2003 Annual Meeting

Adoption Process from Different Perspectives

1"45-2:45 p.m.

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Thursday,
June 19, 2003

TERMINATION OF PARENTAL RIGHTS AND ADOPTION IN IOWA

by Lori L. Klockau

INTRODUCTION:

The purpose of this presentation is to give the general practitioner a general basis of knowledge of termination of parental rights in Iowa.

In Iowa adoption is a two step process involving a termination of parental rights and the adoption itself. Termination of parental rights is a procedure which involves the basic elements of a petition, release of custody, notice, hearing and decree. The requirements of each element are found in Iowa Code Section 600A. After a termination of parental rights has been properly completed, the provisions of Iowa Code Section 600 govern the finalization of the adoption.

After the "Baby Jessica" case both Chapter 600 and 600A have been altered to make the "best interests" of the child the "paramount" consideration in interpreting the statutes. In Section 600A (Termination) "best interests" requires that both biological parents affirmatively assume the duties of being a parent, including meeting financial obligations, a continued interest in the child, making a genuine effort to maintain communication with the child and establishment of a place of importance in the child's life. In Section 600 (Adoption) the best interests of the child are paramount due consideration to be given to the adoptive parents as long as the placement is in compliance with the law.

TERMINATION

1. Steps to Terminate Parental Rights
   - A. Release of Custody §600A.4
     1. Shall be accepted only by an agency or person making an independent placement §600A.4(2)(a).
     2. Shall not be accepted by a person who in any way intends to adopt the child who is the subject of the release §600A.4(2)(b).
     3. Shall be in writing §600A.4(2)(c).
     4. Shall contain written acknowledgment of the biological parents that after the birth of the child, three hours of counseling has been offered to the biological parents by the agency, the person making an independent placement, an investigator as defined in section 600.2, or other qualified counselor regarding the decision to release custody and the alternatives available to the biological parents. The release of custody shall also contain written acknowledgment of the acceptance or refusal of the counseling. If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department of human services which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved by the department. If counseling is accepted, the counselor shall provide an affidavit, which shall be attached to the release of custody, when practicable, certifying that the counselor has provided the biological parent with the requested counseling and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph. The requirements of this paragraph do not apply to a release of custody

which is executed for the purpose of a stepparent adoption. §600A.4(2)(d)

5. Shall not be signed until 72 hours after the child's birth by all living parents. The 72 hour waiting period shall not be waived. §600A.4(2)(g).
6. Shall be witnessed by 2 persons §600A.4(2)(h).
7. Shall name the person who is accepting the release §600A.4(2)(i).
8. Shall be followed, within a reasonable time, by the filing of a petition for termination of parental rights under §600A.5. §600A.4(2)(j).
9. Shall state the purpose of the release, shall indicate that if it is not revoked it may be grounds for termination, and shall fully inform the signing parent of the manner the release may be revoked §600A.4(2)(k).
   a. If request for revocation in writing within 96 hours of signing, no cause need be shown.
   b. If request is 96 or more hours after signing, the court shall order it revoked only on clear and convincing evidence of good cause.
      (1) Good cause may be a showing of fraud, coercion or misrepresentation of law or fact.
      (2) In determining good cause the court's paramount consideration must be the best interests of the child §600A.4.
10. Shall be preceded by the offering of 3 hours of counseling and contain written acknowledgment of the offer.
11. Shall contain notice that if the biological parent intentionally misidentifies the other biological parent, they are guilty of a simple misdemeanor.
12. Shall be accompanied by a report which includes family medical and social history of the person to be adopted.

2. Petition to Terminate Rights to a child may be filed in the juvenile court after the child is born or within 180 days of the child's expected birth §600A.5(1).
   1. The petition may be filed by a parent, prospective parent, custodian, or guardian of child §600A.5(1)(a)(b).
   2. Must be filed in the county of residence of the custodian or guardian or in county, in which natural mother, child or pregnant woman is domiciled §600A.5(2).
3. Notice
   1. An order setting hearing and appointing a guardian ad litem shall be served on all necessary parties §600A.6(1). The guardian ad litem can not be the attorney for any party other than the child. Notice shall be given to all necessary parties.
   2. This includes any person whose name, residence and domicile are required to be in the Petition under §600A.5 and any putative father who files a declaration of paternity and any unknown putative father, except a biological parent who has been convicted of sexually abusing the other parent. (§600A.6).
      a. A person who believes he may be the father of a child may file a declaration of paternity with the State Department of Vital Statistics prior to the birth of a child, but not after the filing of the petition for termination of parental rights. (§144.12A)
      2. The Department of Vital Statistics should be contacted in writing prior to the hearing to terminate parental rights to see if anyone has filed a Declaration of Paternity of the child. A $10.00 fee is required.

      Paternity Registry - The State Registrar of Vital Statistics is now required to maintain a paternity registry that is nonaccessible to the public except as provided in Iowa Code §144.12A. Any man whom is alleged or claims to be the biological father of a

child born to a woman not his wife may file a declaration of paternity prior to the birth of the child, but not later than the date of the filing petition for termination of parental rights. This declaration of paternity is not the same as an affidavit of paternity. A declaration of paternity may be used as evidence of paternity and any action for paternity or support with respect to the putative father.

The purpose of the registry is to give putative fathers an opportunity to identify themselves for the purpose of being notified of any proceeding, including termination of parental rights, adoption, determination of paternity or determination of child support.

A declaration of paternity will be received by the Registrar without prepayment of a fee and without the signature of the biological mother. However the Registrar may charge a reasonable fee for searching the registry. Registrar shall forward a copy of the declaration of paternity to the birth mother. A declarant must provide his name, current address, social security number, the name of the mother, the name of the child, the child's date of birth and location and any other identifying information requested by the Registrar.

A declaration of paternity may be revoked in an acknowledged revocation by the registrant. However the revocation can only be effective after the birth of the child. Any revocation has the affect of expunging the registration. The revocation must include a declaration that to the best of the registrant's knowledge he is not the father of the named child or that paternity of the true father has been established.

3. Service shall be made personally or constructively pursuant to R.C.P. 56.1 or by certified mail, if the address is known §600A.6(3) and (4).
   1. Personal service shall be made not less than 7 days before hearing, or
   2. Service by mail shall not be made less than 14 days prior to hearing §600A.6(4).
      (1) If necessary party refuses restricted mail delivery, that shall be sufficient notice §600A.6(4).
4. Service by publication can be made on a necessary party whose identity is known, but address is unknown by:
   1. Publication of notice once per week for 2 consecutive weeks, the last appearing not less than 3 days prior to hearing §600A.6(5).
   b. Publication shall be made in a form similar to that prescribed by the statute and shall include the party's name and the child's actual or expected date and place of birth.
5. Unidentified parties.
   a. A reasonable effort must be made to identify and locate all unidentified necessary parties.
   b. Published notice shall be made on all unknown putative fathers in a manner similar to that prescribed in the statute.
   3. Published notice shall be similar to the following form:

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

JUVENILE DIVISION

IN THE INTEREST OF) Juvenile No. _____
)
)
) ORIGINAL NOTICE
_____) FOR PUBLICATION
DOB: _____)

TO: _____ (AND) ALL POTENTIAL BIOLOGICAL FATHERS OF A CHILD (EXPECTED TO BE) BORN ON THE ____ DAY OF _____, 20__, IN _____, IOWA.

You are notified that there is now file in the office of the clerk of court for _____ county, a petition in case number _____, Which prays for a termination of your parental-child relationship to a child (expected to be) born on the ____ day of _____, 20__. For further details contact the clerk's office. The petitioners' attorney is _____.

You are notified that there will be a hearing on the petition to terminate parental rights before the Iowa District Court For _____ County, at the Courthouse in _____ , Iowa at _____ o'clock _.M. on the _ day of _____, 20_.

_____
CLERK OF THE ABOVE COURT
Johnson County Courthouse
Iowa City, Iowa 52240

4. Hearing
   1. Shall be held no sooner than one week after the child is born §600A.7(1).
   2. Shall be in accordance with Rules of Civil Procedure.
   3. Relevant information and reports may be admitted as evidence §600A.7(2).

E. Proof of service of notice must be filed with the juvenile court prior to hearing §600A.6(6).

F. Notice of the termination hearing to the parent of a minor birth mother is no longer required.

G. Grounds for Termination shall be, separately or jointly:
   1. A parent has signed a release of custody pursuant to §600A.4 and it was not revoked [§600A.8(1)].
   2. A parent has petitioned for the termination of parental rights pursuant to §600A.5 and 600A.8(2).
   3. A parent has abandoned the child [§600A.8(3)].
   4. A putative father has abandoned the child [§600A.8(4)]. A putative father has abandoned a child if:
      a. (1) The child is less than six months of age when the hearing is held unless the putative father:
         (a) Demonstrates a willingness to assume custody,
         (b) Promptly establishes parental rights, and
         (c) Demonstrates a commitment to the child

      (2) The court may consider:
         (a) The fitness and ability of putative father, including financial commitment,
         (b) The efforts made by the putative father,
         (c) Whether the putative father publicly acknowledged paternity in the six months prior to proceeding,
         (d) Whether the putative father paid a fair share of hospital expenses, or gave emotional support to the mother during the birth of the child,
         (e) Any effort by putative father to legal responsibility of the child,
         (f) Other factors that show commitment to the child.

      b. If the child is six months of age or older, the putative father is deemed to have abandon the child unless he demonstrates a reasonable contribution of support and substantial and continuous contact with the child. [§600A.8.4(b)]. This is shown by:
         (1) Visitation with the child,
         (2) Regular communication with the child when prevented from visiting,
         (3) Living with the child for six months within one-year immediately preceding the hearing and holding himself out as the father.

      c. The subjective intent of the putative father does not preclude the court from determining that he has abandon the child. The court does not require anyone to encourage the putative father to perform the acts specified in "a" or "b". The court may also consider the conduct of the putative father toward the mother during pregnancy. Marriage to the mother by the putative father after adoption does not demonstrate a commitment to the child. [§600A.8.4(c)].

5. A parent does not contribute support to child or assist financially in the birth without good cause. [§600A.8.5].
6. A parent does not object to termination after notice and opportunity to object is given. [§600A.8.6]
7. A parent does not object after reasonable efforts were made to give notice under section 600A.6 [§600A.8.7].
8. Adoptive parent request termination of parental rights upon showing the adoption procedures were fraudulently induced in accordance to section 600A.9 subsection 3. [§600A.8.8].
9. The parent is both:
   a. determined to be a chronic substance abuser under section 125.2 and committed a second subsequent domestic abuse assault under section 708.2A, and
   b. the parent abducts or removes the child from custodian or custodial parent without consent or refuses to relinquish physical custody after a visit. [§600A.8(9)].

H. Termination Finding and Order
1. The juvenile court will make findings of fact and either dismiss or grant the petition §600A.9.
2. A guardian for a child is appointed until an adoption is completed. If termination takes place in another state or child is being placed in another state, the Interstate Compact must be complied with §232.158.
3. The terminated parent or putative biological parent can request vacation or appeal the termination within 30 days of entry of the order. The 30 days cannot be waived or extended.

I. Penalties.
1. Any biological parent who intentionally misidentifies the other biological parent is guilty of a simple misdemeanor.
2. A person who accepts a release of custody prior to the expiration of the 72 hour waiting period is guilty of a serious misdemeanor.

J. Record Sealed
1. Termination of parental rights records of the juvenile court are generally sealed pursuant to §600.16A.
2. A termination of parental rights order issued pursuant to §600A.9 may be disclosed to the child support recovery unit without a court order §600.16A(5).

II. Recent Case Law and Legislation involving Adoption and Termination of Parental Rights

A. Involuntary Termination: New Case Law
1. In Interest of NF, 579 N.W.2d 338, 341, 342 (Iowa App. 1998) - In determining the impact of a parents drug addiction, the court must consider the parent's treatment history. In addition, the bond between a parent and a child is an important factor in determining whether or not termination of the parental rights is in the best interest of the child, but it is only a factor. However it is the strongest factor when all the statutory grounds against termination have been met.
2. In Interest of J.D.B. 584 N.W.2d 577, 581, 582 (Iowa App. 1998) - A Termination of Parental Rights cannot be invalidated because of defects in a prior CINA proceeding, including defects that are a failure to comply with ICWA's expert testimony requirement in the CINA proceeding. The ICWA does not pre-empt state law error preservation rules.

3. In Interest of A.E., 572 N.W.2d 579, 587 (Iowa 1997) - The court may consider a child's best interest as a factor in determining whether or not to deviate from section 1915(b) preferences.

4. In re S.J., 620 N.W.2d 522 (Iowa App. 2000) - Approximately four months after his son was born in 1996, Roy was jailed on a drug charge and imprisoned. In early 1999, Roy stipulated to an adjudication of the child as a child in need of assistance. However, in late 1999, the state filed a Petition to Terminate Parental Rights and Roy was released from prison. While in prison, Roy had participated in substance abuse counseling and had made arrangements to participate in child-development parenting classes and began visitation with his son upon being released from prison. However, the Court of Appeals ruled that Roy's efforts were too late. Roy admitted that he would not be able to assume custody for at least six months. "We have repeatedly stated that patience with parents should be limited to avoid intolerable hardship to the child...finally, we note Roy's positive steps towards rehabilitation did not eliminate his past. While a once unfit parent may not automatically be deemed unfit, a parent may not wipe the slate clean merely by professing a desire to do so."

5. In re H.N.B., 619 N.W.2d 340 (Iowa 2000) - The children in a termination of parental rights proceeding were enrolled members of the Rosebud Sioux Tribe. However, former foster parents of the children were denied the right to intervene to seek custody and eventual adoption even though one of the former foster parents had Indian blood and the Rosebud Tribe had written a letter supporting their application. The foster father did not qualify under the definitional requirements of an "Indian" under the ICWA and the former foster parents could not be considered an "Indian family" entitled to a preference in the adoptive placement of Indian children. In addition, the letter of support from the Rosebud Tribe was not the equivalent of Tribe approval or specification as required by Section 1915(b)(ii) of the Act.

B. Termination of Parental Rights: 1998 Legislation

Iowa Code 600A.8 was amended in 1998. Iowa Code 600A.8 (1-3) remain the same. Iowa Code 600A.8 (4-7) have been moved to 600A.8(5-8). In addition there are two new sections. The current section (4) relates to the Termination of Parental rights of a putative father who has abandoned the child. Subsections (a) and (b) presume abandonment, but list what a putative father can prove to overcome that presumption for children under 6 and above 6 months of age respectively. These two subsections also provide the court with a guideline of factors to consider in determining whether a putative father has overcome the presumption of abandonment. Subsection(c) clarifies that the subjective intent of the putative father is not controlling, and that there does not need to be a showing that the putative father was encouraged to participate in the child's life. Section 9 lists situations where the parental rights are terminated without the consent of either parent, mainly chronic substance abuse, a second domestic abuse offense, abduction of the child, or wrongful retention of the child after a period visitation. There are currently no cases on this new legislation.

C. Adoption

1. Petition. Must be filed in the county of domicile or residence of the petitioner, adult adoptee, or guardian of child §600.3(1).
   a. Must be filed after a termination of parental rights proceeding (unless adoptee is an adult or step-child and both natural parents consent or unless the adoption is a standby adoption §600.3(2).
2. Persons under §600.4 who may adopt are:

a. an unmarried adult
b. a husband and wife together
c. a husband and wife separately if the adoptee is not the other spouse and the adopting spouse is the step-parent of the adoptee.

3. Contents of the petition described in §600.5.
4. Attachments to the petition required under §600.6:
   a. a certified birth certificate
   b. copy of the order terminating parental rights
   c. written consents required by §600.7 (the guardian) or
   d. a pre-placement investigation report if not a step-parent or adult adoption.
   e. a termination form completed by the terminally ill parent in the case of a standby adoption
5. Pre-placement investigation and reports §600.8
   a. Investigative whether the prospective adoptive petitioner is suitable.
      (1) examines criteria such as health, finances, relationships, criminal history or child abuse record.
      (2) Back ground information investigation and report of the investigation shall be made by the agency, the person making an independent placement, or an investigator. The background information investigation and report shall not disclose the identity of the biological parents of the minor person to be adopted. The report shall be completed and filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. The report shall be in substantial conformance with the prescribed medical and social history forms designed by the department pursuant to section 600A.4 (2)(f). A copy of the background information investigation report shall be furnished to the adoption petitioners within thirty days after the filing of the adoption petition. Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conduction of a background information investigation by disclosing any relevant background information, whether contained in sealed records or not.600.8(1)(c).
      (3) A post-placement investigation and the report of the investigation shall be completed and filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the court shall immediately appoint the department, and agency, or an investigator to conduct and complete the post-placement report. Any person including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conduction of the post-placement investigation by disclosing any relevant information requested, whether contained in sealed records or not. 600.8(4).

(4) Any person conduction an investigation under subsection 1, paragraph "c", subsection 3, or subsection 4 may, in the investigation or subsequent report, include, utilize, or rely upon any reports, studies, or examinations to the extent they are relevant. (600.8(5)).

(5) Any person conducting an investigation under subsection 1, paragraph "c", subsection 3 , or subsection 4 may charge a fee which does not exceed the reasonable cost of the services rendered and which is based on a sliding scale schedule relating to the investigated person's ability to pay. (600.8(6)).

(6) Any information compiled under section 600.8, subsection 1, paragraph "c", relating to medical and developmental histories shall be made available at any time by the clerk of court, the department or agency which made the placement to:

(1) the adopting parents

(2) adopted person who is older than 21 or is married at the time of the request

(3) A person approved by the department for use solely for medical research or treatment of the adopted person.

(4) a descendant of an adopted person. 600.16 (1)

6. A report of expenditures must be filed §600.9
   a. Must be a verified statement of expenses such as medical, legal fees, transportation costs.
   b. A natural parent cannot receive anything of value which is not commensurate with a necessary service related to childbirth, child raising, or delivering child for adoption.
   c. Costs of the counseling provided to the biological parents prior to the birth of the child, prior to the release of custody, and any counseling provided to the biological parents for not more than sixty days after the birth of the child.
7. Notice
   a. Court orders time and place and appoints a guardian ad litem.
   b. Notice must be given 20 days before hearing to guardian, guardian ad litem, adult adoptee, pre-placement investigator.
   c. Shall be served pursuant to R.C.P. 56.1.
8. Hearing
   a. Must be reported §600.12.
   b. Shall be closed.
9. Decree
   a. Cannot be entered until child has lived with adoptive parents for at least 180 days §600.10 (this may be waived for good cause or if within fourth degree of consanguinity).
   b. Cannot be entered without a post-placement study §600.8(4).
   c. Establishes a parent-child relationship between the petitioner and the child §600.13(4).
   d. A new birth certificate is established §600.13(5).
   e. If the Interstate Compact is involved, notice of adoption is required to finalize the case §232.158.

D. International Adoption

1. Documentation demonstrating that a child has been legally released or approved for adoption by the child's country of origin shall be accepted as evidence that termination of parental rights has been completed in that country and shall be recognized in this state. 600.15(1)(c). Effective July 1, 2002, children who are adopted in a foreign country do not need to be "re-adopted" in Iowa. Evidence of the foreign adoption will be given to the State Registrar and a new Iowa birth certificate will be issued.

E. Adoption Case Law

1. Drahaus v. State, 584 N.W.2d 270, 276 (Iowa 1998) - Rule 12 of the Iowa rules of civil procedure does not apply to the filing of an administrative claim with the state appeal board under the Iowa Tort Claims Act. A legal custodian of a minor has no legal obstacle to filing an action on behalf of the minor with the state appeal board (in this case failure to investigate claims of child abuse) while the state remains a guardian of the minor.
2. In re Adoption of S.J.D., 641 N.W.2d 794 (Iowa 2002) - The Court found that sealed adoption records and the statutes placing the records under seal (Iowa Code 600) don't violate any constitutional rights, namely privacy and equal protection.
3. In re D.H.-H., 2002 WL 1585625 (Iowa App. 2002) - Biological mother who gave child up for adoption later challenged the validity of the release and claimed she was coerced. The Court did not find coercion although adoptive parents' relative was biological mother's supervisor at work, biological mother was given gifts by the adoptive family, the adoptive parents' attorney did not "insist" she obtain independent counsel, and her judgment was impaired by the narcotic drug Hydrocodone.
4. In re Adoption of S.M.H., 2001 WL 427413 (Iowa App. 2001) - Biological parents consented to termination of parental rights to their child. Foster parents initiated adoption petition. Meanwhile, the district court granted the child's grandmother a motion to intervene. The Court found that the district court should have denied the motion to intervene because the juvenile court had exclusive jurisdiction over guardianship and custody of the child.

F. Stepparent Adoption

1. In Interest of RKB, 572 N.W.2d 600 (Iowa 1998) - When a party does not have the burden of proof, but does have control over the evidence, the burden is not shifted, but it casts like on how other evidence on record should be viewed. See Quint-Cities Petroleum Co. v. Maas, 143 N.W.2d 345, 348 (Iowa 1966) for the general principle. Note: This case was a combination of involuntary termination and stepparent adoption. The birth father's parental rights termination was based on Non-support. The birth mother was now married and her husband was wanted to adopt the child.
2. In re Marriage of Lunina, 584 N.W.2d 564, 566 (Iowa 1998) - Iowa Code 600.15 pertaining to international adoption is limited to situations where a child is adopted in his or her country of origin by adoptive parents who reside in the United States. It does not apply to foreign adoptions where both the child and the parent are from the foreign country.
3. In re Adoption of B.J.H., 564 N.W.2d 387, 392 (Iowa 1997) - When determining whether or not to vacate and adoption decree that was based on fraud, the court must protect the best interest of the child. But this is to be balanced with judgments resulting from misleading and false circumstances, enforcement of which would be

unconscionable.

G. Adoption Practice: Case Law

1. Iowa Supreme Court Bd. of Professional Ethics & Conduct v. Hill, 576 N.W.2d 91 (Iowa 1998) - An Attorney's misconduct in handling an interstate adoption that he knew or should have known he was incompetent to handle due to him not being licensed to practice in that state in addition to failure to respond to formal disciplinary proceedings and prior disciplinary actions, warranted revocation of his license to practice.

H. New Appellate Rules in Termination of Parental Rights Cases

Effective January 1, 2002, the Iowa Supreme Court has instituted new rules governing appeals in termination of parental rights cases. The new rules will make sweeping changes to the procedures and timelines for appeals in termination of parental rights cases. The new appellate rules will only apply to termination of parental rights orders entered pursuant to Iowa Code Section 232.117. All attorneys practicing in juvenile court need to become familiar with the new appellate rules given that the failure to follow the procedures and timelines set forth in the new rules may result in a party being denied their opportunity for appeal. The failure to perfect an appeal, especially in a proceeding as important as a termination of parental rights case, could have real consequences for the attorney and their client.

The new rules are designed to significantly reduce the time necessary for appeal following a termination of parental rights ruling. Currently, the general timeline in termination of parental rights cases between the notice of appeal and the final procedendo is nine to twelve months, and sometimes much longer. The new rules will cut the time necessary for an appeal more than in half. The outline of the new rules was drafted by a subcommittee of the Iowa Supreme Court Select Committee to Review State Court Practices in Child Welfare Matters (Juvenile Court Improvement Project). The subcommittee working on these rules included Judges from the Iowa Court of Appeals, trial court judges, county attorneys, attorneys primarily representing children in juvenile court and attorneys primarily representing parents in juvenile court. The makeup of the committee was designed to ensure that all parties to the typical juvenile court, termination of parental rights case had some voice in the rules.

The rules were also designed to address emerging federal law mandates to speed up the time for final resolution of cases where children are waiting in foster care. These requirements are most notably set forth in the federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89. The new rules will reduce the time for filing a notice of appeal; require the appellant to file a Petition on Appeal setting forth the facts, issues and law which warrants an appeal, and, allow the appellate court to make summary decisions affirming or reversing the trial court where full appeal is not warranted or allowing full appeals where it is deemed necessary. The rules would allow much quicker resolution of a case for a child waiting in limbo for some final decision regarding their ultimate placement. Likewise, if a parent had clearly been denied a legal right, for example sufficient notice, the parent would not have to wait 12 months for the appellate court to make its ruling.

The most significant changes to the appellate rules regarding appeals in termination of parental rights cases are listed below. However, a complete listing of the new appellate rules can be found at the Iowa Judicial Branch Website (www.judicial.state.ia.us). Any attorney taking an appeal from a juvenile court order involving a termination of parental rights ruling issued pursuant to section 232 of the Iowa Code, after January 1, 2002, should carefully read the actual rules. It is noteworthy that to aid attorneys in their compliance with

the new rules forms that may be used by both appellants and appellees are included in the new rules. The most significant changes to the appellate rules are as follows:

1. Notice of appeal must be filed by trial counsel with the clerk of the district court within 15 days of the final order terminating parental rights or dismissing the termination petition or rulings on post-trial motions. Like all other appeals, if counsel fails to file a notice of appeal within the new timeline, the appellate court is without jurisdiction to hear the case.
2. The notice of appeal must be signed by both counsel and the client. The new rules require the appellant client to be involved with the decision of whether to appeal at least to the extent that they meet with their attorney following the termination of parental rights hearing and sign the notice of appeal.
3. Within 15 days of filing the notice of appeal, the appellant must file a Petition of Appeal. The Petition on Appeal must be filed with the clerk of the Iowa Supreme Court. If a Petition on Appeal is not filed with the Iowa Supreme Court within 15 days of the filing of the notice of appeal, the appeal is dismissed.
4. The Petition on Appeal must be filed by trial counsel for the appellant. Trial counsel may only be relieved of this obligation by an order of the trial court after a showing of extraordinary circumstances.
5. The Petition on Appeal may be up to 15 pages in length. The Petition on Appeal is expected to include the following: 1) a statement of the nature of the case and the relief sought; 2) the date that the trial court judgment was entered; 3) a concise statement of the important and relevant facts of the underlying case; 4) a statement of the legal issues that would be presented for review on appeal including a statement of how each issue was preserved; 5) a statement of supporting statutes, case law and other legal authority including authority contrary to the appellant's case; and, 6) attachments to the Petition on Appeal which shall include the termination of parental rights petition, the trial court order and any post-trial motions.
6. Within 15 days of the filing of the Petition on Appeal, any appellee may file a response to the Petition on Appeal. The response may also be up to 15 pages in length. The contents of the Response to the Petition on Appeal are basically the same as the Petition on Appeal. A response is not mandated of a potential appellee.
7. The record for review by the appellate court shall include all of the following: 1) the trial court transcript; 2) the termination of parental rights court files; and, 3) any of the child in need of assistance court files that were received into evidence or judicially noticed at the time of trial.
8. After receiving the Petition on Appeal, any response and the record for review, the appellate court may do any of the following: 1) summarily affirm the trial court; 2) summarily reverse the trial court; or, 3) set the case for full briefing.
9. Any party may seek further review of an appellate order summarily affirming or reversing a trial court ruling.
10. The rules of juvenile procedure will also be amended to mandate that any trial court issuing a ruling to terminate parental rights or dismissing a termination of parental rights petition must include a written statement that appeal from the ruling must be made pursuant Iowa R. App. P. 5(b) (the new appellate rules). However, the rules will also provide that failure of the trial court to include such a notice in the trial court ruling is not grounds for extending the time to file a notice of appeal or Petition on Appeal.

I. The Interstate Compact

The Interstate Compact on the Placement of Children (ICPC) is a uniform law enacted by all the states, the District of Columbia, and the U.S. Virgin Islands that establishes procedures for the transfer of children between states. The ICPC applies when a child is born in one state and will be transported to adoptive parents living in another. It is an agreement between the states that they will work together to be sure certain protections for the child will be followed when a child is being brought across state lines for adoption. The ICPC is premised on the belief that children requiring out of state placement will receive the same protections and services that would be provided if they remained in their home states.

Each state has an Interstate Compact Administrator who reviews all documents and gives the necessary written approval to the adoptive parents to take the child to their state of residence. The sending state (the state in which the child was born) must give approval for the child to leave the state and the receiving state (the adoptive parent's home state) must give approval for the child to enter the state. The child cannot leave the bounds of the sending state until both compact administrators agree that the transfer can be made. It is important for adoptive parents to understand that the ICPC has the right to remove a child from a potential adoptive placement if its rules are not followed. Many adoptive parents fear that this administrative process will be very lengthy or difficult. It is best to complete and submit the Interstate Compact application at the earliest possible date so that there are no delays in allowing the child to leave the birth state.

It is also advised that the Interstate Compact Administrator of both states be contacted to determine if there will be any special requirements which could complicate the adoption. The recommended processing time from the date the receiving state Compact Office receives the notice of the placement until the date the placement is variable, depending on the states involved. Adoptive couples should expect the ICPC process to take two weeks or possibly longer. The ICPC will need, at a minimum, the following documents before it can give its approval:

1. The ICPC form 100A.
2. The home study with updated criminal background and child abuse registry checks.
3. The child's medical discharge summary and medical information about the child (also your ICPC may require birth mother information).
4. A certified decree terminating parental rights or equivalent documents.
5. Birth parent medical and social background histories.
6. Birth parent releases of custody and/or proof of notice of the termination hearing.
7. Proof the putative father registry was checked.
8. Proof of an offer of counseling was made (Iowa). Some states require that birth parents obtain counseling.

Each state varies as to other documents that may be required. The attorney should try to determine what else is necessary for the ICPC prior to the child's birth, if possible.

The Iowa ICPC will now consider allowing adoptive couples to leave the state before a termination of parental rights decree is entered. The adoptive parents must execute an "At Risk" statement affirming that they will return the child to the state of Iowa in the event the adoption cannot be completed. This new process may shorten the length of time that out of state adoptive parents will have to spend in Iowa before receiving ICPC approval.

J. Adoption Tax Credit

Effective in year 2002, the adoption tax credit became permanent and the amount of eligible expenses increased to $10,000 per eligible child. In 2003, the credit or exclusion for special needs children was increased to $10,160 and applies regardless of whether qualifying expenses exist. The

beginning point for the income phase out rule will increase to $150,000 of modified adjusted gross income. Qualified adoption expenses include reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of an eligible child. Expenses incurred in violation of state or federal law or in connection with the adoption of a child of a taxpayer's spouse are not eligible for the credit. Costs associated with surrogate parenting arrangements are also ineligible for the tax credit. An eligible child is an individual who has not attained the age of 18 as of the time of the adoption or who is physically or mentally incapable of caring for him or herself. A child with special needs is any child who cannot or should not be returned to the home of his or her parents and a specific factor or condition makes it reasonable to conclude the child cannot be placed with adoptive parents unless assistance is provided as determined by the State. Also, to qualify as a child with special needs, the child must be a resident or citizen of the United States.

If adoption expenses are paid during a tax year prior to the year in which the adoption is finalized, the credit is allowed during the year the adoption is finalized. If adoption expenses are paid during or after the tax year in which the adoption is finalized, the credit is allowed for the tax year in which the expense is paid or incurred.

Taxpayers may not claim the credit for any expense for which another deduction or credit is allowed. (For example, an employer-sponsored adoption assistance program).

K. Indian Child Welfare Act

The Indian Child Welfare Act of 1978, Public Law No. 95-608, 92 Stat. 3069 (Nov. 8, 1978) (ICWA) has been codified in 25 U.S.C. Sections 1901-63. ICWA was enacted by Congress to address the problem of the extensive removal of Native American children from their families by State and private agencies.[1] The act is designed to ensure that Native American children removed from homes are placed in homes which reflect the child's cultural heritage.

Before 1978, it was common for states with large Native American populations 25 to 35 percent of Native American children were taken from their homes and placed in non-Native American homes.[2] The rate of Native American children being placed with non-Native American children was compounded by the number of Native American children being removed from their homes. For example, in South Dakota the number of Native American children placed in foster care was sixteen times greater than other children in the state.[3] In Washington, the rate of Native American children placed in foster care was nineteen times greater than other children.[4] The irony surrounding this situation was that the majority of children were taken from their families on reservations on which State courts and agencies had nor have authority to order the removal of the children.[5]

In most situations the Native American children were not removed due to physical abuse. Most of the children removals were based on children being left with extended relatives for what courts or social workers felt were excessive periods of time.[6] The practice of leaving children with

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[1] Indian Child Welfare Act Handbook, B.J. Jones, American Bar Association, 1995

[2]The House Report, H.R. Rep. No. 1386, 85th Cong., 2nd Sess. (1978).

[3]Id.

[4]Id.

[5]B.J. Jones, The Indian Child Welfare Act Hand Book, 2 (1995)

[6]Id.

extended relatives is a common among many Native American cultures, and the States ignoring Native American practices was obvious cultural relativism and not an obvious factor for removal.

The removal of children without due process compounded the effects of the above State practices on Native American communities. Many children were removed from families under an ultimatum from State welfare departments of signing away custody of the child or termination of welfare benefits.[7] In many courts, Native American parents were not provided with counsel or interpreters.[8] In some instances, the parents only spoke their native language and had to rely on the same social workers who were trying to take their children for interpretation and communication with the court.[9]

In addition to State removal of Native American Children from, the Federal government also removed children from their homes to attend Bureau of Indian Affairs (BIA) boarding schools.[10] In 1971, 17 percent of school-age children were taken from their parents to attend BIA boarding schools, where they were isolated from their families, their languages and traditions. In fact, many of the children were punished for speaking in their native language or practicing their religious beliefs.[11]

Given the situation described above and the federal government's desire to protect the unique nature of Native American cultures, the United States' Congress passed ICWA. It has been challenged that ICWA's placement schema is not correlative with the best interest of the child. As mentioned above, however, the best interest of the Native American child would best be served if they were found a home in their community. Constitutional challenges have also been raised against ICWA based upon disparate impact of parties based upon race.[12] The act has survived every constitutional challenge brought against it. Courts have held that Congress had a rational basis to create ICWA and the authority of Congress under the commerce clause extended to the legislative purpose achieved by ICWA.[13]

Applicability of ICWA.

25 U.S.C. § 1901 states that, "In child custody proceedings, if it appears that a minor may be an Indian child, the court must notify tribe in question and must seek its determination of the child's Indian status, which determination is conclusive for the purpose of determining applicability of the Indian Child Welfare Act." ICWA contains an inclusive list of proceedings including:

i. "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the

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[7]The House Report, HR. Rep. No. 1386, 85th Cong., 2nd Sess. (1978).

[8]Id.

[9]B.J. Jones, The Indian Child Welfare Act Handbook, 3 (1995)

[10]Id.

[11]Id.

[12]Id.

[13]B.J. Jones, The Indian Child Welfare Act, 8 (1995); In re Marcus S., 638 A.2d 1158 (Me. 1994); In re D.D.L. and C.L.L., 291 N.W.2d 278 (S.D. 1980); In re Appeal of Pima County Juvenile Action, 653 P.2d 187 (Ariz. App. 1981); Matter of Miller, 451 N.w.2d 576 (Mich. App. 1990); State ex rel. CSD v. Graves, 848 P.2d 133 (Or. App. 1993).

child returned upon demand, but where parental rights have not been terminated;

ii. "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

iii. "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

iv. "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Non-Applicability.

ICWA may not cover the following: divorce proceedings, intrafamily disputes, delinquency proceedings, voluntary placements, judicially created exceptions.

"Divorce proceedings." ICWA provides no authority regarding disputes between legal parents.[14]

"Intrafamily disputes." Case law has not provided a definite gloss on ICWA when a non-parent may be awarded custody of a child in a divorce proceeding or similar proceeding. However, ICWA definitely applies to proceedings where non-parents initiate actions for the guardianship of a child against the wishes of the legal parent.[15]

"Delinquency Proceedings." ICWA does not apply to a placement outside of the home if it is a result of an "act which, if committed by an adult would be deemed a crime..."[16] However, there may be several exceptions to this general rule. The Department of the Interior has suggested (note - not promulgated through rules or regulations) the that dependent delinquency or truancy proceedings may be governed by ICWA. However, the courts have not felt obligated to follow the Department of Interior's suggestions.[17]

"Voluntary Placements." ICWA does not govern over situation where a child is placed under the care of another guardian in which the legal parent can regain custody of the child upon demand. Such arrangements are common among native American cultures.

"Judicially Created Exceptions." Some courts have held that ICWA is not applicable in child custody proceedings in which the child shall not be removed from a Native American Family or Native American cultural setting. Other courts have held that ICWA does not apply unless the child is being removed from an *existing* Native American Family.[18] IN IOWA, however, the Iowa Supreme Court has held that ICWA applies in any case where a Native American child in involved.[19]

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[14] *See.* 25 U.S.C § 1903 (1); In re Marriage of Baisley, 749 P.2d 446 (Colo.App. 1987).

[15] In Custody of A.K.H., 502 N.W.2d 790 (Minn. App. 1993).

[16] Jones, The Indian Child Welfare Handbook, American Bar Association (1995), 25 U.S.C. § 1903 (1).

[17] Department of the Interior; Bureau of Indian Affairs Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed Reg. No. 228., Matter of Ashley Elizabeth R. 863 P.2d 451 (N.M. App. 1993), Matter of Custody of S.E.G., 521 N.W.2d 357 (Minn. 1994).

[18] In re S.A.M., 703 S.W.2d 603 (Mo. Ct. App. 1986).

[19] In re J.R.H., 358 N.W.2d 311 (Iowa 1984).

Jurisdictional Provisions of ICWA.

Generally, ICWA vests exclusive jurisdiction for child custody proceedings when a Native American child resides in or is domiciled within the jurisdiction of the tribe in tribal courts rather than state courts due to tribal courts familiarity with Native American child rearing customs.[20] This exclusive jurisdiction includes jurisdiction over any Native American child whether the child is a member of the tribe exercising jurisdiction or not. If a child custody proceeding does not fall within the jurisdiction of a tribal court, then ICWA provides that the proceedings shall be transferred to a tribal court absent declination of the tribal court, objection by a parent, or upon a showing of *good cause* to the contrary.[21]

If the is controversy surrounding ICWA it would entail the clause transferring jurisdiction from the state to a tribal court. The two types of child custody proceedings to which the transfer clause of ICWA applies are foster care placements and termination of parental rights proceedings.[22] Parties which have standing to request transfer are the parent , the Native American child's tribe, or an "Indian custodian." An "Indian" custodian is any "Indian" person who has legal custody of an "Indian" child under tribal or state law or who has been granted custody of an "Indian" child under tribal or state law or who has been granted custody by the natural parent.[23] The words "good cause" in the transfer clause of ICWA have been a matter of much dispute between state and tribal officials. Given the reasoning for the creation of ICWA (misunderstanding and overreaching actions by state agencies and courts), it wold seem that transferring cases involving Native American child custody to tribal courts should be the rule and exception should be denial.[24] In fact, the Supreme Court has held that denial of transfer should be the rule.[25] The standard for proving good cause to deny transfer is clear and convincing evidence. Some courts have utilized an in the best interest of the child standard. However, using the best interest of the child standard has been heavily criticized, because ICWA could have adopted this language, but purposely did not. In fact, ICWA says that it is in the best interest of a child to for a tribal judge to decide the child's fate.[26]

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[20]A tribal court includes informal, traditional disputed resolution bodies such as a council of elders or tribal leaders. A conventional judicial entity is not mandated in order to receive a transfer of jurisdiction. The definition of tribal court includes any administrative body vested with authority over child custody proceedings. *see.* B.J. Jones, The Indian Child Welfare Act (1995), 25 U.S.C. § 1903(12).

[21]25 U.S.C. § 1911(a).

[22]25 U.S.C. §1911(b).

[23]B.J. Jones, The Indian Child Welfare Act Handbook (1995).

[24]B.J. Jones, The Indian Child Welfare Act Handbook (1995).

[25]Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30 (1989).

[26]B.J. Jones, The Indian Child Welfare Act Handbook (1995).

Courts have held that court proceedings which have reached advanced stages may be good cause for denying transfer. The reasoning behind such holdings is that denying transfer at later stages deters forum shopping when it appears that the case is not going the way a party wants it.[27] However, the parents, "Indian" custodian and tribe reserve the right to request transfer at any time during a termination of parental rights proceeding even on appeal.[28] Another reason that transfer has been denied is untimeliness of request. A request is found to be untimely if the court holds that the other party has not been given adequate notification.[29] Transfer may be objected to if a child is over five and their family has little contact with the tribe in question.[30] Additionally, in some states if a child is over 12 they may object to the transfer themselves.[31]

For a tribal court to have jurisdiction over a Native American Child, the child must be domiciled in the reservation. The Supreme Court of the United States has held that a child is domiciled in a reservation even if a mother gives birth to a child outside of the reservation if the mother is domiciled in the reservation.[32] The Court held that lower courts should turn to common-law concepts of domicile when determining the domicile of a Native American child when applying ICWA. The Court went further and distinguished domicile from residence and stated that a child may be domiciled in a reservation even if they did not reside in that reservation. The court held that domicile may not be interpreted in a way to frustrate ICWA. As interpreted by the Court, ICWA vests jurisdiction over a child in a tribal court, and this means that a tribal court may preempt the legal rights of parents in the interest of instilling Native American culture and values in the child. Specifically, this means the long arm of the tribe reaches a parent of a child of the tribe as long as the parent remains domiciled in the reservation.

Tribal courts also have jurisdiction over children who are considered wards of the tribe.[33] What is meant by "ward" is elusive. The most common interpretation has been that once a tribe has excised jurisdiction over a child in a custody proceeding then that jurisdiction shall not be disturbed except in an emergency basis.[34]

Procedural Requirements of ICWA.

Standards of removal. ICWA was written with the intent to shift the involved parties from a child, parents and state to a child, parents and their tribe. ICWA gives a Native American child an interest in any proceeding involving that child. In addition, ICWA may place more stringent

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[27]In re Interest of C.W., 479 N.W.2d 105 (Neb. 1991).

[28]25 U.S.C. §1911(c).

[29]B.J. Jones, The Indian Child Welfare Act Handbook (1995).

[30]People in the Interest of J.J., 454 N.W.2d 317 (S.D. 1990).

[31]People in the Interest of J.J., 454 N.W.2d 317 (S.D. 1990).

[32]Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30 (1989).

[33]25 U.S.C. §1911(a).

[34]Matter of Parental Pacement of M.R.D.B., 787 P2d 1219 (Mont. 1990).

procedural protection upon states when a state attempts to remove a Native American child from their parents. Of course if state or federal law provides a more stringent standard for removal than ICWA then the higher standard must be followed.

Notice Requirements. In any proceeding involving a Native American child or where the parties have a reason to know that a Native American child is involved the party must notify the parent, custodian and tribe by registered mail, with return receipt requested of the commencement of the proceedings.[35] Notice must be give even if there are doubts whether the child is Native American. The notice requirement serves the purpose of notifying the tribe so they can help determine if the child is indeed Native American or not. A later determination that the child is not Native American does not justify failure to give notice.[36] This is because under ICWA the tribe is supposed to play an initial and critical role in the determination of ICWA's applicability. Notice shall include the following:

1. The name of the child;
2. the child's tribal affiliation, if known;
3. A copy of the petition or other document which initiates the action;
4. The name of the petitioner and his attorney;
5. A statement informing the parents, Indian custodian are unable to afford counsel one will be appointed to them;
6. A statement that if the parents or Indian custodian are unable to afford counsel one will be appointed for them;
7. A statement that the parents, Indian custodian, or Tribe can have up to twenty days to prepare for the proceedings;
8. The location, mailing address, and telephone number of the Court;
9. A statement informing the parents, Indian custodian, or Tribe of the right to request a transfer to Tribal Court;
10. The potential legal consequences on the rights of he Parties of the child is adjudicated dependent;
11. A statement that child custody proceedings should be kept confidential.[37]

ICWA grants to the parents, Indian Custodian and tribe the unqualified right to intervene at any state of a foster care placement or termination of parental rights proceeding, even when the case is on appeal.[38] Unlike the notice requirement, the right to intervene is not limited to involuntary cases. Only the native American child's tribe has a right to intervene as a tribe, but the right to intervene does not extend to adoptive placement. Once a tribe has intervened, it becomes a party to the case and is entitled to receive the full benefit thereof.[39] ICWA mandates that the state court appoint counsel for an indigent parent or Native American custodian in a

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[35]25 U.S.C. §1912(a).

[36]In re Kahlen W., 285 Cal.Rptr. 507 (Cal.App. 5 Dist. 1991).

[37]BIA Guidelines.

[38]B.J. Jones, The Indian Child Welfare Act Handbook (1995).

[39]id.

"removal, placement or termination proceeding."[40] If there is no state law requiring counsel then one shall be provided from the Department of the Interior. The right to counsel applies to either proceedings initiated by the state or by individuals. The right to counsel does extend to adoption proceedings.

Conclusion.

Critics of ICWA argue that ICWA takes children away from homes in which the children have grown up, because the parents or guardians are not Native American.[41] Critics also argue that ICWA does nothing to nullify the underlying problems which lead to the break of many Native American Families, and that state judges really have no basis for understanding what "traditional Native American culture" really is.

However, it is arguable that ICWA has resulted in more good than harm. In 22 years of existence, ICWA has been successful in many respects. It has served as an educational device for many judges and social agencies.[42] ICWA has brought State and Tribal leaders and judge together and opened dialogue.[43] ICWA has served an effective tool at strengthening tribal courts and other tribal institutions.[44] Most importantly, however, ICWA has served to preserve many marginal and fragile native cultures.

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[40] id.

[41] id.

[42] id.

[43] id.

[44] id.

THE ADOPTION PROCESS

The following is a general description of the adoption process as provided by the Code of Iowa, Chapters 600 and 600A. The process is written in a sequential manner so that you can readily see how it takes place. Also, an approximate length of time for each step is given so that you can understand the time involved.

1. Preplacement investigation is completed.
2. A suitable child is found.
3. Biological parents release custody and consent to the adoption of the child.
   a. A biological parent is offered 3 hours of counseling after the birth of the child and prior to signing a release of custody.
   b. This document is signed not less than 72 hours after the birth of the child.
   c. This document states the purpose of the release and is grounds for termination of parental rights.
   d. The release can be unconditionally revoked by either biological parent within 96 hours after signing the release. After the 96 hour period has passed it is very difficult for a birth parent to revoke the release of custody. The birth parent must show that fraud, duress, or misrepresentation of law or fact was involved in their execution of the release of custody.
4. Petition to terminate parental rights is filed.
5. A termination hearing is held, no sooner than one week after the child is born, generally taking place within 2 to 4 weeks.

*6. Adoptive parents receive the child.

7. Petition for adoption is filed by the adoptive parents after the child has been in their home for 180 days.
   a. A report of expenditures is attached to the adoption procedures. Iowa Code allows adoptive parents to pay only approved payments to or on behalf of a birth parent. See Appendix "G" for the complete status.
8. Postplacement investigation is completed.
9. Adoption hearing is held.
   a. A decision is made, based on the petition and postplacement report.
   b. The hearing is usually held about 6 to 8 months after placement.
   c. A final decree cannot be made until the child has lived with the adoptive parents for a minimum of 180 days.

* A child may be placed prior to termination of parental rights with the acceptance of certain risks by the adoptive parents. Consult with your attorney about these risks.

HELPFUL HINTS IN WORKING WITH ADOPTIVE SITUATIONS

1. Remember that the child is the child of the birth mother. Her parental rights have not been terminated and her wishes under the circumstances should be controlling to the extent possible. Do not urge a birth mother to keep her baby in her room or breast feed unless she has specifically asked to do so.
2. Keep the adoption agency or adoption attorney aware of any difficulties that you may see developing in the case.
3. Remember that birth mothers are placing their children for adoption for very good reasons. This is a very selfless and difficult process for birth parents and they should be admired for their efforts.
4. Most adoptions work out well without any problems. The few that have had problems have

received a lot of media attention. They are by all means not representative of most adoption cases.

5. The legal "release of custody" is not the same as the child being released into someone's care after the discharge from the hospital. Just because a child is being placed for adoption, it does not mean that the baby must remain in the hospital for 72 hours.
6. Consult your hospital attorney if you have questions regarding an adoption situation that does not seem correct to you.
7. Remember that an alleged father is a legal stranger to a child born out of wedlock unless he is on the child's birth certificate. The hospital should honor the birth mother's wishes as to whether the father is allowed contact with the baby in the hospital.