

Act One

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Adoption in Child Time, Inc.

July, 1999

ONE YEAR IS A LONG TIME IN THE LIFE OF A CHILD

adoption in child time (Act, Inc) is a not-for-profit corporation that

- promotes early permanence for foster children;
- trains attorneys in adoption law and policies;
- provides information and attorney referrals to foster parents interested in adoption.

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ACT Proposes New Law to Give Foster Parents a Voice in Court

While CASA's, GAL's and of course the Division of Family and Children all have legal standing in Indiana courts, one player, the foster parent, has a vague and shadowy role. ACT is proposing a law in the next session of the Indiana legislature: that foster parents who have had a foster child for more than one year be given legal standing.

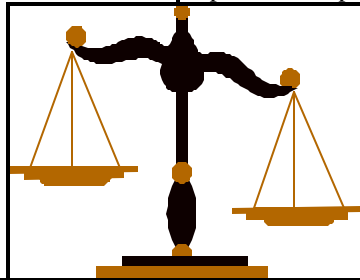
Here are some of the reasons that such a law is needed:

1) Clarity. The legal position of foster parents in Indiana is fuzzy at best. In some counties judges welcome the voice of the foster parents. In others they are scarcely permitted to appear in court and certainly not permitted to speak.

The new law would clarify this situation. To avoid "opening a Pandora's box" as critics have claimed, the new law would limit legal status to foster parents of longer than one year. Such parents cannot be considered temporary.

2) A voice for foster parents. At present foster parents have certain rights. But they have no redress should those rights be violated. For example, foster parents have the

right to be notified of hearings (to p. 2)



ACT proposes that foster parents who have had their foster child for more than one year be given legal party status.

About ACT

Welcome to ACT ONE, the newsletter for attorneys, CASA's, GAL's, foster parents, adoptive parents, and anyone interested in early permanence for children in foster care.

New federal and state legislation requires that children spend no longer than one year in foster care. Case managers are to work promptly and diligently for reunification. Failing that, they are to work to achieve another permanent home for the child. Adoption is the only other alternative for a permanent home.

ACT, INC. trains attorneys in federal and state laws pertaining to (cont on page 3)

Foster/Adopt Parent Resources

NEXT ACT SEMINAR will be held September 10 in Anderson. Call for details.

You are a foster parent who has had your foster child for a year or more. Little or no action is being taken toward reunification. You are thinking seriously about adoption, but your case manager has done nothing to move the child toward an adoption track.

What can you do?

If you are seriously considering adoption, you need an attorney. ACT attorneys have had training in the new adoption laws and in DFC policy.

Call ACT for referral to an ACT-trained attorney.

Contact your child's CASA or GAL. Both have standing with the court. A CASA or GAL aware of the importance of permanence can move the process along.

If you cannot get satisfaction within your own county, call Melissa Clark, Indiana DFC Adoption Specialist at 317-233-1743 and explain your problem. Melissa is a no-nonsense, take-action woman who will give you a fair hearing.

From the Lawyer's Desk: When Do You Need A Lawyer?

by Peter Kenny, Esq., ACT Executive Director

If you are a foster parent who wants to adopt your foster child, you need to hire an attorney. When do you hire your attorney?

Sometimes foster parents are counseled to wait until the rights of the biological parents are terminated (TPR). However, often the lack of action on a TPR is one of the obstacles foster/adoptive parents face.

Get an attorney when you have decided that you want to adopt and you have had the child for six months or more. The policies of the DFC, the new federal and state adoption laws, and the

needs of the child, all make it appropriate at this point for you to make your wishes and your offer known.

Current adoption law and DFC policy support maintaining bonded relationships between foster parents and their foster children. A DFC policy, new this month, says if you have bonded with your foster child and you choose to adopt and the county is in agreement, the county *should* not look elsewhere for an adoptive family. Previously the policy said that in such circumstances the county *may choose* not to look elsewhere for an adoptive family, a subtle difference to be sure, but a big change and one which strongly favors foster parents.

DFC policy changes frequently. A knowledgeable attorney can make you aware of the most current DFC interpretations of the law and ensure that current policy is being followed.

Here are some things an attorney might do after six months and before the TPR to help present your wishes.

1) Review the case conference policy with you. After the child

is with you for six months, you can call a case conference to ask for a change in the case plan from reunification to adoption. Often foster parents themselves are so bonded to the children in their care that they feel more comfortable having a lawyer present their point of view. This removes foster parents from the accusation of being too attached to recognize what is in the best interest of the child.

2) Accompany you to a case conference and to any subsequent appeals.

3) Consult with the CASA or GAL about the permanency plan.

4) Advise you on the federal and state laws and DFC policies related to foster parent adoption.

5) Possibly file for adoption. In certain circumstances your attorney can file for adoption without a TPR. You need an attorney to determine whether this is possible and/or wise.

Get an attorney when you have decided that you want to adopt and you have had the child for six months or

New Law(cont.)

concerning their foster child. However, when they are not notified they have no recourse. Legal standing would give foster parents direct access to court.

3) Best interest of the child. Foster parents of one year know the child better than the CASA's GAL's and case managers, and may well be able to offer the permanency of adoption. Yet because they lack legal standing, they cannot present their case fully. They cannot call or cross-examine witnesses, nor bring matters directly to the court's attention.

The new law does not argue that foster parents are always right or that their ideas should prevail. The law simply argues that, in order to make the best decisions regarding a child, the people who know the child best should be heard in court. Furthermore those long-term foster parents who want to adopt their foster child would have an av-

New Law (cont.)

enue to so inform the court.

Presently the Division of Family and Children is considering whether they will support this proposed law.

Continue to read ACT ONE for further information. We can use support in the legislature from individuals and groups.

If you have specific ways you might help us, call our toll-free number and let us know.

And stay tuned.

400 Adoptions in a

Nearly 400 foster children were adopted in a single day in Los Angeles County, California, according to the San Francisco Examiner.

On Adoption Saturday, 13 judges, dozens of court officers and clerks and scores of lawyers joined to create permanency for these children.

The special adoption days were

Talking With Martha by Martha Nord, ACT Intake Specialist

(Martha Nord is the friendly, competent voice you hear when you call our ACT phone line.)

Most calls to the toll-free ACT line involve foster parents who want to adopt. Today, however, I want to share some stories from foster parents who are not in a position to adopt but who

are vital partners in the effort to secure permanence for foster children.

If you are in this situation, my informants agree, you need to assess your own situation honestly and communicate with your case manager.

"I told my case manager," said my first informant, "I'm not planning to adopt, and I'm good at working with birth parents. Give me children where the likelihood of reunification is high."

My first birth mom was very young and not ready to be a mother, and she was smart enough to recognize this fact. She voluntarily terminated her rights and put her child up for adoption. Later she got her life together and met a fine young

man. Now they have a terrific daughter. They are good parents, and I am still in contact with her. We frequently keep the child for a day or an overnight. Sometimes she wants to talk about the child she gave up for adoption. Knowing her past, I am someone she can talk to about this experience. Now I feel I am her friend rather than her mentor.

My second informant told me about a young man who has become a fine father. A child was born to very young parents, both of whom had problems with drugs and alcohol. The child has severe developmental delays. For two years the child received hit-or-miss care from both parents. Then dad, knowing the child was not receiving adequate care, made a choice. He put the child in foster care and himself in treatment. This is where we came in.

For the past year dad has been drug and alcohol free. He is a faithful member of AA. Coming from an environment of drugs and alcohol, he is learning for the first time to live life responsibly. Now dad has custody and mom has visitation. We care for the child when dad goes to AA. Dad

told me his goals are 1) to stay sober; 2) to be a good father; 3) eventually to become a drug and alcohol counselor. He has come so far. I think he'll make it.

When birth parents, foster parents and case managers work together, great things can happen, and children are served.

Foster parents who cannot adopt can be vital partners in the effort to secure permanence for foster chil-

The Bookstore

ACT publishes and offers for sale the following books and pamphlets: See address on page 4.

The Right To a Permanent Home: Stopping Foster Care Drift. (2nd edition) 1998. 52 pages. \$21.50 including postage. Summary of the research on bonding and attachment, new federal and state laws, DFC policies, and adoption subsidies. Written as a legal brief.

The Attorneys' Resource Book. (regularly updated), 1998, 273 pages. \$53.00 including postage. A how-to book for attorneys including the current laws, policies, forms to file, and info on how to get paid.

ACT informational brochure. 4 pp. One copy free with SASE.

"The Importance of Bonding in Legal Decisions Affecting Foster Children:" 4 pp. SASE

"Questions and Answers About Adoption by Foster Parents" 4 pp. SASE

"The Case Conference Policy of the Division of Family and Children: An Explanation for Foster Parents." 4 pp. SASE

About Act, Inc. (cont. from p. 1)

foster care and adoption, as well as current DFC policies.

ACT supports long-term foster parents who wish to adopt by providing names of attorneys who have taken the ACT seminar, by providing information about their rights, and by supporting them when they confront obstacles or opposition in their desire to adopt their foster children.

Currently foster parents may

or may not not have legal standing in regard to their foster children. Although they know the children better than any other concerned adults, often their voice is not heard.

Foster parents adopt 65 to 80 percent of the foster children who are adopted. ACT supports early permanence, first through reunification, and failing that, through adoption by foster parents.



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In This Issue...

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Bonding As a Legal Argument

by James A. Kenny, Clinical Psychologist, ACT President

In placing a foster child for adoption, DFC guidelines require that bonded relationships be given preference.

Bonded relationships are broken at peril to the parties involved, yet bonded relationships are frequently ignored.

Mental health professionals have been vague, often giving opinion rather than concrete data. As a result, case managers and courts may not be giving bonding the critical consideration it deserves.

To be used as a legal argument, bonding must be defined in a way that the court can accept. The Indiana Foster Parent

Regulations give three specific criteria, any one of which is sufficient to demonstrate bonding.

Time in place is the first way. Bonding is likely after three months, probable after six months, and almost certain after one year.

The behavior of the child is the second way to measure bonding. Some examples:: bonded children have good eye contact, are physical with their parents and seek them out when distressed.

Bonding is reciprocal. Promises expressed by the actual or potential parent which show a desire for a

permanent relationship are evidence of bonding.

Family identification is the fourth indication of bonding. The DFC Manual (804.13) states that bonding has occurred if 1) The child identifies as a member of the foster family. 2) The child is perceived by the larger community to be a member of the foster family. 3) The child has developed self-reliance and a trust of the foster family. 4) The child does not significantly attach to another family, including the birth family.

In placing a child for adoption, DFC guidelines require that preference be given to 1)