

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Joint Committee on Children' s Issues

September 28, 2006

Adoption Issues

Integrated Service Delivery
Candy Shively, Deputy Secretary

For additional information contact:
Public and Governmental Services Division
Kyle Kessler, Deputy Secretary

Docking State Office Building
915 SW Harrison, 6th Floor North
Topeka, Kansas 66612-1570
phone: 785.296.3271
fax: 785.296.4685
www.srs.ks.gov

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Adoption

Chair O'Connor and members of the committee, I am Candy Shively, Deputy Secretary of SRS. I come before you today to provide information on how Kansas might facilitate and safeguard adoptions. Maintaining a child's connection with birth parents and extended family of origin is the ideal. When the ideal is not possible, the next best option is adoption.

In discussing adoption and the agency's role, I must begin with a brief history. Adoption was not recognized in the United States until legislatures, beginning in 1851, enacted laws governing this new way to create families. As the legal process through which the rights and obligations of birth parents are replaced by adoptive parents, adoption statutes are strictly construed in order to guard the rights of birth parents. By protecting the rights of birth parents we guard for children what we know instinctively and through experience provides their best hope to grow into self-sufficient adults. Preserving family and community connections for children is integral to the SRS mission, but it is not always possible. Kansas first recognized the need to create a legal alternative to birth families in 1867 and last session HB 2665 amended the Kansas Adoption and Relinquishment Act of 1990.

The Kansas Adoption and Relinquishment Act (the Act or KARA) found at K.S.A. 59-2111 through K.S.A. 59-2143 was enacted after considerable study and review by the Kansas Judicial Council. The intent was to facilitate adoption and permanency for children while protecting the rights of birth parents. KARA provides a process for adoptions with or without the involvement of an agency. Agency adoptions include children relinquished to private agencies licensed by the Kansas Department of Health and Environment and children placed in the custody of the Secretary as children in need of care.

Proceedings governing children in need of care are pursuant to K.S.A. 38-1501 et seq. Courts are the gatekeeper along with county or district attorneys. Birth parents are represented and a guardian ad litem is appointed for the child. While not a party to the court process, the Secretary through employees and contract staff, is responsible for gathering and providing information for the court's consideration. When requesting a petition, staff provide the prosecutor with the information necessary to notify both parents and all grandparents. While it is not always possible to identify and locate both parents and all grandparents before the petition is filed, it's not because we aren't trying.

Once a child is placed in the custody of the Secretary, there is enormous pressure to move the process along quickly. There are time lines built into both the federal and state law because childhood is brief and should not be spent in foster care. Involvement of non-custodial parents and extended family is often critical to achieving a successful reintegration of the child with family within those time frames. Gathering information and assessing family members begins with the first contact and continues through the life of a case.

Initial efforts usually focus on reintegration with current care giver, but linear planning is no longer good enough. Concurrent case planning means we work with the custodial parent while assessing the other parent and extended family. Dual case plan goals are increasingly common.

Last fiscal year one third of the children left the custody of the Secretary through adoption. The average length of time in custody is less than two years but for children who leave for adoption that length of stay is almost three years. We need to work concurrently toward reintegration and adoption in order to act in child time. We have restructured our contracts to support dual case planning and to assure that financial incentives support best practice.

For too many children without safe biological families, an adoptive home is hard to find. Kansas is working aggressively with other states to facilitate matching these children with fit and willing adults. Klicks for Kids is a Kansas Children Service League project which places photographs taken by professional photographers on the internet. We have received inquiries from across the United States and a few from foreign countries. Should one of these inquiries result in an adoption, it is possible to reimburse the family for up to \$2000.00. While not a large sum it is useful to defray the costs of adoption including fees for a home study or other services of a private adoption agency.

It is our responsibility, and one we are increasingly expert at accomplishing, to identify and locate both parents early in the process. When we fail, it is usually the father we aren't able to identify despite working closely with the mother, the one person with the best information.

U.S. Supreme Court decisions provide limited protection for unwed fathers who have actively demonstrated a commitment to parenthood by coming forward to participate in the meeting the child's needs. The mere fact of a biological connection is not sufficient to trigger constitutional protection. Rather, biology gives one the opportunity which, if not acted upon, may be lost. When a father has provided support for the mom during the pregnancy or for the child after birth, we are usually able to identify and locate him. When the mom wasn't married at the time of conception and doesn't know the father's identity, we may not be successful. Notice by publication is then necessary and rarely results in producing the other parent.

Disruption of an adoptive placement of child in the custody of the Secretary because a parent surfaces is extremely rare because we work hard to avoid it and because we are not placing newborns. In SFY 06 only two children were adopted before their first birthday.

In 24 states birth father registries are available for fathers who, knowing that sex may result in a child, wish to be notified. In a few states it is clear that responsibility for taking action and protecting those rights lies with the father. Two, Minnesota and Ohio, allow the father to assert potential paternity without assuming any obligation for child support. Both Arizona and Florida require a commitment to support the child. Kansas, like all states, allows putative fathers to register with child support enforcement, but failure to register is not a waiver of the right to challenge an adoption. By registering the putative father accepts that a Kansas court has jurisdiction to determine his child support obligation.

An alternative to a birth father registry might be to amend K.S.A. 59-2136(h) to eliminate the requirement that the father have known about the pregnancy. This shifts the burden to the father by requiring an affirmative act to protect rights to the child.

I hope this information is helpful in your deliberations and would be pleased to respond to any questions.