NOTICE
Decision filed 10/09/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260258-U

NO. 5-26-0258

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 EMMA H., a Minor	)	Appeal from the
	)	Circuit Court of
(The People of the State of Illinois,	)	Saline County.
	)	
Petitioner-Appellee,	)	
	)	No. 24-JA-13
v.	)	
	)	
Chasity H.,	)	Honorable
	)	Amanda Byassee Gott,
Respondent-Appellant).	)	Judge, presiding.

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

ORDER

¶ 1 *Held*: The evidence was insufficient to prove the respondent mother unfit by clear and convincing evidence where no service plans were filed with the court or admitted into evidence and where court-ordered evaluations were not scheduled for her. We therefore reverse the order of the circuit court terminating parental rights.

¶ 2 The respondent, Chasity H. (Mother), appeals an order of the circuit court of Saline County terminating her parental rights.[1] She argues that (1) the circuit court's finding of unfitness was against the manifest weight of the evidence and (2) the circuit court and the Department of Children and Family Services (DCFS) failed to comply with the Kinship in Demand (KIND) Act

[1]The minor's father is unknown. The circuit court separately entered an order terminating the parental rights of two putative fathers and "any and all unknown fathers." That order is not at issue in this appeal.

(705 ILCS 405/2-27.3 (West 2024)). We reverse the order of the circuit court terminating Mother's parental rights and remand this matter for further proceedings consistent with this decision.[2]

¶ 3 I. BACKGROUND

¶ 4 A. Initial Proceedings

¶ 5 The minor, Emma H., was born late in July 2024. The State filed a petition for adjudication of wardship on July 30, 2024, alleging that Emma was neglected pursuant to section 2-3(1)(b) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(b) (West 2022)) in that her environment was injurious to her welfare. Specifically, the State alleged that (1) Mother was currently hospitalized for inpatient psychiatric care, had a history of psychiatric hospitalizations, and was "reported to have schizophrenia," which placed the minor at risk; and (2) Mother's parental rights to the minor's older sibling had been terminated previously, and Mother had not corrected the conditions which led to that sibling being removed from her care.

¶ 6 The circuit court held a shelter care hearing the same day, after which, it entered an order placing temporary custody of the minor with DCFS and appointing a guardian *ad litem* (GAL) for the minor.

¶ 7 The matter initially came for an adjudicatory hearing on October 1, 2024. However, Mother's attorney requested a continuance, explaining that he needed more time to consult with Mother because she had been hospitalized for psychiatric care for most of September 2024. The circuit court granted the request and set the matter for an adjudicatory hearing on October 8, 2024.

[2]This cause involves an accelerated appeal under Illinois Supreme Court Rule 311(a) (eff. July 1, 2018). Under Rule 311(a)(5), the appellate court is required to issue a decision within 150 days after the filing of a notice of appeal, except for good cause shown. Ill. S. Ct. R. 311(a)(5) (eff. July 1, 2018). Our decision in this case was due on or before August 24, 2026. However, counsel filed a motion to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967). Upon denial of that motion, this court established a new briefing schedule that was not complete until after that date. Under these circumstances, we find that good cause exists to issue our disposition outside the 150-day deadline.

At that hearing, Mother stipulated to the allegations of neglect in the petition. The circuit court entered an adjudicatory order on the same day, finding the minor neglected based on Mother's stipulation.

¶ 8 On November 12, 2024, Mother's attorney filed a motion to appoint a GAL for Mother, asserting that he had a *bona fide* doubt as to her competency. He stated that Mother did not appear to understand the nature of the litigation and was unable to discuss the case intelligently without the assistance of her mother.

¶ 9 Also on November 12, 2024, the matter proceeded to a dispositional hearing. In addressing the motion to appoint a GAL for Mother, counsel stated that his interactions with Mother led him to be concerned about her ability to understand the proceedings. The circuit court appointed a GAL for Mother without objection. The circuit court then moved on to hear the caseworker's testimony related to the dispositional decision. After finding that the appropriate disposition was to make the minor a ward of the court, the circuit court indicated that it would order a psychological evaluation and a parenting capacity assessment. The circuit court stated, "I just want to get those ordered so we can be moving toward those as quickly as possible."

¶ 10 The circuit court entered a dispositional order the same date finding Mother unfit and unable to care for the minor, making the minor a ward of the court, and establishing a goal of return home within 12 months. The circuit court also appointed a GAL for Mother and ordered Mother to undergo a psychological evaluation and a parenting capacity assessment.

¶ 11 On February 18, 2025, the circuit court held the first permanency review hearing in the case. Jennifer Short, the minor's caseworker from Lutheran Social Services of Illinois (LSSI), testified. When asked by the circuit court about the necessity of a parenting capacity assessment for Mother, Short indicated that such an assessment was needed. She explained, however, that "to

go through the agency in Swansea [Mother] would need to have a psychological evaluation from them before the Parenting Capacity Evaluation could take place." Short noted that scheduling a psychological evaluation through that provider "can take quite some time." The circuit court stated, "I will certainly order any appropriate evaluations to take place." The court urged Short to discuss the matter with her supervisor, and then stated, "I know these things take time and I want to make sure that we're not sitting here stagnant with none of these evaluations taking place." The circuit court entered a permanency order that day maintaining a goal of return home within 12 months and finding that Mother failed to make either reasonable efforts or reasonable and substantial progress toward that goal.

¶ 12 The next permanency review hearing took place on June 17, 2025. At the outset, the circuit court noted that the proposed permanency order provided by the State included a change of goal to substitute care pending determination of termination of parental rights. The circuit court asked whether the State intended to file a motion to terminate parental rights, and the State responded, "In about two months, Your Honor."

¶ 13 Caseworker Short was again called to testify. She indicated that Mother's parenting capacity assessment had been scheduled for June 13, 2025, but it had to be rescheduled for the middle of August because "the transporter with the agency" was unavailable on June 13 due to an emergency. Short explained that the psychological evaluation would be performed by the same provider as the parenting capacity assessment, and that provider required that the parenting capacity assessment be completed first.[3] When asked by the circuit court whether Mother had completed any of her services, Short noted that Mother had shown her a certificate of completion

[3]This is the reverse of what Short said at the previous hearing concerning the order in which the two evaluations had to be performed. The reason for this discrepancy is unclear.

from a four-hour parenting class. Short stated, however, that "the State does not accept that four-hour course," and that she told Mother she must take a course offered by Centerstone or Egyptian Health.

¶ 14 In a permanency review order entered on the same date, the circuit court found that Mother had failed to make either reasonable efforts or reasonable and substantial progress. The goal was changed to substitute care pending determination of termination of parental rights.

¶ 15 On August 6, 2025, the State filed a motion for termination of parental rights. It alleged that Mother was an unfit parent based on the following four grounds: (1) failure to maintain a reasonable degree of interest, concern, or responsibility for the minor's welfare (750 ILCS 50/1(D)(b) (West 2024)); (2) failure to protect the minor from conditions within her environment injurious to her welfare (750 ILCS 50/1(D)(g) (West 2024)); (3) failure to make reasonable efforts to correct the conditions that led to the removal of the minor during any nine-month period after adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2024)); and (4) failure to make reasonable progress toward the return of the minor during any nine-month period after adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2024)). The nine-month period identified by the State for both failure to make reasonable efforts and failure to make reasonable progress was October 8, 2024, to July 7, 2025.[4] The motion also contained allegations of unfitness against any and all unknown fathers. The State subsequently filed an amended motion for termination of parental rights adding allegations of unfitness against two putative fathers. The allegations against Mother were identical to those in the original motion.

[4]The motion also identified July 7, 2025, "through the date of filing this motion or 4-6-26, whichever comes first" as a second "nine-month" period.

¶ 16 On September 9, 2025, the matter came for a scheduled permanency review hearing and first appearance on the motion to terminate parental rights. However, Mother was not present at the hearing. Her counsel indicated that she had been admitted to Ingalls Memorial Hospital (Ingalls) for psychiatric treatment in connection with an order to restore her to fitness previously entered in a pending criminal case.[5] This case was therefore continued.

¶ 17 The next permanency review hearing took place on December 2, 2025. Mother appeared via Zoom. The first appearance on the motion to terminate parental rights that had been scheduled to take place during the same setting had to be reset because Mother had not been served with the motion to terminate her parental rights. Noting that the most recent permanency order was entered in June 2025, the circuit court proceeded with the permanency review hearing. It entered a permanency order on the same date, finding that Mother failed to make either reasonable efforts or reasonable and substantial progress. The goal remained substitute care pending determination of termination of parental rights.

¶ 18 B. Termination Hearing

¶ 19 The matter proceeded to a hearing on the State's motion to terminate on March 10, 2026. The sole witness to testify during the fitness portion of the hearing was LSSI caseworker Jennifer Short, who was assigned to the case in September 2024. She testified that she created a total of five service plans for Mother, the first of which was dated September 6, 2024. When asked what Mother was required to do, Short replied, "[Mother's] service plan includes cooperation, a parenting course, mental health assessment and treatment, substance abuse assessment and treatment, and safe and stable housing."

[5]Mother was found unfit to stand trial in a pending misdemeanor case in January 2025.

¶ 20 Next, Short identified People's Exhibits 1 to 3 as permanency reports filed in February, June, and September of 2025, and she identified People's Exhibit 4 as a permanency report filed "this year." She testified that Mother was rated as unsatisfactory for both reasonable efforts and progress during the periods of time covered by the first three reports. During the period covered by the last report, Mother made reasonable efforts, but she did not make reasonable and substantial progress. The permanency reports were admitted into evidence without objection.

¶ 21 Short was then asked about the service plans in effect during the same time frame. She testified that Mother's overall rating on the first service plan (dated September 6, 2024) was unsatisfactory. Asked if Mother completed any services "in that one," Short replied, "No. There were a few attempts made with a parenting course throughout the duration of the case, but there was never a successful completion until recently." The State asked, "And is that the same *** for your service plan dated [December 27, 2024]?" Short replied, "That's correct." Asked about a service plan dated July 11, 2025, Short testified, "It was still unsatisfactory." Asked if Mother was "still unsatisfactory for all services" on a service plan dated December 23, 2025, Short replied, "Correct." Finally, the State asked Short about a service plan dated January 9, 2026. She stated, "Still unsatisfactory even though there were some reasonable efforts in some certain parts of her service plan." The State did not offer copies of any of the service plans into evidence.

¶ 22 Short next testified about Mother's visits with the minor. She noted that Mother was initially offered four hours of "bonding time" each week. The visits she observed were "not as engaging as we like to see with bonding between mom and baby." She explained that Mother needed a lot of guidance from the case aid in comforting and caring for the baby. Short stated, "Sometimes it appeared almost as that she was afraid to talk to her or hold her." On April 11, 2025, the agency ended Mother's visit with the minor early due to what Short described as the "safety

concerns" of the case aid supervising visitation. Short explained that the case aid contacted her and informed her that Mother arrived for the visit wearing the same clothes she had worn the previous week and she "seemed very confused" and "distraught."

¶ 23 The April 11, 2025, visit was the last visit Mother had with the minor. Short testified that Mother failed to show up for the next three scheduled visits. She tried to contact Mother to determine whether there was a transportation issue, but she was unable to reach Mother for "a few months." When Short was able to contact Mother, she learned that there was a problem with transportation. She contacted Rides Mass Transit and learned that although the company does provide service between Shawneetown (where Mother resided) and Harrisburg (where her supervised visits occurred), rides must be scheduled 48 hours in advance. Short relayed this information to Mother. Asked if Mother ever made reservations for a ride after that, Short replied, "I don't think she didn't do it, I think it was just a misunderstanding of communicating with them 48 hours before she needed a ride." Asked if Mother requested additional visits with the minor, Short testified, "I don't know the exact date but around that time is when there was an issue with noncompliance with medication management and then there was an issue with [the Department of Human Services (DHS)] possibly sending her off to inpatient."

¶ 24 The State asked Short whether Mother had corrected the conditions that brought the minor into care. She replied, "I think that would be hard to do in [Mother's] case. The delay, the cognitive delay and the intellectual delays, I don't know that that's ever going to be rectified." She did not believe the conditions could ever be corrected.

¶ 25 In response to questions from the minor's GAL, Short testified that three other children were previously removed from Mother's care. Mother's rights to her third child were terminated; however, Short did not know whether Mother's rights to the first two children were likewise

terminated or she voluntarily relinquished her parental rights. In addition, Mother had a child who died. Short noted that whether the child was stillborn or died after birth was "undetermined." She testified that Mother wrapped the body in plastic and put it in the freezer, intending to wait for her boyfriend to be released from jail so they could bury the baby together. Short did not know when this incident occurred. She attributed Mother's inability to properly care for her children to what she characterized as "a delay, a cognitive delay." She opined, "I don't know that [Mother] has the capacity to understand how to parent at an adult level."

¶ 26 Short next testified about the services required of Mother. She explained that both the parenting capacity assessment and the psychological assessment Mother was required to complete were scheduled to occur during a period when Mother was admitted to Ingalls, which is located in Chicago. She noted that Mother was hospitalized there from August 1, 2025, to December 10, 2025, pursuant to a referral from a criminal case. Asked about the substance abuse assessment required of Mother, Short replied, "That was never a concern of mine, even though it's part of her service plan." She noted that Mother had never tested positive for any illegal substances. She testified that the assessment was not completed, but she did not indicate whether it was ever scheduled. Short stated that the only service Mother completed was a parenting class.

¶ 27 Short did not believe Mother could safely parent the minor. Her biggest concern was Mother's mental health, and she did not believe anything could fix the problem.

¶ 28 Short was next asked whether Mother had requested any visits with the minor since being released from Ingalls on December 10, 2025. She replied in the affirmative, but she did not recall precisely when Mother asked her about visits. Short testified that she went to Mother's residence on February 28, 2026, to conduct a home safety check to determine whether it was safe "to transport the child to her home and have a supervised visit there." The residence was deemed

unsafe for supervised visits at that time because there were no safety plugs in the electric outlets and no smoke detector near the bedroom. However, Mother subsequently sent Short pictures showing that she had purchased those items and rectified the problems.

¶ 29 On cross-examination, Short acknowledged that because Mother rectified the conditions making supervised visits in her home unsafe, there was nothing to prevent such visits from occurring. She testified that after Mother was discharged from Ingalls, she completed a six-week in-person parenting class offered by Egyptian Health in Carmi. Short explained, "Eldorado is closer to her[;] however they wanted her to complete that online and she couldn't quite understand how to do the online part of it so she was taken to the Carmi location where she completed it in person." Short did not know what, if any, services were available to Mother while she was hospitalized.

¶ 30 Asked if she filed any of the five service plans with the circuit court, Short replied,

> "I don't think I filed all five, no. *** I did not look to see but I was certain that the last court report that I filed there was also her most updated service plan that was filed. But I did not go back to my computer after it was e-filed to check to see that both of them were e-filed."

¶ 31 The circuit court questioned Short concerning the timing of Mother's 2024 admission for psychiatric treatment. Short indicated that Mother was hospitalized at the University of Illinois hospital in Chicago when the minor was born (in July 2024). She was subsequently released, at which time she returned to Saline County. However, Short did not know the precise dates of Mother's admission or release.

¶ 32 On its own motion, the circuit court took judicial notice of an order finding Mother unfit to stand trial and ordering treatment in Saline County case No. 23-CM-122. That order was entered

on January 13, 2025. The circuit court then asked the caseworker and counsel when Mother was admitted for treatment pursuant to that order. Mother's counsel explained that despite the order, DHS did not immediately admit Mother for treatment because "they believed without medical evidence that [Mother] could do outpatient rehabilitation rather than be admitted." She was eventually admitted in August 2025.

¶ 33 At the State's request, the circuit court took judicial notice of the permanency orders it entered in this case. In addition, the State asked the court to judicially notice an order terminating Mother's parental rights to one of her older children in Saline County case No. 19-JA-56. The circuit court agreed to do so with no objection. Mother's counsel offered into evidence Respondent's Exhibit A, a certificate showing that she successfully completed a four-hour parenting class on June 2, 2025. It was admitted without objection. Mother did not present any additional evidence or call any witnesses.

¶ 34 Announcing its findings from the bench, the circuit court noted that the reasons the minor came into care "primarily relate to the mental health issues and concerns of the mother which remain outstanding." The circuit court emphasized that Mother's mental health problems "were so serious and concerning" that she was hospitalized for psychiatric treatment for a significant portion of the time this case was pending. The circuit court noted that during these admissions, Mother "could have virtually no relationship with her minor child." Further, the circuit court found that she failed to maintain any interest or concern even when she was available to do so. The circuit court found that Mother failed to protect the child from conditions in her environment that were injurious to her welfare. In support of this finding, the circuit court stated that Mother had not been proactive in seeking and remaining in treatment and reiterated that Mother's mental health was the primary condition making the minor's environment injurious to her welfare. Finally, the circuit

court noted that its permanency orders reflected Mother's lack of both substantial progress and reasonable efforts. The circuit court thus found that the State had proven all four asserted grounds of unfitness by clear and convincing evidence.

¶ 35 The circuit court then moved on to the best interest portion of the hearing. Because Mother does not challenge the circuit court's best interest determination, we may defer discussion of the testimony presented. Announcing its ruling from the bench, the circuit court found that termination of Mother's parental rights was in the best interest of the minor.

¶ 36 On March 11, 2026, the circuit court entered a written order terminating Mother's parental rights. Mother filed a timely notice of appeal on March 26, 2026.

¶ 37 II. ANALYSIS

¶ 38 On appeal, Mother argues that (1) the circuit court's findings of unfitness were against the manifest weight of the evidence and (2) the DCFS did not comply with the KIND Act. We agree with her first contention. Because we reverse the order terminating her parental rights on this basis, we need not address Mother's arguments related to the KIND Act.

¶ 39 A. The Circuit Court's Findings of Unfitness

¶ 40 The right of a parent to raise his or her child is fundamental. *In re Gwynne P.*, 215 Ill. 2d 340, 354 (2005). Terminating this right involuntarily involves a two-step process. First, the State must prove the respondent parent unfit by clear and convincing evidence. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶ 62. If the circuit court finds the parent unfit, the proceedings progress to the second step, during which the State must prove by a preponderance of the evidence that termination of parental rights is in the minor's best interest. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶ 73.

¶ 41 Courts have long recognized that parental rights are of deep importance and, as such, they must not be terminated lightly. *In re D.T.*, 212 Ill. 2d 347, 364 (2004). It is for this reason a finding

of unfitness must be supported by clear and convincing evidence. *In re D.T.*, 212 Ill. 2d at 364. In addition, the decision to find a parent unfit must be based solely on properly admitted evidence. *In re Soren W.*, 2026 IL App (5th) 251004, ¶ 71; *In re M.D.*, 2022 IL App (4th) 210288, ¶ 83. Due to the importance of the rights at stake, in determining whether the circuit court's findings of unfitness were supported by clear and convincing evidence, this court will thus decline to consider inadmissible evidence such as the permanency reports. See *In re Dar. H.*, 2023 IL App (4th) 230509, ¶ 49 (declining to consider evidence presented during the permanency review hearings "[b]ecause of the different evidentiary standards governing fitness and permanency hearings"); *In re Soren W.*, 2026 IL App (5th) 250997-U, ¶ 47 n.5 (declining to consider judicially noticed permanency reports because they are inadmissible)[6]; see also *In re M.D.*, 2022 IL App (4th) 210288, ¶ 82 (stating that permanency reports constitute inadmissible hearsay during termination proceedings).

¶ 42 On appeal, we give great deference to the circuit court's unfitness findings because that court had the opportunity to observe and evaluate the parties and their testimony. *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1064 (2006). As such, we will reverse a finding of unfitness only if it is against the manifest weight of the evidence. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶ 63. A decision is against 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.

¶ 43 Here, the State asserted four grounds for unfitness, alleging that Mother (1) failed to protect the minor from conditions in the minor's environment that were injurious to her welfare (750 ILCS

[6]We cite *In re Soren W.*, 2026 IL App (5th) 250997-U, as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. Jan. 1, 2021).

50/1(D)(g) (West 2024)); (2) failed to make reasonable efforts to correct the conditions that led to the minor's removal during any nine-month period after adjudication of neglect (750 ILCS 50/1(D)(m)(i) (West 2024)); (3) failed to make reasonable progress towards the return of the minor to her custody during any nine-month period after adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2024)); and (4) failed to maintain a reasonable degree of interest, concern, or responsibility for the minor's welfare (750 ILCS 50/1(D)(b) (West 2024)). Because a parent may be found unfit if the State proves any one of the statutory grounds for unfitness by clear and convincing evidence, we will affirm the trial court's decision if the evidence supports its finding as to any of these grounds. *In re Baby Boy*, 2025 IL App (4th) 241427, ¶¶ 63-64. We do not believe the evidence was sufficient to support the circuit court's findings of unfitness on any of the four grounds asserted.

¶ 44 1. *Failure to Protect from Conditions Injurious to the Minor's Welfare*

¶ 45 A finding of unfitness under section 1(D)(g) of the Adoption Act (750 ILCS 50/1(D)(g) (West 2024)) is "warranted where the evidence establishes that the parent failed to protect the child from conditions in the child's environment injurious to the child's welfare." *In re C.W.*, 199 Ill. 2d 198, 212 (2002). The focus must be on the minor's environment before removal, not on the parent's environment while the minor is in foster care. *In re C.W.*, 199 Ill. 2d at 212-13. A parent can be found unfit for failing to protect the minor from conditions in the environment before removal even if those same conditions led to the removal. *In re C.W.*, 199 Ill. 2d at 219.

¶ 46 Here, the primary condition in the minor's environment alleged to be injurious to her welfare was Mother's mental health. Although the State presented no evidence concerning Mother's psychiatric diagnoses, the circuit court took judicial notice of a previous juvenile case in which Mother's parental rights were terminated due to concerns about her mental health. In

addition, as the circuit court observed, Mother's mental health conditions were severe enough to warrant inpatient psychiatric care on at least two occasions during the pendency of this case. However, we do not believe the mere existence of a condition injurious to a minor's welfare in her environment is sufficient to support a finding of unfitness on this ground. Rather, "a finding of parental unfitness is only warranted where the evidence establishes that the parent *failed to protect the child* from" such conditions. (Emphasis added.) *In re C.W.*, 199 Ill. 2d at 212.

¶ 47 The record in this case is devoid of clear and convincing evidence that Mother failed to take any particular steps to protect the minor. There is no evidence, for example, that Mother left the psychiatric hospital against medical advice or attempted to keep the minor with her while she underwent treatment. Indeed, Mother testified at the shelter care hearing that she planned to place the minor in the temporary custody of her father and to reside with her father upon discharge from the hospital. While the evidence in this case demonstrates the existence of a condition in the minor's environment injurious to her welfare prior to entering care, it does not establish by clear and convincing evidence that Mother failed to take steps to protect the minor from that condition. We therefore conclude that the finding of unfitness on this ground was against the manifest weight of the evidence.

¶ 48 2. *Reasonable Efforts and Reasonable Progress*

¶ 49 Failure to make reasonable efforts to correct the conditions that brought the minor into care and failure to make reasonable progress toward her return are two distinct grounds for parental unfitness. *In re Daphnie E.*, 368 Ill. App. 3d at 1066. We assess a parent's reasonable efforts by a subjective standard based on the amount of effort that is reasonable for that particular parent. *In re Daphnie E.*, 368 Ill. App. 3d at 1066-67. This requires us to consider "whether the parent has made

earnest and conscientious strides toward correcting the conditions that led to the removal of the minor from the home." *In re P.S.*, 2021 IL App (5th) 210027, ¶ 34.

¶ 50 By contrast, we measure reasonable progress by an objective standard. *In re Daphnie E.*, 368 Ill. App. 3d at 1067. The benchmark for measuring reasonable progress is "compliance with the service plans and the court's directives, in light of the condition which gave rise to the removal of the child, and in light of other conditions which later become known and which would prevent the court from returning custody of the child to the parent." *In re C.N.*, 196 Ill. 2d 181, 216-17 (2001). "At a minimum, reasonable progress requires measurable or demonstrable movement toward the goal of reunification." *In re Daphnie E.*, 368 Ill. App. 3d at 1067. A parent has made reasonable progress when the circuit court, "in the *near future*, will be able to order the child returned to parental custody." (Emphasis in original.) *In re L.L.S.*, 218 Ill. App. 3d 444, 461 (1991).

¶ 51 Although failure to make reasonable efforts and failure to make reasonable progress are different and distinct, both grounds require the circuit court to consider Mother's compliance with the court's directives and the requirements of her service plans. *In re M.I.*, 2016 IL 120232, ¶ 39; *In re C.N.*, 196 Ill. 2d at 216-17; *In re Mikayla M.*, 2023 IL App (5th) 220820-U, ¶ 63. That is difficult to do where, as here, the record contains no service plans. In addition, a parent cannot be found unfit for failure to complete required services where the agency does not keep the parent apprised of those requirements. *In re T.D.*, 268 Ill. App. 3d 239, 247 (1994); *In re Charlie V.*, 2025 IL App (5th) 241085-U, ¶ 28; *In re K.G.*, 2023 IL App (5th) 230148-U, ¶ 32.[7] The record in this case obviously does not contain service plans with Mother's signature acknowledging receipt, and the caseworker did not testify that she ever provided Mother with copies of her service plans.

[7]We cite *In re Charlie V.* and *In re K.G.* as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. Jan. 1, 2021).

¶ 52 Moreover, while the caseworker testified that Mother's required services included a psychological evaluation and a substance abuse assessment, and the record reveals that the circuit court ordered a parenting capacity assessment, none of these assessments were arranged for Mother. The parenting capacity assessment was initially scheduled to take place in June 2025, near the end of the relevant nine-month period, but it was postponed due to circumstances beyond Mother's control. It was then rescheduled for August 2025, which was after the end of the nine-month period and Mother was unable to undergo the assessment at that time because she was admitted for psychiatric treatment to render her fit to stand trial. The caseworker offered inconsistent testimony regarding the psychological evaluation. She first testified that it could not be completed until after the parenting capacity assessment was completed; she later testified that the psychological evaluation was likewise scheduled to take place while Mother was admitted to Ingalls during the second half of 2025. Similarly, the State offered no evidence that a substance abuse assessment was ever scheduled for Mother. The caseworker testified that substance abuse was not one of her concerns, yet completing the assessment remained part of Mother's service plan.

¶ 53 Significantly, there is no evidence that Mother refused to participate in any of these assessments or simply failed to show up when they were scheduled for her. As stated above, the right of a parent to raise his or her child is a fundamental right of deep importance. See *In re Gwynne P.*, 215 Ill. 2d at 354; *In re D.T.*, 212 Ill. 2d at 364. Given the importance of parental rights, we do not believe a parent can be found unfit based on a failure to complete evaluations she is given no opportunity to complete. See *In re D.D.*, 2022 IL App (1st) 220410, ¶¶ 89-90 (explaining that an assessment of a parent's substantial completion of required services "is contingent on the availability of services" (citing 750 ILCS 50/1(D)(m) (West 2020))).

¶ 54 Based on the caseworker's testimony, the only other services Mother was required to complete included taking a parenting class and finding safe and adequate housing. With respect to the parenting class, Mother's caseworker testified that there were "a few attempts made with a parenting class throughout the duration of this case," including completion of a four-hour online course in June 2025. Although it is true that Mother did not complete a DCFS-approved parenting course during the applicable nine-month period, there is no evidence that LSSI ever referred her to a qualifying parenting class during the nine-month period, and the only evidence she was ever told which classes DCFS would accept was her caseworker's testimony that she imparted this information to Mother after Mother presented a certificate of completion from the four-hour class she took near the end of the nine-month period.

¶ 55 With regard to housing, the State offered no testimony concerning any actions Mother did or did not take to address her housing situation during the applicable nine-month period. We note that there was some evidence in the permanency reports that the residence where Mother lived during the nine-month period lacked heat and was infested with mice. However, as we have discussed, the permanency reports were not admissible at the fitness portion of a termination hearing and should not have been considered. Moreover, there is no indication in the record that Mother was aware that housing was a required service during the nine-month period at issue. As such, the circuit court's findings of unfitness for failure to make both reasonable efforts and reasonable progress are contrary to the manifest weight of the evidence.

¶ 56 3. *Reasonable Degree of Interest, Concern, or Responsibility*

¶ 57 In considering whether a parent has failed to maintain a reasonable degree of interest, concern, or responsibility for the welfare of the minor, our "focus is on the parent's reasonable efforts more so than the parent's success." *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36. Thus, we

must take into account any circumstances that made it difficult for the parent to demonstrate the requisite reasonable degree of interest, concern, or responsibility. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36. However, a parent cannot avoid a finding of unfitness by merely showing *some* interest, concern, or responsibility; rather, the question is whether the parent's interest, concern, and/or responsibility is *reasonable*. *In re M.I.*, 2016 IL 120232, ¶ 30. In addition, because the statutory language is disjunctive, any one of the three elements may provide a basis for a finding of unfitness. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36. That is, a parent may be found unfit for failing to maintain a reasonable degree of interest or responsibility or concern. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36.

¶ 58 A parent's failure to comply with service plan requirements and/or inconsistent visitation with the minor are generally sufficient to support a finding of unfitness on this ground. *In re D.P.*, 2024 IL App (1st) 231530, ¶ 33 (quoting *In re Nicholas C.*, 2017 IL App (1st) 162101, ¶ 24). Here, the State argued that Mother failed to maintain a reasonable degree of interest, concern, or responsibility for the minor's welfare both because she did not comply with her service plan requirements and because she did not regularly attend visits with the minor. We do not believe the record before us supports a finding of unfitness on this ground for either of these reasons.

¶ 59 We have already concluded that the record does not contain clear and convincing evidence that Mother failed to comply with the requirements of her service plans between October 8, 2024, and July 7, 2025. In determining whether a parent has maintained a reasonable degree of interest, concern, or responsibility for the minor's welfare, however, our consideration is not limited to this nine-month period. *In re D.P.*, 2024 IL App (1st) 231530, ¶ 33; *In re Alexander R.*, 377 Ill. App. 3d 553, 556 (2007). When we view Mother's efforts to complete services over the entire time this case was pending, the evidence is even thinner. As we have discussed, Mother eventually

completed a parenting class that satisfied DCFS's requirements. Although she did not complete the program until February of 2026, we must consider obstacles she faced in doing so. *In re Za. G.*, 2023 IL App (5th) 220793, ¶ 36; *In re D.D.*, 2022 IL App (1st) 220410, ¶ 82; *In re M.J.*, 314 Ill. App. 3d 649, 656 (2000). Here, there was evidence that Mother lacked transportation and did not understand how to log in to complete the online program recommended to her by LSSI. Once the agency provided her with transportation to an accepted program, she completed it.

¶ 60 As to housing, the only pertinent evidence was the caseworker's testimony that the residence Mother shared with her mother failed a home safety check in February 2026 and that Mother corrected the conditions that caused the residence to fail before the termination hearing, less than two weeks later. As discussed above, there was some evidence in the permanency reports that Mother lacked safe and adequate housing during the nine-month period at issue for purposes of reasonable efforts and reasonable progress, but there was no admissible evidence concerning anything Mother did or failed to do regarding housing during that period, and there was no evidence that she knew what was required of her. Overall, while there was some evidence that Mother did not fully comply with the requirements of her service plan, it does not rise to the level of clear and convincing proof that she failed to maintain a reasonable degree of interest, concern, or responsibility for the minor's welfare.

¶ 61 We likewise find that the record lacks clear and convincing evidence that Mother failed to demonstrate reasonable interest, concern, or responsibility due to inconsistent visitation. The caseworker's testimony established that Mother began missing scheduled visits in April of 2025 due to her inability to understand what she needed to do to arrange transportation through Rides Mass Transit. Although the caseworker relayed to Mother the need to schedule transportation 48 hours in advance, she specifically testified that she did not think Mother understood this

requirement. There is no indication that any effort was made to help Mother arrange transportation with Rides Mass Transit, to provide her with alternative transportation, or to arrange visits in the community closer to where Mother lived.

¶ 62 Further, while the evidence established that Mother had no visits with the minor after April 11, 2025, the record does *not* establish that Mother failed to request visitation. When asked if Mother requested visitation between April 2025 and her August 1, 2025, admission to Ingalls, the caseworker's response was unclear. She stated only that she did not know "the exact date but around that time is when there was an issue with noncompliance with medication management and then there was an issue with DHS possibly sending her off to inpatient." This suggests that Mother did request visitation at least once during this period. Clearly, Mother could not attend visits with the minor while she was admitted to Ingalls, and she again requested visitation after she was discharged from Ingalls and quickly corrected the safety issues that initially prevented LSSI from arranging for supervised visits in her residence. Thus, while it is true that Mother had no visits with the minor for 11 months before her rights were terminated, the record reveals that she made reasonable efforts to do so under the circumstances.

¶ 63 We acknowledge that one of the impediments to setting up visits between April and July of 2025 was Mother's inconsistent communication with her caseworker. This provides some evidence of a lack of reasonable interest, concern, or responsibility; however, it does not constitute clear and convincing proof when viewed in conjunction with the other evidence we have discussed. For these reasons, we conclude that the circuit court's finding of unfitness for failure to maintain a reasonable degree of interest, concern, or responsibility for the minor's welfare was against the manifest weight of the evidence.

¶ 64 Because we have concluded that the circuit court's findings of unfitness on all four grounds were contrary to the manifest weight of the evidence, we must reverse its finding that Mother is an unfit parent. Although Mother does not challenge the circuit court's finding that terminating her rights is in the minor's best interest, a finding of parental unfitness is a prerequisite to a determination that termination is in a minor's best interest. *In re A.H.*, 2025 IL App (4th) 250026, ¶ 49; *In re Lorin V.*, 2026 IL App (5th) 260359-U, ¶ 23.[8] Therefore, we must also reverse the circuit court's best interest finding and the order terminating Mother's parental rights.

¶ 65 B. Potential Issues on Remand

¶ 66 Technically, remand is unnecessary because our decision to reverse the order terminating Mother's parental rights "is sufficient to return the case to where it stood before [Mother's] parental rights were terminated." *In re A.H.*, 2025 IL App (4th) 250026, ¶ 50. The circuit court thus "retains the authority to entertain a renewed petition to terminate [Mother's] parental rights in the ongoing proceeding" should the State opt to file such a motion. *In re A.H.*, 2025 IL App (4th) 250026, ¶ 50. However, we find it necessary to address certain issues that occurred below and are likely to persist during the continuing proceedings.

¶ 67 First, as we have discussed, none of the service plans created for Mother have been filed with the circuit court. Under the Juvenile Court Act, DCFS or an agency providing services under its auspices must file a service plan within 45 days after a minor enters care. 705 ILCS 405/2-10.1 (West 2022). Because this requirement is considered "directory" rather than "mandatory," failure to file the service plan in a timely manner does not deprive the circuit court of authority to enter a dispositional order. *In re L.O.*, 2016 IL App (3d) 150083, ¶ 21. However, the circuit court has an

[8]We cite *In re Lorin V.* as persuasive authority in accordance with Illinois Supreme Court Rule 23(e)(1) (eff. Jan. 1, 2021).

obligation to review the services required of a parent to ensure such services are appropriate and that they are being provided. See 705 ILCS 405/2-22(1), 2-28(2)-(4) (West 2022). As such, it is incumbent on the court to insist that LSSI or DCFS file any additional service plans created for Mother going forward.

¶ 68 In addition, as discussed above, the circuit court must consider the service plans in determining whether a parent has made reasonable efforts to correct the conditions or reasonable progress toward the minor's return. See *In re M.I.*, 2016 IL 120232, ¶ 39; *In re C.N.*, 196 Ill. 2d at 216-17. Therefore, if the State files a new motion to terminate Mother's parental rights and again asserts that she is unfit for failure to make reasonable efforts or reasonable progress, the State must offer into evidence the service plans applicable to any and all relevant nine-month periods.

¶ 69 Second, as mentioned above, permanency reports are not admissible at a hearing to determine parental fitness during termination proceedings. *In re Soren W.*, 2026 IL App (5th) 251004, ¶ 72; *In re M.D.*, 2022 IL App (4th) 210288, ¶ 82. We recognize that Mother failed to object to the admission of the permanency reports during the hearing and that she also did not raise this issue on appeal. *In re M.W.*, 232 Ill. 2d 408, 430 (2009); Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). However, due to the nature of the rights at stake, the circuit court has a responsibility to ensure that only admissible evidence is considered. See *In re M.D.*, 2022 IL App (4th) 210288, ¶¶ 87-88 (stating that circuit courts have an obligation to ensure that only admissible evidence is judicially noticed in termination proceedings). Thus, if the State files another motion to terminate Mother's parental rights, the circuit court should not admit or consider inadmissible evidence such as permanency reports in ruling on that motion.

¶ 70 III. CONCLUSION

¶ 71 For the foregoing reasons, we reverse the order of the circuit court terminating Mother's parental rights. We remand the cause for further proceedings consistent with this decision.

¶ 72 Order reversed; cause remanded for further proceedings consistent with this decision.