

ADOPTION ADVOCATE

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NCFA's 2014 Policy Priorities and Adoption- Related Legislation

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Since 1980, National Council For Adoption (NCFA) has served as a strong advocate for adopted individuals, adoptive families, and birth parents. Motivated by the belief that every child deserves to thrive in a loving, safe, and permanent home, NCFA continues to seek the passage of laws, the creation of policies, and the development of practices to help promote permanency for the many thousands of children in need of families.

This issue of the *Adoption Advocate* presents NCFA's specific adoption policy priorities for 2014, as well as an overview of adoption-related legislation at this midpoint in the 113th Congress. NCFA rarely endorses specific legislation, but instead prioritizes advocating for the policies and practices that will provide essential services and the best possible support for children outside permanent family care, adopted individuals, birth parents, and adoptive families.

Permanency for Youth in Foster Care

Issue Overview

Currently, approximately 101,666 of the 397,122 children in foster care are eligible for adoption. The Fostering Connection to Success and Increasing Adoptions Act of 2008 brought significant reforms to the foster care system, mandating policies focused on promoting permanency and positive long-

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term outcomes for children in foster care. However, practitioners, advocates, and policymakers agree that there is still significant room for improvement in the foster care system to ensure that *every* child achieves permanency.

NCFA Position

Promoting permanency and expanding support and opportunities for the youth waiting for permanency is one of NCFA's top policy priorities. Youth who age out of foster care without permanent families face many hardships, including decreased high school graduation rates, low college attendance and graduation rates, early pregnancy, and high incidences of homelessness. While legislation supporting youth who age out of foster care is vitally important, NCFA believes that the best way to prevent troubling outcomes is to work diligently towards the goal of ensuring that *every* child has the permanency of a safe, loving family, where they are most likely to find the lifelong commitment and support they need to reach their full potential in life. Whether this permanency is achieved through family reunification and preservation, kinship care,² adoption, or some other alternative, permanency itself—and the safety and stability it provides—should be a priority for every child in foster care.

Relevant Legislation

S. 1511: The Removing Barriers to Adoption and Supporting Family Act was introduced on September 17, 2013 by Senators Casey and Rockefeller. This bill, in addition to renewing other provisions of the Adoption Incentives Act, creates a system of sharing the incentive between sending and receiving states in the case of an interstate adoption.

H.R. 3205: The Promoting Adoption and Legal Guardianship for Children in Foster Care Act was introduced on September 27, 2013 by Representatives Camp, Doggett, Levin, and Reichert, and passed the House on October 22, 2013. The bill was read in the Senate and referred to the Committee on Finance. This bill seeks to renew the Adoption Incentives Program through fiscal year 2016. It also creates a new formula for determining adoption and guardianship payments to states to further encourage permanency efforts. The new formula allows equal payments for guardianships and adoptions. It changes the focus from a raw number of adoptions incentive to a percentage-based system to ensure continued incentive to focus on permanency regardless of the number of children in foster care.

Whether this permanency is achieved through family reunification and preservation, kinship care, adoption, or some other alternative, permanency itself—and the safety and stability it provides—should be a priority for every child in foster care.

² For more information about kinship care and kinship adoption, see: *Adoption Advocate* No. 59, "Paths to Permanence: Kin Guardianship and Adoption" (May 2013), available at: https://www.adoptioncouncil.org/images/stories/NCFA_ADOPTION_ADVOCATE_NO59.pdf

Intercountry Adoption for Children Outside Family Care

Issue Overview

Although precise counts do not exist, we know that there are millions of children living outside of family care—in institutions, in temporary foster care, and sometimes on the streets. Research has illustrated time and again that, in order to reach their full developmental potential, children should grow up in the care of a stable and nurturing family.

In 2012, American families adopted only 8,668 children from abroad, despite Americans' continuing interest in and commitment to intercountry adoption. This marks a continuing and drastic decline from the peak of 22,991 intercountry adoptions in 2004.

The United States is a signatory to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, which establishes international standards of practice for all nations that are Convention signatories. The Hague Conventions aimed to safeguard children, birth parents, and adoptive parents involved in the intercountry adoption process.

The United States also has independent intercountry adoption agreements with nations that have not signed the Hague Convention. However, in 2013, The Intercountry Adoption Universal Accreditation Act was signed into law, and it will be fully implemented in July 2014. This will create high standards of accreditation for all adoption service providers, regardless of whether or not they work in Hague Convention countries. This change will increase safeguards for adopted children and narrow the differences between Hague and non-Hague adoptions in the United States.

NCFA Position

NCFA passionately believes that *every* child deserves a family, and that intercountry adoption is one necessary and valuable resource to find families for children. Intercountry adoption is part of the full spectrum of appropriate permanency options for children living outside family care, and should be prioritized after reasonable family preservation efforts, permanent placements with kin, and in-country adoption.

NCFA believes that every child who is adopted deserves not only a family, but a family that is prepared to meet their unique needs. Adopted children and adoptive families also need and deserve an adoption process completed with extreme care to ensure their safety and wellbeing. Accordingly, NCFA

is pleased that the universal accreditation of adoption service providers will require a high standard of care for every child, regardless of whether the child's nation of origin has required this same standard.

Although NCFA views universal accreditation as a positive step, we remain concerned about the decrease in intercountry adoptions, because we know that there are many waiting children and many willing and capable parents. While instances of abuse and fraud within the adoption process are never acceptable and should always be aggressively addressed, these instances are limited exceptions, and are by no means the rule. Legitimate concerns about abuse or corruption should not be exaggerated at the expense of the millions of orphaned and vulnerable children around the world who await love, safety, and permanency.³

Relevant Legislation

S. 1530 and H.R. 3323: The Children in Families First Act of 2013 was introduced by Senators Blunt and Landrieu on September 19, 2013 and Representatives Bass and Granger on October 23, 2013. This bill redirects U.S. resources to increase the focus on ensuring family care for children.

The legislation creates a focal point within the U.S. Department of State for vulnerable children and family security that will become the foreign policy and diplomatic hub on international child welfare. The current Office of Children's Issues, Adoption Division would be moved out of the Bureau of Consular Affairs and turned into a new, stronger bureau in the human rights secretariat. The new bureau would help build international capacity to implement effective child welfare systems, with particular focus on family preservation and reunification as well as kinship, domestic, and intercountry adoption. The new bureau would remain the Central Authority on intercountry adoptions for diplomatic purposes, but operational responsibilities would be transferred to U.S. Citizenship and Immigration Services (USCIS). Further, this legislation seeks to streamline, simplify, and consolidate responsibility for all processing of intercountry adoption cases in USCIS (except for final immigrant visa processing, which remains with the State Department) as well as adoption service provider accreditation.

The Children in Families First act also proposes to establish a Center of Excellence within USAID, dedicated to implementation of the 2012 National Action Plan on Children in Adversity. This would provide the necessary authority and oversight of resources to the USAID Senior Coordinator for Children in Adversity to implement programs in target countries.⁴

NCFA is pleased that the universal accreditation of adoption service providers will require a high standard of care for every child, regardless of whether the child's nation of origin has required this same standard.

³ For more information on this topic, see: *Adoption Advocate* No. 57, "Reconsidering Intercountry Adoption: Who Wants to Adopt and Who Could Be Adopted" (March 2013), available at: https://www.adoptioncouncil.org/images/stories/NCFA_ADOPTION_ADVOCATE_NO57.pdf

⁴ For more information on this issue and NCFA's position, see: www.childreninfamiliesfirst.org

Citizenship for Internationally Adopted Individuals

Issue Overview

The immigration process for children entering the U.S. through intercountry adoption can be complicated. The current process requires some children to be readopted when they enter the U.S., while others acquire citizenship automatically. Although the Child Citizenship Act of 2000 improved this process for some children, it did not include all children entering the U.S. via intercountry adoption. Further, there are many adopted individuals who entered the U.S. as children, are now adults, and may not be citizens or have proof of citizenship. Many may not be aware of the fact that they are not citizens or lack proof of citizenship.

NCFA Position

NCFA believes that every child who is adopted by a U.S. citizen should be automatically granted U.S. citizenship. We believe that children by adoption should have the same rights to citizenship that a biological child of U.S. citizens would have. Accordingly, we support legislation that would clarify and expand the immigration process to include automatic citizenship for all internationally adopted individuals. We also believe that all internationally adopted individuals should retroactively receive automatic citizenship. Adoptees brought to the U.S. as children and raised as U.S. citizens should not lack the full protection, rights, and responsibilities of citizenship for any reason.⁵

Relevant Legislation

S. 744: The Border Security, Economic Opportunity, and Immigration Modernization Act was introduced on April 16, 2013 and passed the Senate on June 27, 2013. In a unanimously accepted amendment to this bill at Section 2554, the Senate voted to amend the Child Citizenship Act to ensure that any individual who satisfied the requirements for naturalization would be granted citizenship. This provision would ensure that many adopted individuals will retroactively receive citizenship. It would also change the requirement allowing only one of two parents to personally see and observe the child in their country of origin in order for citizenship to be granted automatically. Finally, it would provide for the naturalization of adopted individuals without a legal or physical presence in the United States.

While the amendment necessary to grant citizenship to international adoptees did pass the Senate, the bill in its entirety did not advance, and there is currently no corresponding legislation in the House of

⁵ For more information on this issue and NCFA's position see: *Adoption Advocate* No. 40: "Protecting the Rights of Intercountry Adoptees: Steps to Ensure the Right of Citizenship to Every Adopted Individual" (October 2011), available at: https://www.adoptioncouncil.org/images/stories/documents/ncfa_adoption_advocate_no40.pdf

Representatives that would address this important issue for adoptees. Advocates, policymakers, and adopted individuals concerned about this issue are considering introducing the necessary legislation in another bill.

Post-Adoption Services and Support

Issue Overview

Adoption professionals rightly place a considerable amount of attention on finding permanent adoptive families for children, yet services to ensure that families are supported so that children succeed as a part of them are often limited. Data does not exist regarding the exact number of adoptions that are disrupted or dissolved or the reasons this may occur, though most experts estimate that they represent between 1% and 10% of all adoptions. Although adoption professionals tend to agree that more and better post-adoption services and support are necessary, without better, more in-depth research it is difficult to ascertain the exact type and extent of services needed.

NCFA Position

Legislation that supports pre-adoption education and preparation and post-adoption services and support for families is crucial. NCFA believes not only that every child deserves a family, but that every child deserves to *thrive* in a family and be fully supported in order to reach their full potential. Every child deserves a family particularly equipped to meet his or her own unique needs. NCFA believes adopted individuals and adoptive families should receive all the services they need for as long as necessary to make this possible.

Relevant Legislation

S. 1527: The Supporting Adoptive Families Act was introduced on September 19, 2013 by Senators Klobuchar, Blunt, and Landrieu. This bill seeks to extend adoption promotion and support services to better support adoptions from other countries as well as domestic adoptions. It also creates grant programs to develop and implement mental health service programs for all adopted children. Finally, it directs the U.S. Department of Health and Human Services to amend its data collection system to collect and report information regarding children who enter into state custody as a result of the disruption or dissolution of a domestic or intercountry adoption.

H.R. 3423: Legislation to Ensure the Safety and Wellbeing of Adopted Children was introduced on October 30, 2013 by Representatives Langevin, Bass, Grimm, Maloney, Norton, Wilson, and Wittman. This bill calls for identical provisions to S. 1527. Additionally, it requests that the Government

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Accountability Office submit a report within one year that would investigate online advertisements of children and outcomes, how home studies vary depending on the type of adoption, how the type and amount of pre-adoptive training prospective adoptive parents receive varies, the current availability of quality support for families to meet the emotional and behavioral challenges faced by children, the reasons for adoption disruptions and dissolutions, and the reasons that some children are sent to live with new families without proper oversight or notice to appropriate authorities.

Adoption Tax Credit And Financial Assistance for Adoption

Issue Overview

The adoption tax credit, introduced in 1997, offsets the cost of adoptions from foster care, domestic infant adoption, and intercountry adoption. It was extended multiple times through legislative vehicles like the Small Business Job Protection Act of 1996, The Economic Growth and Tax Relief Reconciliation Act of 2001, The Health Care and Education Reconciliation Act of 2010 and the Tax Relief Act of 2010. In tax years 2010 and 2011, it was a refundable credit which expanded the reach of the credit. Most recently, on January 1, 2013, the adoption tax credit was made a permanent part of the tax code through the American Taxpayer Relief Act of 2012, which was signed into law on January 2, 2013.

NCFA Position

NCFA supports the adoption tax credit and other programs that help defray the financial cost of adoption. The high cost of some adoptions could prevent children from finding their way to families that would otherwise be willing and able to provide for their needs. NCFA is grateful for the federal government's efforts to support adoption through the adoption tax credit, and was glad to see the credit made permanent in 2013. NCFA also believes that in order to provide financial support to the most relevant families, the credit should once again be made refundable. When the credit is refundable, families with lower incomes, who have the most significant need for financial assistance, will not be made ineligible due to lack of tax liability, and they also will not have to spread the cost out over multiple years in the case of low tax liability.

Relevant Legislation

S. 1056 and H.R. 2144: The Adoption Tax Credit Refundability Act was introduced in both houses on May 23, 2013 by Senators Blunt, Casey, and Landrieu and Representative Braley. This bill would return the adoption tax credit to refundability, as it was in tax years 2010 and 2011. It would allow

families with low to moderate incomes to receive the full benefit of the credit in the tax year the adoption credit should be claimed.

H.R. 2332: The Adoption Tax Credit Tribal Parity Act of 2013 was introduced by Representative Kilmer. It seeks to allow tribal governments to classify adoptions of Native American children adopted through tribal courts as special needs adoptions, so that families that adopt Native American children have the same benefits as all others.

Responsible Fatherhood Registry

Issue Overview

Responsible Fatherhood Registries, also referred to as putative father registries, are often established as a result of highly publicized, contested adoption cases. Currently, 35 states have registry systems. These registries allow an unwed biological father who registers in a timely manner to receive notice of any pending or future adoption proceedings involving his child. This allows the putative (or possible) father the right to notice, as well as full participation in judicial proceedings. Providing this notice serves three purposes. First, it protects the biological father's parental rights. Second, it decreases the likelihood that an adoption will be contested or disrupted, thereby ensuring greater stability for children, because fathers have a mechanism to participate early in the process. Third, registries create a system that grants responsibility to both biological parents. Expectant mothers are not given the full responsibility of notifying and seeking participation from expectant fathers; this may be especially important in cases where it may not be safe or appropriate for the expectant parents to be in contact with one another.

State putative father registries can provide an important mechanism to protect the rights of expectant parents and provide stability for children. However, these registries often provide little or no support in the frequently occurring cases of adoptions across state lines. In light of this problem, a national registry has been suggested, which would allow states with existing registries to voluntarily communicate with one another and encourage new registries to be created.

NCFA Position

NCFA believes every possible effort to include biological fathers in the adoption process should be prioritized.⁶ While a registry system should not be the only means professionals use to attempt to reach a father, it is

⁶ See *Adoption Advocate* No. 37, "Fathers, families, and Friends: Involving and Prioritizing a Pregnant Client's Support System" (July 2011), available at: www.adoptioncouncil.org/publications/adoption-advocate-no-37.html

an important option to include as a safeguard for biological and adoptive parents and to promote stability for children. NCFA believes that a fully implemented national responsible fatherhood registry would significantly enhance the usefulness of existing state registries, making participation more valuable for fathers in all states and providing important additional security for all involved.⁷

Relevant Legislation

S. 1203: The Protecting Adoption and Promoting Responsible Fatherhood Act was introduced on June 20, 2013 by Senators Inhofe and Landrieu. Similar legislation in the House, **H.R. 3549: The Protecting Adoption Act**, was introduced by Representative Hartzler on November 20, 2013. The bill would establish a national responsible fatherhood registry and allow states to voluntarily participate in the exchange of fatherhood registry information. The bill would also allow participation by fathers in states without a registry and encourage states without a registry to create one.

ABOUT THE AUTHOR

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⁷ For additional information on this issue, see NCFA's *Adoption Advocate* No. 14, "On the Benefits of a National Putative Father Registry" (July 2009), available at: www.adoption-council.org/publications/adoption-advocate-no14.html