

Comments

Article I, Section 1-102

Definition of a child placing agency – a child placing agency should be defined as **a child placing agency licensed by the State in which they are incorporated**. I don't think it needs any further clarification than that. For example, Wasatch Adoptions 'places' children from foreign countries with U.S. adoptive families, but we *never* take custody of a child. The same with our 2nd chance program – we help match families who want to dissolve their adoption with prospective adoptive families who are interested in adopting a child from a dissolved adoption, but no agency in their right mind would take custody of these children. Once a match is made, we then require each family hire their own adoption attorney and the lawyers help these families legally complete the adoption. Neither Wasatch nor these attorney's ever take custody of the child being adopted. Right now, the definition of a child placing agency seems to be that 'under the law of this state a child placing agency facilitates adoptions by receiving, accepting, or exercising custody of the child pending an adoptive placement or other substitute care'. We don't receive, accept or exercise custody of any of the children we place. If this is the definition of a child placing agency with regards to this proposed law, we would not meet this definition.

Should attorneys be involved in the definition of child placing agency? No. Unless licensed by the state as a child placing agency, attorneys do not take custody of children. In the state of Utah, attorney may not take relinquishment of parental rights, whereas a licensed child placing agency can. Attorneys rely on licensed child placing agencies or the courts to provide relinquishment of parental rights. Attorneys can only provide legal services and cannot perform the typical social services that may be required by law, such as counseling.

Resident vs citizen – Citizenship should take priority over residency. Internationally adopted children fit into the following three categories:

1. Children who come home on IR/IH 3 visa gain automatic citizenship when they reside in the US. **The adoption is full and final in the foreign country and the parents saw the child prior to finalization.** This law applies to them.
2. Children who come home on an IR/IH 4 visa will be given a green card upon residing in the US. **This group is for children who had the adoption finalized in the foreign county but neither parent saw the child prior to finalization.** Adoptive Parents must finalize in the adoption in their state of residence. Once the adoption is finalized in their state of residence, the family can file paperwork for a Certificate of Citizenship. This is a grey area based upon 22 CFR 96.50.
3. Children who come home on an IR/IH 4 visa will be given a green card upon residing the US. **This group is for children whose adoptions were not finalized in the foreign country and must be finalized here in the US.** These disrupted adoptions must follow 22 CFR 96.50. This law should not apply to these disruptions and the Federal law should supersede in this instance.

There is no distinction between Hague and non-Hague countries anymore due to the Universal Accreditation Act of 2012.

It has been our experience that almost all of the children from a dissolved adoption are U.S. citizens. Very, very seldom do we place a child whose original adopting family has not yet obtained citizenship for their child. The ones who do not have citizenship would fall under number 2 of the above list. It has been our experience that the new adopting family can file for citizenship in these circumstances once the adoption has been finalized.

The Marshall Islands – *An adoption of a child born in the Marshall Islands is considered an international adoption* and adoptive parents must follow the international adoption process in order to bring their child into the U.S. A child will acquire U.S. citizenship upon entry into the U.S. if the adoption was finalized in the Marshall Islands and the adoptive families filed for and obtained a U.S. visa to enter the U.S. for their child from the U.S. Consulate in Manila, Philippines. It is our understanding the coming to the US for the purpose of having a child to place for adoption is against the agreement with the Marshall Islands.

Article II Subsection

Parent Education – Our feeling is that there needs to be some parent education for people who want to adopt a child from dissolution. However, 30 hours of parent education is extreme. It has been our experience that successful placement is not contingent upon the amount of training but the quality of the training. Secondary placements, especially when dealing with children adopted internationally, typically have much better and more accurate information. Quality in the referral information leads to quality in the education.

Child Information provided to adoptive parents –

Available information needs to be better defined. It has been our experience that adoptive parents have been forthcoming with information on their adopted child. However, under some circumstances, the information *must* be withheld from prospective adoptive parents. Information sealed under court order, foster care, and information not obtained from the source is prohibited under Utah State Law. It puts the onus on the agency to obtain volumes of information they may not legally be entitled to. For instance, can the agency obtain medical information from doctors? Will schools provide information directly to an agency? It's been our experience that once an agency reaches out to a 3rd party, the 3rd party tried to have either the parents or the agency investigated or both. Some 3rd parties may find the practice of secondary or tertiary placements as abhorrent and intentionally withhold information. There may be similar issues when the child came from foster care, where the states have been less than forthcoming with information.

The law should allow for the broad sharing of information provided all identifying information has been removed or redacted, thus protecting the dissolving family and the child and reduces the risk of information being shared after a family declines to adopt a child.

I believe that this law should ask that all information from foster care records be shared with the agency working with the dissolving families and the prospective adoptive families. In our experience sometimes the foster care folks will provide information to the new adoptive family once the new adoptive family finalizes the adoption but not until that time.

Agency Failure to Comply –

Fraud is already covered by other legislation. Adding additional penalties under this proposed law seems overkill.

Why not say that if information is deliberately withheld by the *dissolving family* then the dissolving family can be sued? What about the foster care records which aren't shared with anyone? Why not compel the foster care system in all states to share their records on the child with the agency and with the dissolving family? We place foster kids all the time through our 2nd chance program and these families who first adopted these kids didn't get sufficient information from the foster care agency before they adopted the child or even after they adopted the child. This is why these dissolving families end up in our program. If they would have known from the foster care system what was wrong with the child they adopted they probably would never have adopted the child in the first place. Parents tell us this ALL the time.

Time Management – this should be changed to bonding management. Time management sounds discriminatory against people who work outside the home.

Article III

Prohibited Transfer – Questions:

- Will *legal risk adoptions* be allowable under this law? Will temporary or conditional relinquishments be allowable?
- Time limits –
 - Due to the nature of high risk adoptions, we suggest that we there be a mandatory time between placement of the child in the home and finalization. Some states allow the adoption to be finalized almost immediately after transfer of custody. We recommend a six month post placement phase where the prospective placement can be monitored. This would not extend to intra-family transfers of custody.
 - Biological children verses adopted children. Adopted children should not be classified as special; by statute once adoption is finalized they have all the rights of a biological child. To differentiate between the two is discrimination.
- Guilty of a class B misdemeanor. Unregulated transfers should have a penalty attached. It is our opinion is that if the penalty is strict, families would be encouraged to not seek help for placements for fear of punishment. The lesser the penalty the increased chance people use the correct method of placing children for a secondary or tertiary placement.

Our stance is there should be no legal difference between an adopted child and a biological child. We feel this section is covered by existing state law and is redundant. Maybe have each state site the appropriate law that is already on the books rather trying to reconcile this 'new' section.

Advertising

I think it's fine for state foster care and agencies to advertise the availability of children who need a new family. I do not think that individuals, social workers, lawyers, professional counselors, etc., should be able to advertise, period.

Criminal sanctions – there are already laws on the books regarding child trafficking, selling children, etc. I don't know that stricter laws do anything but drive this underground rather than solve the problem. Instead of writing a lot of regulatory rules, it might help if these dissolving families were given a legal way to find new families for their children rather than being punished by society and the foster care system who file charges against them.

Wasatch International Adoptions understands the need for legal guidelines to be in place that can prevent child trafficking of children. However, when writing the regulations we urge all members of this committee to recognize the fact that adoptive parents who find they cannot parent the child they adopted are desperate to find a legal way to place their child with a new adoptive family. They are for the most part good people who adopted the child so the child could be part of a safe and loving family. When things didn't go as expected and the child they adopt has more problems than they can handle, these adoptive families need our compassion and understanding. But most of all these families need to know there is a legal way to place their child with a new adoptive family. Loading the regulation with legal penalties might drive parents deeper underground to search for solutions if punishment for breaking the law is all that discussed in the regulations. Maybe there could be some suggestions or guidance included in the regulations that would be helpful for families who want to dissolve their adoptions as well as the warnings if it is done illegally.

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