

Bridges



Association of Administrators of the Interstate Compact on Adoption and Medical Assistance

Fall 1999

NEW YORK STATE'S LONGEST WAITING CHILDREN

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What are the characteristics of children waiting the longest for adoptive placements? Are delays more likely for children with certain types of special needs? To answer these questions, a recent study, using New York State's adoption photolisting service, identified the characteristics of 100 children waiting the longest time for adoptive placement in the state's child welfare system as of year-end 1998. The study includes in-depth interviews with the children's caseworkers to elicit their opinions on why the child in their care had not been placed for adoption sooner, and what particular factors would improve their chances of placement.

Entry Into Care and Time in Care

Results indicate that the longest-waiting children in the sample had spent an average of 11.8 years waiting for placement—effectively their entire childhoods. These children were significantly more likely than children placed more quickly to have substantial disabilities. Furthermore, they were more likely than children placed more quickly

to have siblings in the system, but less likely to be in a group with these siblings being together. Compared to the gender and race makeup of children who get placed more quickly, a higher proportion of the longest-waiting children were male and black.

Children experiencing significant delays in placement were more likely to be older when they entered care, the majority of them entered care because of neglect rather than abuse, and were not voluntarily relinquished into the system by their birth parents. There were no significant differences in the total

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time black and white children in the sample had spent in care. There were, however, differences in age at entry into care for children with different levels of disabilities. Children with no significant medical or psychological problems entered the system at significantly younger ages than children with multiple problems or children with only one problem.

Current Placement and Experiences in Care

Approximately 31% of children in the sample currently resided in institutional settings, 36% in non-kinship foster homes, 10% in group homes, and 22% in other facilities. Approximately 58% of children in the sample still have a goal of adoption, 16% have a goal of independent living, 10% have a goal of adult custodial care, and 15% of the children have either refused adoption or were in transition regarding their goal status.

Results indicate that children in the sample have experienced significant instability in placement and supervision since coming into care. Sixty-six percent of the children had experienced more than one placement since coming into care and 40% had experienced more than seven placements. Furthermore, only 14% of children had the same caseworker during their time in care, while 22% had two caseworkers, 32% had between three and five caseworkers, and 31% had experienced six or more caseworkers during the current placement in care. While two-thirds of the children had remained under the supervision of the same agency, 27% had two agencies involved in their care, and 10% had three or more agencies involved during this placement in foster care.

Adoption Inquiries

Caseworkers were asked to review the case file and document all adoption inquiries that had been received for the child. One of the most interesting findings of the study was the fact that potential adoptive parents had expressed interest in adoption for more than half the children in the sample at some point in time. Approximately 36% of the children had received one or more adoption home study and 11% had received six or more. Adoptive placements had been attempted for more than 53% of children in the sample, two or more attempts had been made for 23% of them, while adoption by the child's current foster parents had been explored in 75% of cases.

Caseworker Beliefs and Opinions

The study questionnaire allowed for in-depth investigation of caseworker beliefs and attitudes regarding the ultimate success of placement efforts for the child in their care and led to some surprising results. When asked the question "Do you believe that this child is ultimately adoptable," 41% of caseworkers said "no," 26% said "yes," and 26% said "maybe." When asked the question "Does your agency believe that this child is ultimately adoptable," 41% of caseworkers said "no," 19% said "yes," and 28% said "maybe." Furthermore, only 36% of caseworkers thought that adoption was still a viable plan for the child, with 33% saying it was not and 31% saying they were not sure. Furthermore, caseworkers were asked their opinions regarding types of adoptive homes they would regard as appropriate for the child. Forty-four percent of caseworkers regarded placement with gay/lesbian parents as not appropriate, 42% regarded a trans-racial placement as not appropriate, 41% thought that homes with other children were not appropriate, and 35% thought that single-parent homes were not appropriate.

In open-ended responses caseworkers stated that adequate pre-adoptive training and preparation, intensive post-adoption support services, and realistic expectations would be prerequisites for successful placement of the child. Caseworkers were then asked what particular resources would be most helpful in placing the child for adoption.

When asked their opinions regarding the most significant barrier to placement for the child in their care, the vast majority of caseworkers stated that it was the child's medical or psychiatric condition that presented challenges that were "too severe" for most adoptive parents. In open-ended responses caseworkers stated that adequate pre-adoptive training and preparation, intensive post-adoption support services, and realistic expectations would be prerequisites for successful placement of the child. Caseworkers were then asked what particular resources would be most helpful in placing the child for adoption. They identified the availability of respite services (78%), intensive adoptive parent training (73%), intensive post-placement services (67%), more effective recruitment techniques (63%), higher subsidies (60%), better inter-agency cooperation (54%), better agency staff training (46%), and more accurate Blue Book (photo) listings (44%) as resources that would be helpful. //

Copy of the full study is available from: Rosemary Avery, Associate Professor, Department of Policy Analysis and Management, Cornell University, 141 MVR Hall, Ithaca, NY 14850 or send requests to: rja7@cornell.edu

NACAC Seeks Award Nominations

Each year the North American Council on Adoptable Children (NACAC) presents several awards in recognition of outstanding individual service or achievement in the area of adoption and child welfare, especially related to special needs children.

Nominations of professionals or volunteers who have made outstanding efforts on behalf of children in need of permanency are welcome. All areas of service to these children can be considered—including legislative, philanthropic, judicial, general advocacy, work with the media, and more.

Nominations are sought in the following categories:

Child Advocate of the Year— for work on behalf of special needs children in North America.

Friend of Children— for work on behalf of international children with special needs.

Adoption Activists— for regional efforts on behalf of special needs children. (A maximum of five awards will be given annually.)

Parent Group of the Year— for work in support of adoptive parents.

*Nominations for any of these awards must be received no later than **November 8, 1999** to be considered. //*

CBS Adoption Special

On December 23, 1999, CBS will air a one-hour adoption special calling attention to the 110,000 children awaiting permanent homes. The special will feature participants from the film, television, sports and music industries.

During the special, people can call an 800 number and obtain additional information on adopting a child. Adoptive parents and counselors will be trained to answer the phones. A brochure addressing frequently asked questions will be available through the 800 number.

An extensive outreach campaign is also being planned. Public service announcements featuring celebrities from the special will air on television and radio. *In Style* magazine has created public service announcements that will run in national magazines.

The special will be produced by Triage Entertainment Inc. and Goldsmith Entertainment Company in association with the Children's Action Network and the Dave Thomas Foundation for Adoption. To get involved, call the Children's Action Network at (310) 470-9599. //

Adoption Pathways and Partnerships



AAICAMA's
13th Annual Conference
March 20-24th, 1999
Las Vegas, Nevada

For More Information, Please Contact Cristina Calderon, (202) 682-0100.

Oregon Launches Post Adoption Resource Center

By *Claudia Hutchison*

As soon as the adoption papers are signed, the newly formed family lives happily ever after, right? Adoption professionals as well as the adoptive families know the toughest part of an adoption can come after the child goes home. Adoptive families have relied on their workers, on other adoptive parents, on their own extended families, and on themselves to sort out the complex issues of adoption.

Now adoptive families in Oregon will have a new place to turn: Oregon's Post Adoption Resource Center ("ORPARC").

How the Program was Developed and Funded:

As the result of surveys to post-adoptive families and focus groups of families and professionals, Oregon's Services to Children and Families (SOSCF) has recognized the need for services to support families who adopt special needs children, particularly after the adoption is finalized and the adoption social worker and agency are no longer "officially" involved. "Improving post-adoption services" was identified as a goal of Oregon's Adoption Reform Strategic Plan for July 98 - June 00.

In reviewing recent guidelines for Federal Title IV-B funding to the states, Oregon's SOSCF decided to dedicate entirely to post-adoption services that portion of the funding that the federal government requires to be spent on "Adoption promotion and support services." The Oregon Legislature approved of this plan, and the concept of a statewide information and referral center began to take form.

Due to the state's history of successful partnership with private agencies for recruitment, preparation, and supervision of adoptive families for waiting children in state custody, SOSCF decided to offer this project as well to the private sector via a "request for proposal" process. The contract was awarded to Northwest Resource Associates, which also administers the Northwest Adoption Exchange.

Welcoming Families:

The center, located in Portland, will provide information, referral, and technical assistance to families statewide who have adopted a child from the state foster care system. Those families will receive a "welcome packet" introducing the center's services. Each month, the "wel-

come packet" will be sent to additional families who adopt state "waiting" children.

What the Program Will Do:

The Post-Adoption Resource Center's services will include:

- Two trainings annually in each of the state's four geographic regions, as well as the four state-wide teleconference trainings on topics most requested by adoptive parents.
- A lending library and resource center with books, videos, audio tapes, self-study packets, and articles on a wide range of adoption and parenting issues
- A lending library and resource center with books, videos, audio tapes, self-study packets, and articles on a wide range of adoption and parenting issues.
- A Web site, which will contain the current list of resource materials; book reviews; a listing of upcoming trainings with on-line registration; articles pertaining to special needs adoption; and links to other web sites that may be of interest to adoptive parents.
- Assistance in locating adoption support groups or in helping to families to start groups where none exist.
- A quarterly newsletter listing trainings, new library materials, and other adoption news and information pertinent to the state's residents.

The center will also help families identify community resources that can address mental health needs, developmental disabilities services, respite care, and educational services. The center will help families determine whether they can use Adoption Assistance or other benefits to pay for various services.

An advisory committee consisting of adoptive parents as well as adoption professionals will meet regularly to review the activities and assure that the needs of adoptive families are being met.

Who Will Use the Center's Services:

The center's services are free to Oregon families who have adopted a child who was in custody of the state of Oregon. Oregon families who have adopted a child who was in the custody of another state and families who have moved to Oregon with their adopted children who had been in the custody of another state may also access the center's services for free. Calls and referrals are confidential.

Families will be encouraged to invite members of their support systems, including school personnel and mental health therapists, to attend the trainings offered by the center. Adoption professionals are invited as well.

The development of training specifically geared towards mental health and school professionals is a goal the ORPARC staff hope to realize in the future, after the program is fully established and stabilized.

Start-Up Tasks:

In the first three months that the center has been open, the staff has been busy with planning and start-up tasks. Among those tasks have been visits to state adoption units and intake units to explain the new service, as well as attendance at adoptive parent support groups to showcase the program and elicit suggestions. The topics for the first trainings have been selected from these family group meetings. They are:

- Understanding and Dealing with Challenging Behaviors,
- Creating Your Child's "village" (How to choose and work with Therapists, pediatricians, etc.)
- Decision-Making Around "Openness" in your Adoption

The center will adhere to a schedule of extended hours that includes two evenings a week and one Saturday a month. Hours may be increased as needed. The center will also provide services to non-English speaking families as those needs are identified.

For additional information about ORPAC, please call Claudia Hutchison at (503) 241-0799.

"Happily ever after" takes a lot of work. Oregon's Post Adoption Resource Center should ease that burden. //

Joinder in ICAMA on the Rise

As of October 1999, 40 states are signatories to the Interstate Compact on Adoption and Medical Assistance (ICAMA). These states include:

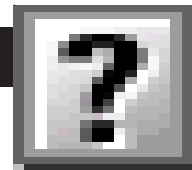
Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

Four additional jurisdictions have passed legislation enabling them to become part to the Compact: California, District of Columbia, New Jersey, and North Dakota. Michigan and Florida are expected to submit legislation for joinder in their upcoming legislative sessions. //

ICPC Grant

APHSa has received a three-year grant from the HHS Administration on Children, Youth and Families' Adoption Opportunities Program to improve the implementation of the Interstate Compact on the Placement of Children. The overall goal of the project is to eliminate barriers faced by children awaiting interstate placement, and to assure that they are safely placed in a timely manner. Working in close collaboration with the judicial, child welfare and Compact communities, the project expects its major benefits to be improved understanding of ICPC, greater uniformity in home studies and assessments, and the facilitation of the interstate placement of children by the elimination of barriers causing delays.

FREQUENTLY ASKED QUESTIONS



Responsible State/Dissolution

Q: If a family adopts a child in State A and is receiving adoption assistance from State A, moves to State B and while living in State B, a dissolution of the adoption occurs, which state becomes responsible for the child?

A: State B becomes the state responsible for the child.

When parents adopt a child, they become "in all respects", the child's parents. Hence, upon adoption, a child obtains the same status as a child naturally born to the adoptive parents. The state responsible for an adopted child upon dissolution of the adoption is the same state that would be responsible if the child could no longer be cared for by his biological parents and needed to be cared for by the child welfare agency.

The existence of a subsidy agreement with State A does not confer responsibility upon State A for the adopted child. Responsibility was conferred upon the parents when they adopted the child. The subsidy agreement merely sets up a contractual, but not a parental relationship, between the child and State A. //

Subsidy/ Stopping Payment

Q: A family adopts a child in State A and is receiving adoption assistance from State A. The family moves to State B. A Child Protective Services complaint arises in State B against the adoptive parents and State B places the child in foster care. Can State A continue to provide adoption assistance to the adoptive parents?

A: Yes, State A can continue to provide adoption assistance to the adoptive parents.

Section 473(a)(4)(B) of the Social Security Act provides that "... no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents."

PIQ-98-02 clarifies this provision, it states that "the State may continue the adoption assistance subsidy, if it determines that the parent is in fact, providing some form of financial support to the child."

Financial support may be determined by the State to include "payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs." Hence, if parental rights are not terminated for the child placed in foster care and the parents are providing some form of financial support as defined above, State A may continue to provide adoption assistance to the adoptive parents.

When is a parent no longer legally responsible for the support of the child? According to PIQ 98-02 it is when "parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military." //

Subsidy/Continuing Eligibility

Q: A child is adopted in State A and receives adoption assistance from that state. The child and the adoptive parents reside in State B, where the adoptive parents die. The adoptive parents appointed Ms. Y as the child's guardian. Ms. Y consents to Ms. Z adopting the child. Ms. Z is also a resident of State B. Which state is responsible for subsequent adoption assistance?

A: State B is responsible for subsequent adoption assistance.

The Adoption and Safe Families Act (ASFA) amended Title IV-E of the Social Security Act to provide for continuing eligibility for adoption assistance but it did not provide for transfer of a subsidy to a new caretaker in the instance of the death of the adoptive parents. ASFA only continues the child's eligibility should the child be readopted.

In addition, ACYF-PIQ 84-4, subsidy agreements cannot be transferred. Hence, the subsidy agreement between State A and the adoptive parents terminated upon the parents' death and is no longer enforceable with any other parent, including an appointed guardian for the child or a subsequent adoptive parent. //

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New Mortgage Program in New Jersey to Promote Adoption

The State of New Jersey has recently introduced a new \$4 million mortgage program designed to help low and moderate income families buy or modify their homes so they can adopt children with special needs. Loans are provided at below-market rates to qualifying families. The Home Ownership for Permanency Project is a program jointly administered by the state's Division of Youth and Family Services and the Housing and Mortgage Finance Agency. All referrals must go through the Division of Youth and Family Services. To learn more about the program, please call (800)NJHOUSE. //

New Media Campaign in Wisconsin to Encourage Adoption

The State of Wisconsin has unveiled a new multi-media campaign urging people to get involved in foster care and special needs adoption. The campaign will include television and radio public service announcements, newspaper ads, a brochure, a poster and an information video. The state is working with media throughout Wisconsin to air public service announcements, and with regional organizations and churches to distribute materials. Marcus Theatres has already agreed to run a 30 second public service announcement at 300 movie theatres across Wisconsin over the next year.

One goal of the new campaign is to make the public aware that many kinds of people can provide adoption or foster care. The campaign seeks to alert people who are single, older or working full time that they too can be foster or adoptive parents. //

Adoption Opportunities Grants: How WV is putting Theirs to Work

As the recipient of an Adoption Opportunities grant, the West Virginia Department of Health and Human

Resources is looking to maximize its public education and recruitment efforts to find families for the state's nearly 150 children registered currently with the West Virginia Adoption Resource Network (WVARN). "We've been getting kids placed without a public recruitment campaign," says Laura "Tee" Goodman, program director of WVARN. "Now, we'd like to see how that number can increase with money for public awareness." The campaign appears to be succeeding. In the first six months of this fiscal year, 154 children from the foster care system have been adopted. During the same period last year, only 78 children had found adoptive homes.

As part of the campaign, the state has begun:

- Distributing "Child of the Month" flyers to local communities statewide. The flyer features a photo and brief narrative of the child, with general adoption information.
- Developing a quarterly newsletter that provides continued communication with potential adoptive parents and keeps approved families interested and informed. It is distributed to foster and adoptive parents.
- Creating coloring books to help children ages three to eight make the transition from foster care to adoption. Homefinders are using children's comments and artwork as the basis for the books.
- Providing a collection of books and tapes about adoption to 10 main library branches across the state. The libraries were chosen to offer the public the widest possible opportunity to utilize these collections. In addition, an Adoption Handbook for Parents will be published as a resource to answer common questions and help parents deal with some of the complex issues that surround adoption.
- Seeing that adoptive families have an ongoing network of support by approaching the WV Foster Parent Association which now includes adoptive parents in its meetings.

For more information about this project, contact Tee Goodman at tgoodman@wvdhr.org.

(Reprinted by permission of National Adoption Exchange from *The Friendly User*, vol. 48, June 1999) //

Child Welfare Demonstration Projects Approved by HHS in 24 States

The Department of Health and Human Services (HHS) has now approved 24 states for a total of 26 child welfare demonstration projects. The Adoption and Safe Families Act of 1997 authorized HHS to approve 10 Title IV-E waiver demonstration projects each year through 2002. The 24 states so far approved are: California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Kansas, Maine, Maryland, Michigan, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Texas, Washington and West Virginia. Illinois and Maryland have received two waivers apiece. Following is a description of the most recent waivers approved by HHS:

Colorado

Colorado will contract with a single provider (or consortium of providers) in six participating counties. Each county will negotiate a countywide case rate and set goals for service providers, which are tailored to the children they serve. Eligible providers will have access to a wide array of services including mental health, substance abuse, education, transportation and post placement. By converting the financing from fee-for-service to performance-based contracting, the state expects to improve safety, permanency and well being for the children, along with overall efficiencies in the system.

District of Columbia

The District of Columbia will use a community-based team approach to meet the needs of families in the child welfare system and will allow kinship caregivers access to services not previously available. Under the demonstration, the District will use federal foster care (Title IV-E) funds to hire a staff worker in each of four community collaboratives. Each collaborative is composed of residents, agencies and institutions that work together to help residents gain access to an array of neighborhood social services. By using these networks for children and families in the child welfare system, the District hopes to increase the number of children placed in permanent homes, decrease the number of foster care placements, and reduce the incidence of further abuse and neglect.

Florida

Florida's waiver will allow the state to implement managed care principles with community-based providers to improve child welfare services for children and families in need. Under the demonstration, Florida will initiate a statewide community-based care program along with enhancing the coordination of child welfare services. The goals of these efforts seek to reduce the length of stay in out-of-home placements, reduce re-entry into the foster care system, and improve services statewide while ensuring the safety of children.

Illinois

A second child welfare demonstration waiver was approved for Illinois. With this waiver, Illinois will seek to reduce the negative impact on children whose parents have alcohol and drug abuse problems and to assist these families in treatment and recovery. Illinois will focus on intensive support, case management and enhanced coordination of services between substance abuse treatment and child welfare services. The state expects to see higher rates of reunification when it is safe for children, a reduced number of days in foster care, and fewer repeat allegations of abuse or neglect.

Maryland

Under its second waiver, Maryland will aim for more intensive case management for families, as well as enhanced coordination of services, especially to link substance abuse treatment and child welfare services. The goals are to reduce out-of-home placements of children and to decrease the length of stay for children already placed in foster care.

New Mexico

New Mexico's child welfare demonstration project will, for the first time, delegate authority to Native American tribes to operate their own child welfare programs. Under the demonstration, New Mexico will delegate full authority and responsibility for administration of child welfare Title IV-B and Title-IVE programs to as many as five tribes. The Navajo Nation is expected to be one of the five. The tribes will be accountable for child outcomes and fiscal responsibilities inherent in operating a child welfare program. New Mexico will monitor the programs and provide quality control services. The

foster care funds can also be used to subsidize guardianships as permanent placement options for children in state or tribal custody for whom reunification and adoption are not options.

Texas

Texas will use its waiver to enhance the process used to match adoptive families with children in foster care and to establish a managed care program to offer incentives to providers to enhance services to children.

Under the demonstration, Texas will examine the effectiveness of increased provider training and enhanced assessment services by contracting with a consortium of service providers under a case rate performance-based financing system. The goal is to increase the recruitment of prospective adoptive families by providing special needs adoption services and to improve the safety, permanency and well being of the children, along with overall efficiencies in the system.

West Virginia

West Virginia's waiver will allow the state to help children remain at home when safe to do so or with relatives while their mothers receive substance abuse treatment. Under the demonstration, West Virginia will focus on removing barriers to encourage successful completion of a substance abuse program and on coordinating substance abuse treatment services and child welfare services. Children will be placed with relatives or others close to the family rather than with families who do not know the children. A mother can then participate in treatment confident that her children are in good hands. This needed reassurance should help her to complete the program. //

(Summaries taken from *HHS NEWS*, U.S. Department of Health and Human Services. The full press releases are available at the DHHS web site at <http://www.hhs.gov/news/>)



Frequently asked Questions, cont'd from page 6

Nonrecurring Adoption Expenses

Q: Is post placement supervision by a private agency reimbursable by the State as a nonrecurring adoption expense?

A: Yes, per 45 CFR 1356.41(i), post placement supervision by a private agency is reimbursable by the State as a nonrecurring adoption expense.

Nonrecurring adoption expenses are deemed reimbursable under Sec. 473(a) of the Social Security Act. The Code of Federal Regulations expands upon the definition of nonrecurring expenses provided by the Social Security Act at 45 CFR 1356.41(i) to include supervision of the placement prior to adoption. Hence, post placement supervision by a private agency is reimbursable by the State as a nonrecurring adoption expense. //

Extenuating Circumstances

Q: Can a State establish criteria for "extenuating circumstances" for the purpose of a fair hearing?

A: Yes, a State may establish criteria for "extenuating circumstances" but a State's policy cannot be narrower than Federal policy.

According to PIQ 92-02, "it is permissible for States to have written guidance regarding the types of situations which would constitute the grounds for a fair hearing in order to assist fair hearing officers." However, according to the same PIQ, "a State policy may not define the grounds for a fair hearing more narrowly than Federal policy."

NOTE: While a State may establish guidelines for determining extenuating circumstances, it is important to realize that it is the role of the fair hearing officer "to determine whether extenuating circumstances exist and whether the applicant or recipient was wrongly denied eligibility." //





Intercountry Adoption Act of 1999

Rep. Benjamin Gilman, (R-NY) introduced the Intercountry Adoption Act of 1999 (H.R. 2909) on September 22, 1999. The bill is the House version of the Intercountry Adoption Convention Implementation Act introduced by Sen. Jesse Helms (R-NC) and Sen. Mary Landrieu (D-LA) in March. The bill seeks to provide for implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

The House bill differs from the Senate version in that it gives the role of accrediting entities responsible for the accreditation of agencies and approval of other persons providing adoption services to the Department of Health and Human Services instead of the State Department. The State Department would remain the central authority as it is in the Senate bill.

The bill has 36 co-sponsors and has been referred to the Committee on International Relations and the Committees on the Judiciary, Education and the Workforce. //

Families First Act

The Families First Act (H.R. 282) was introduced by Rep. Tom Bliley (R-VA), James Oberstar (D-MN), Dave Camp (R-MI), Bobby Scott (D-VA), Dan Burton (R-IN), Earl Pomeroy (D-ND), and Jim DeMint (D-SC) on June 11, 1999. It seeks to amend Sections 72 and 137 of the Internal Revenue Code by allowing penalty-free withdrawals of up to \$5,000 from IRAs for adoption expenses and excludes, for taxation purposes, adoption benefits received from employers. The Families First Act would repeal the sunset for employer-supported adoption benefits. The bill has 25 co-sponsors and has been referred to the House Ways and Means Committee. //

Foster Care Independence Act

On June 25, 1999, the House passed the Foster Care Independence Act of 1999 which doubles funding for the Title IV-E Independent Living Program from \$70 million to \$140 million and gives states the option to provide Medicaid coverage to youth aging out of foster care. In addition, the bill contains provisions for increasing appropriations for the adoption incentive payments provided for in ASFA by \$23 million for fiscal year 2000. Sponsored by Rep. Nancy Johnson (R-CT) and Rep. Benjamin Cardin (D-MD), the additional provisions are in response to the need to provide states with their full adoption incentive. Congress had appropriated \$20 million per year for fiscal years 1999 to 2003. However, states achieved adoption placement increases in fiscal year 1998 at a substantially higher rate than expected, therefore, enough money was not appropriated. Funding for fiscal years 1999 and 2001 through 2003 will remain at \$20 million per year and funding for fiscal year 2000 will increase to \$43 million. The bill was received by the Senate on June 30, 1999 and referred to the Committee on Finance.

On July 1 Sen. John Chafee (R-R.I.) introduced the Senate version of the Foster Care Independence Act of 1999 (S. 1327). In contrast to the House bill, the Senate bill would only provide increased funding for independent living to a state if it elected to provide Medicaid coverage to youth aging out of foster care. In addition it provides that children who are adopted after age 16 would be eligible to receive independent living services. The Senate bill does not authorize increased funding for adoption incentive payments. The Senate bill would eliminate the child support hold-harmless provision and reduce the paternity establishment match rate from 90% to 66%, as well as make a number of changes to the SSI program for fraud prevention. //

Indian Child Welfare Act Amendments of 1999

Sen. John McCain (R-AZ) introduced the Indian Child Welfare Act Amendments of 1999 (S. 1213) on June 10, 1999. The act seeks to amend the Indian Child Welfare Act (ICWA) of 1978 by providing procedures for informing parents of ICWA provisions, placement options, and changes in the adoptive placement when the parent of an Indian child voluntarily consents to a foster care placement, adoption placement or to the termination of parental rights. The act outlines circumstances and procedures for when consent to adoption of an Indian child or voluntary termination of parental rights to an Indian child can be revoked, provides for written notice and outlines the content of such notice to the tribe of an Indian child for whom a placement or voluntary termination is sought, provides for when an Indian tribe may intervene in a voluntary child custody proceeding, and adds criminal sanctions for the fraudulent representation of a child as an Indian child or a parent as an Indian. The bill has been referred to the Senate Indian Affairs Committee. //

Amending Title IV-E to Provide Equitable Access for Foster Care and Adoptive Services for Indian Children in Tribal Areas

On August 3, 1999, Sen. Tom Daschle, (D-SD), introduced S. 1478, a bill to amend Title IV-E of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas. S. 1478 seeks to amend Title IV-E by adding provisions for the creation of Indian tribe plans for foster care and adoption assistance akin to the State plans and payment of Federal medical assistance for children served by Indian tribes. According to Sen. Daschle, "the bill would correct an error in current law that prevents children placed in foster care or who are made available for adoption by tribal agencies from receiving the same benefits as children under federal or state jurisdiction." The bill is co-sponsored by Sen. John McCain (R-AZ) and Sen. Daniel Inouye (D-HI). It has been referred to the Senate Committee on Finance.

Promoting Adoption and Other Permanent Placements Hearing

On Tuesday, July 20, 1999, the Subcommittee on Human Resources of the House Committee on Ways and Means held a hearing to explore what long-term living arrangements were being provided by the States for children who are not in family-based foster care and for whom adoption is not planned. Rep. Nancy Johnson (R-CT), Chairwoman of the Subcommittee, opened the hearing by putting forth the need to provide a comprehensive array of services for both the adoptive parents of children with special needs and for children for whom adoption is not an option. Testimony was given by several adoption and residential treatment experts, as well as Rep. Tom Bliley (R-VA), sponsor of the Hope for Children Act and the Families First Act and Rep. Ron Lewis (R-KY), sponsor of the Fairness for Foster Care Families Act. Rep. Johnson concluded that Subcommittee Members should seek to increase flexibility in Title IV-E funding so that funding and resources can be tailored to the individual child. //

White House Celebrates Increase in Adoptions

Announces Adoption Incentive Awards

On Friday, September 24, 1999, the White House celebrated the increase in adoptions with an event at the Old Executive Office Building. Those in attendance included: the President and Mrs. Clinton, members of Congress, adoptees and their families, Administration for Children and Families staff, state adoption workers and AAICAMA staff. Both the President and Mrs. Clinton addressed the audience. President Clinton announced that thirty-five States earned adoption incentive awards for their exceptional achievements which caused the number of adoptions to rise to over 36,000 in 1998 from 28,000 in 1996. The Administration for Children and Families also released its report, "Progress Report to the President on Adoption," detailing the recent progress made in moving children into permanent homes. //



National Adoption Awareness Month Guide

The North American Council on Adoptable Children (NACAC) has made available its *1999/2000 National Adoption Awareness Month Guide*. The *Guide* contains resources for event planning and displays as well as other ways to celebrate adoptive families and raise awareness about children who need adoptive homes.

To order the *Guide*, send an e-mail to info@nacac.org with "Adoption Month Guide" in the subject line. Your full mailing address and phone number should be included. You can also reach NACAC by phone at 651-644-3036. //

Protection and Advocacy Program for People with Developmental Disabilities (PADD)

The Developmental Disabilities Assistance and Bill of Rights Act provides for each State to establish a Protection and Advocacy (P&A) System to empower, protect and advocate on behalf of persons with developmental disabilities.

The P&A is authorized to provide information and referral services and to exercise legal, administrative and other remedies to resolve problems for individuals and groups of clients. The P&A is also mandated to serve people with disabilities and mental illnesses. To learn how to contact the P&A in your state, please see the DHHS Web site at <http://www.acf.dhhs.gov/programs/add/states/p&a.htm>. //

Coming in 2001: National Internet Adoption Photolisting Service

September 1, 2001 is the target date for launching the National Adoption Photolisting Service, according to a report submitted by the Children's Bureau. The report suggests that a centralized national system be created with links to State systems. The national system would maintain its own photolisting site and have the ability to search the entire system rather than one State at a time.

The report suggests that the system will cost \$1.5 million for the first year and about \$1.25 million annually thereafter. The report also recommends that initial funding come from a contract under the Adoption Opportunities Program. States that participate in the national system will be eligible for reimbursement at a 50% matching rate under the title IV-E adoption assistance program.

"Plan to Implement a National Internet Adoption Photolisting Service" can be accessed at <http://www/acf.dhhs.gov/programs/cb/special/photolts/toc.htm>. //

CALL FOR ARTICLES



DOES YOUR AGENCY HAVE A MODEL POST - ADOPTION SERVICES PROGRAM?

AACMA would like to highlight at least one successful post-adoption program in each issue of Bridges. If your agency has a strategic plan for providing post-adoption services, an innovative program, or a broad continuum of services for adoptive parents and you would like to write an article for Bridges, please contact Shari Gruber at (202) 682-0100 or sgrub@aphsa.org.

Medical Assistance for Children Receiving State-Funded Adoption Assistance

Since 1994, AAICAMA has advocated for all states to elect the option of extending Title XIX, Medicaid to children adopted pursuant to state-funded adoption subsidy programs provided for in the Consolidated Omnibus Reconciliation Act of 1995 (COBRA option). In addition, AAICAMA has worked to have all states implement a policy of reciprocity in which states with the COBRA option would provide Medicaid to children receiving state-funded adoption assistance to children who meet the eligibility criteria of the COBRA option, even if the adoption assistance is being provided by another state.

Today, all but four states have elected the Cobra option. These states are Connecticut, Illinois, New Mexico, and Michigan. Additionally, as of October 1999, 22 AAICAMA member states provide Medicaid to children

residing in their state, who meet the eligibility criteria for the option and are receiving state-funded adoption assistance from another state. These states include Alaska, Arkansas, Colorado, Delaware, Georgia, Idaho, Indiana, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Washington, West Virginia, Wisconsin and Wyoming. An additional nine AAICAMA member states have a policy of reciprocity, but limit it to children whose state-funded adoption assistance agreements are with states that are members of ICAMA. These states include: Alabama, Kansas, Kentucky, Maine, Montana, North Carolina, Rhode Island, Utah, and Virginia. Finally, three other ICAMA member states are working to institute a policy of reciprocity. These states include Iowa, Nevada, and Texas.

Cobra Option/ Reciprocity as of October 1999

State	Cobra Option	Reciprocity	Comments
Alabama	Yes	Yes	Reciprocity with ICAMA member states only
Alaska	Yes	Yes	Reciprocity with all states
Arizona	Yes	No	
Arkansas	Yes	Yes	Reciprocity with all states
California	Yes	No	Will have reciprocity upon executing joinder in ICAMA by January 2000
Colorado	Yes	Yes	Reciprocity with all states
Connecticut	No	No	
Delaware	Yes	Yes	Reciprocity with all states
District of Columbia	Yes	No	Will have reciprocity upon executing joinder in ICAMA this year
Florida	Yes	No	
Georgia	Yes	Yes	Reciprocity with all states
Hawaii	Yes	No	
Idaho	Yes	Yes	Reciprocity with all states
Illinois	No	No	
Indiana	Yes	Yes	Reciprocity with all states
Iowa	Yes	No	Actively working towards obtaining a policy of reciprocity
Kansas	Yes	Yes	Reciprocity with ICAMA member states only
Kentucky	Yes	Yes	Reciprocity with ICAMA member states only
Louisiana	Yes	Yes	Reciprocity with all states
Maine	Yes	Yes	Reciprocity with ICAMA member states only
Maryland	Yes	Yes	Reciprocity with all states
Massachusetts	Yes	Yes	Reciprocity with all states
Michigan	No	No	

State	Cobra Option	Reciprocity	Comments
Minnesota	Yes	Yes	Reciprocity with all states
Mississippi	Yes	Yes	Reciprocity with all states
Missouri	Yes	Yes	Reciprocity with all states
Montana	Yes	Yes	Reciprocity with ICAMA member states only
Nebraska	Yes	No	
Nevada	Yes	No	Actively working towards obtaining a policy of reciprocity
New Hampshire	Yes	No	
New Jersey	Yes	No	Will have reciprocity upon executing joinder in ICAMA this year
New Mexico	No	No	
New York	Yes	No	
North Carolina	Yes	Yes	Reciprocity with ICAMA member states only
North Dakota	Yes	No	Will have reciprocity upon executing joinder in ICAMA this year
Ohio	Yes	Yes	Reciprocity with all states
Oklahoma	Yes	Yes	Reciprocity with all states
Oregon	Yes	Yes	Reciprocity will all states
Pennsylvania	Yes	No	
Rhode Island	Yes	Yes	Reciprocity with ICAMA member states only
South Carolina	Yes	Yes	Reciprocity with all states
South Dakota	Yes	Yes	Reciprocity with all states
Tennessee	Yes	No	
Texas	Yes	No	Actively working towards obtaining a policy of reciprocity
Utah	Yes	Yes	Reciprocity with ICAMA member states only
Vermont	Yes	No	
Virginia	Yes	Yes	Reciprocity with ICAMA member states only
Washington	Yes	Yes	Reciprocity with all states
West Virginia	Yes	Yes	Reciprocity with all states
Wisconsin	Yes	Yes	Reciprocity with all states
Wyoming	Yes	Yes	Reciprocity with all states

THE AAICAMA STAFF

Shari Gruber received her B.A. from Vassar College and her J.D. from Brooklyn Law School. Her previous experiences in child welfare include working with UNICEF and the Working Group on Girls in New York and the Community Law Centre in South Africa.

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CASES OF INTEREST

NEW YORK FAMILY COURT JUDGE OVERTURNS STATE LAW BARRING ADOPTION BY FELONS

In the case of *Matter of Jonee* (A-25547-50/98, Family Court of the State of New York, County of Kings), the Petitioner, Ms. Grant, sought to adopt her four nieces and prevent their immediate removal from her home as required by the New York State Adoption and Safe Families Act (NYASFA). Ms. Grant has been the certified kinship foster parent for her nieces for that past eight years. The statute, which took effect on February 11, 1999, requires the court to deny pending adoption petitions and immediately remove children from a foster or pre-adoptive home whenever a petitioner has been convicted of specified felonies, including homicide. Ms. Grant pled guilty to manslaughter 21 years ago and served three years probation for recklessly killing her abusive paramour.

The Family Court decided for the petitioner and concluded that applying the NYASFA mandates in this case would be unconstitutional. The Court concluded that Ms. Grant and the children have a constitutionally protected interest in the integrity of their family that cannot be taken away without due process. The petitioner is not just a mere stranger but has a familial relationship with the children. Furthermore, the United States Supreme Court has "unequivocally recognized a liberty interest in the integrity of an intact biological, extended family." The statute creates an irrefutable presumption that she is unfit. "It is the inability ever to prove otherwise under (New York's) ASFA that renders the statute unconstitutional."

The Court also reasoned that the children were denied the opportunity to have their case decided upon individually as to whether their continued residence with, and adoption by, petitioner was in their best interests. The children "have a constitutionally protected right to be free of arbitrary state decisions that have a significant impact on their custody and welfare." The Court held that "having already suffered the trauma of losing their families, such children are constitutionally entitled to protection from arbitrary state action that could indiscriminately force them to lose yet another family relationship." The Court concluded, "both the law and

the courts owe them more." Moreover, the law, if applied mechanically, "compels an outcome [that is] obviously damaging to the children's interest."

NOTE

This case presents a question regarding a New York statute that was enacted to come into compliance with the provisions of the Adoption and Safe Families Act that require States to automatically prohibit people who have committed certain felonies from becoming foster or adoptive parents. It does not determine the constitutionality of the mandate of the federal ASFA. This case is a lower court decision, which does not set precedent. It is not authoritative on future cases in which the provisions in the New York ASFA are applied and are in question or any other State's laws that have been enacted for purposes of coming into compliance with the federal Adoption and Safe Families Act (ASFA). //

Update on Adoption by Same Sex Couples

In the last issue of *Bridges*, we reported that Florida was the only remaining state with a legislative ban on adoption by homosexuals. In June, the American Civil Liberties Union filed a class-action civil suit challenging the state's ban. The suit was filed in the U.S. District Court in Key West on behalf of children in foster care. Florida allows homosexuals to become foster parents.

In Illinois, a judge was transferred from Adoption Court to Traffic Court after holding up two adoptions involving lesbian partners. The Illinois Appellate Court ordered the adoptions to go through after Judge Susan J. McDunn sat on the cases for over a year despite court documents that concluded that the adoptions were in the best interests of the three children involved. //

Tennessee Supreme Court Upholds law Opening Adoption Records

Doe v. Sundquist, 1999 (Sup. Ct. of Tenn.)

The Tennessee Supreme Court upheld a law allowing adoptees who are 21 or older to see their adoption records, even if their birth parents want the information kept secret. Birth mothers must be notified of the request and have the legal option of refusing to see the child. Adoptees could be prosecuted if they try to contact birth parents against their wishes.

The Court found that disclosing the information does not violate the privacy rights of birth parents. Similar laws are being challenged in Oregon, Massachusetts, Connecticut and New Jersey. //

Failure to Emotionally Support Child Not a Reason to End Adoption Subsidy Payments

Arkansas Dep't of Human Servs. v. Welborn, 1999 WL 188065 (Ark. Ct. App.)

A couple adopted two special needs children in 1993 through the adoption unit of the Arkansas Department of Human Services (DHS). The couple signed an adoption subsidy agreement entitling them to receive federal Title IV-E funds to care for their children. The adoption subsidy provided approximately \$4000 annually for each child. Soon after the adoption, the couple moved with the children to Florida.

Starting in 1995, the couple placed both children in a series of residential care facilities in Florida. After an unsuccessful attempt to terminate the parents' rights, DHS terminated the parents' adoption subsidy agreement because the parents were no longer emotionally supporting the children.

The parents requested an administrative hearing to review the termination of the adoption subsidy. The administrative law judge (ALJ) upheld the termination, reasoning that the parents violated the federal adoption subsidy statute by physically and emotionally abandoning the children. The parents appealed.

The trial court reversed the ALJ's ruling, finding the ALJ misinterpreted the federal adoption subsidy statute (42 U.S.C. § 673). DHS appealed.

The Court of Appeals of Arkansas affirmed the trial court's ruling. The federal adoption subsidy statute provides "no payment should be made to parents with respect to any child if the State determines the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents." (42 U.S.C. § 673 (a)(4))

The ALJ interpreted "support" to include emotional support, not just financial support. The court disagreed with this interpretation, explaining that the federal adoption subsidy statute does not condition a decision to continue adoption subsidies on whether to parents are emotionally supporting their children. The statute requires that parents must be financially supporting their children to qualify for adoption subsidy payments. Thus, a decision to end adoption subsidy payments requires proof that the parents are no longer financially supporting their children.

From ABA Child Law Practice, June 1999 //

Massachusetts Appeals Court OKs Open Adoption as Condition to Adoption

Adoption of Lars, 702 N.E.2d 1187 (Mass. App. Ct. 1998).

Four children were adjudicated dependent and placed in child welfare agency custody in November 1992. The children's biological mother visited them regularly since their removal. In January 1997, the agency petitioned to dispense with parental consent to adoption and submitted adoption plans to the court.

The trial court granted the agency's petition to dispense with parental consent to adoption. Since an adoptive placement had not yet been identified, and the biological mother and children had bonded because of their regular visits. The trial court ordered that any adoption decree provide for supervised visitation between the children and their biological mother.

The agency challenged the order requiring post-adoption visitation. The agency claimed: (1) the trial court

judge lacked statutory authority to attach a visitation condition to an order to dispense with parental consent to adoption; (2) neither the adoption statute nor case law permits interfering with adoptive parents' right to determine who visits their child; and (3) the visitation requirement would have a chilling effect on the agency's ability to recruit adoptive families and would be hard to enforce. The Appeals Court of Massachusetts affirmed. Generally, Massachusetts courts give adoptive parents discretion to decide visitation matters. However, in certain circumstances, imposing a visitation requirement is appropriate when it is in the child's best interest. The court pointed to a controlling case law on the issue which states that a trial court judge who is handling a petition to dispense with parental consent to adoption "may in his discretion consider any petition that the plan proposed by [DSS] be amended to provide for the rights of visitation." See petition of the Dep't of Soc. Servs. to Dispense with Consent to Adoption, 467 N.E.2d 861 (Mass. 1984).

In this case, an adoptive placement had not yet been identified for the children. Therefore, visitation was not being forced on specific adoptive parents. Rather, adoptive parents who agreed to adopt would enter the adoption fully aware and willing to comply with the visitation requirement. Should the visitation requirement have a chilling effect on the agency's recruitment efforts, the court explained that it could address such problems through administrative or legislative avenues.

From ABA Child Law Practice, July 1999 //

Termination of Parental Rights, Appeals

In re A.L., 719 A.2d 363 (Pa. Super. Ct. 1998).

The Appellate court held mother was not required to file motion for post-trial relief before appealing trial court order terminating her parental rights, overturning its R.Z.T. decision earlier this year; time-sensitive nature of termination and adoption proceedings and detrimental effects of delays on child warrant the elimination of post-trial practice.

From ABA Child Law Practice, August 1999 //

Termination of Parental Rights, Open Adoption

In re J.H., 590 N.W.2d 473 (S.D. 1999).

In its termination order, the court improperly placed the child into the grandmother's custody for adoption with continuing visitation by the mother; state statute requires that a freed child be placed in child welfare agency's custody before adoption and prohibits open adoption except in stepparent adoptions and in voluntary terminations with written agreements.

From ABA Child Law Practice, August 1999 //

Adoption, Grandparents

In re K.K.J., 984 S.W.2d 548 (Mo. Ct. App. 1999).

A grandmother, whose petition to adopt child was denied, had no standing to appeal child's adoption by another couple even though judge consolidated hearing on both petitions; grandparents have preference in foster care placements only, not in adoptive placements unless they have cared for the child continuously for at least prior 12 months.

From ABA Child Law Practice, August 1999 //

Adoption, Intervention

In re S.R.L., 984 S.W.2d 558 (Mo. Ct. App. 1999).

Maternal great-uncle and his wife were not allowed to intervene in child's adoption by foster parents; a motion for permissive intervention is not appealable and relatives did not allege intervention by right.

From ABA Child Law Practice, July 1999 //

Adoption, Grandparents

In re D.R.S., 717 So. 2d 1259 (La. Ct. App. 1998).

Adoption of child by grandparents was in child's best interests since grandparents had cared for child since he was born and were in a position to continue providing care, grandparents were child's "psychological parents," mother had failed to comply with the child support order, and child would suffer harm if relationship with grandparents was severed.

From ABA Child Law Practice, July 1999 //

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We welcome any comments and contributions.

Bridges is published Quarterly by the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance (AAICAMA). AAICAMA was created to administer and support the Interstate Compact on Adoption and Medical Assistance. States that are members of AAICAMA work together to improve and enhance services to special needs adoptive children and their families. The Association and its activities, including this newsletter, are supported by a federal grant (No. 90-CO-0866) awarded to AAICAMA by the U.S. Department of Health and Human Services (HHS).

The views that are presented in this newsletter are those of the authors, and do not necessarily reflect the opinions of the Association of Administrators of the Interstate Compact on Adoption and Medical Assistance, HHS or APHSA.

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