in the child's best interests.").

¶ 61 On appeal, Father admits that "the majority of the statutory factors *** weigh in favor of termination," but argues that the "uniqueness of [Father's] situation" warrants a finding to the contrary. In support, he contends that Father never had the opportunity to develop the kinds of connections with the minors that would allow for the balance of statutory factors to weigh in his

favor. His incarceration also precluded him from providing for the minors, and he describes himself as being "successfully shut out of his children's lives."

¶ 62 Father also argues that there are factors that fall in his favor. He states that the minors deserved to get to know his three other children, adding that they would ask about their half-siblings when Father had parenting time. He further contends that the minors would not receive any greater permanence if his parental rights were terminated, because they would continue living with the petitioners even if the circuit court denied their petition—the only difference would be that Father could one day return to the minors' lives after his rehabilitation. Lastly, he argues that he displayed a commitment to bettering himself and becoming a better father.

¶ 63 Given Father's admission that the balance of the statutory best-interest factors weighs in favor of termination, we need not extend our discussion much further, as we find that the record clearly supports this position. As the circuit court stated in its order, the record shows that the minors clearly had much love, support, safety, and stability in the petitioners' home. Mother is the minors' biological mother, and the minors have been in her custody their entire lives. The uncontroverted evidence showed that Luke M. has developed a close, loving bond with the minors over the several years that he had been in their lives. The minors saw him, and not Father, as their father, and he treated them as his own children and wished to adopt them. He and Mother not only met all of the minors' needs, but also provided them with activities, extended family, and opportunities to build community ties.

¶ 64 Conversely, the evidence showed that the minors had none of this with Father, had few memories of him, and had not developed their identities with him. They did not have connections to his family. To the extent that they had any relationships with Father's other three children, the

testimony showed that they had little to no contact with their half-siblings throughout their lives; meanwhile, they had a sibling relationship with the petitioners' biological child.

¶ 65 Furthermore, Father's contention that he "never had the opportunity" to develop sufficient connections with the minors and was "shut out" of their lives ignores the fact that this was largely due to Father's own choices, which kept him incarcerated for much of the minors' lives. He also did not provide any meaningful support for the minors during the time that he was not incarcerated. Lastly, to the extent that he blames Mother for his lack of contact with the minors, the circuit court found it noteworthy that he never took action to assert his parental rights.

¶ 66 While we do not dispute that Father loves his sons, that is not the appropriate question at the best-interest stage. *In re D.T.*, 212 Ill. 2d at 364. In light of the testimony and the GAL report, we determine that the circuit court's best-interest determination was not against the manifest weight of the evidence where the evidence strongly supported a finding that the relevant statutory factors weighed in favor of termination.

¶ 67 III. CONCLUSION

¶ 68 For the reasons stated, the circuit court did not err in granting the petition for adoption and terminating the respondent's parental rights to the minors. The judgment of the circuit court is affirmed.

¶ 69 Affirmed.